

Brussels, 24 March 2004

Recognition of Schengen visas and residence documents by new Member States and recognition of Swiss residence permits

In the field of visa policy, the Commission has had to deal with two aspects of the question of recognising the equivalence between visas and residence documents:

- a request from some new Member States to be able to recognise visas and residence documents issued by Schengen states in order to unburden the consulates of the new Member States;
- a request from some M.E.P.s and associations (including the FIM (Forum pour l'Intégration des Migrants) and the SIB (Syndicat Industrie et Bâtiments)) to allow Schengen states to accept the equivalence of a residence permit issued by Switzerland with a visa, so that foreign nationals living in Switzerland no longer have to request a Schengen visa in order to move between territories of Schengen states. At the same time the burden on the Member States' consulates in Switzerland would be lifted.

1. Recognition of Schengen visas and residence documents as well as long-term national visas by new Member States

For the new Member States, accession to the European Union from 1 May 2004 will have the following legal consequences as regards visas:

- from 1 May 2004, the new Member States are obliged to require a visa from nationals of the third countries listed in Annex 1 of Visa Regulation No 539/2001;
- full participation of the new Member States in the Schengen area (which involves, amongst other things, applying the Schengen rules on mutual recognition of visas and equivalence between a residence document and a visa) will not be introduced on 1 May 2004 but at a later date, when the Council decides to abolish internal border controls. From 1 May 2004 until the Council makes this decision, the new Member States will have to issue national visas to these people, even if they hold a Schengen visa or residence document.

Some new Member States currently recognise visas and residence documents issued by Schengen states or by non-Schengen Member States as equivalent to their own national visas. Bilateral agreements have been concluded with third countries to this effect.

These new Member States have expressed a wish to find a legal solution quickly so that they can continue this practice for the period between 1 May 2004 and the date of abolition of internal border controls.

The new Member States are asking to be allowed to recognise visas and residence documents issued by other new Member States.

Several current Member States have expressed their understanding of the difficulties anticipated by the new Member States and support their request to implement a suitable legal solution.

2. Recognition of Swiss residence permits by current and new Member States

The Community acquis does not provide for the possibility of exemption from visa requirements of nationals from the third countries listed in Annex 1 of the Visa Regulation No 539/2001 (list of countries whose nationals are obliged to obtain a visa) who hold a residence permit issued by a third country. Recognition of a Swiss residence permit as equivalent to a Schengen visa would require the acquis to be amended.

Switzerland unilaterally exempts holders of a long-stay residence permit issued by a European Union Member State from visa requirements. Residence documents issued by new Member States are not covered by the current Swiss system.

Some Member States (AU, FR, IT) complain about the excessive administrative burden on their consular posts in Switzerland, especially during the summer holiday period. They underline the fact that they are dedicating resources to issuing visas to people who, due to their legal status in Switzerland, are hardly likely to present a risk in terms of illegal immigration or public order.

Some new Member States have highlighted the same problem of excessive administrative burdens (SI, HU).

A practical solution to this problem developed by the Visa Group (issuing long-term validity, multiple entry transit visas) did not really work. It led to only a small reduction in the number of visa requests.

The problem of recognition of Swiss residence permits would not arise if Switzerland was associated with the Schengen acquis.

During the next few weeks, the Commission will present two legislative proposals on the question of recognition of the equivalence between residence documents and visas.