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NOTE

From: Presidency
To: Visa Working Party/Mixed Committee
Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject: Duration of short-stay in the Schengen area - Extension of that duration under bilateral agreements concluded by Member States with third countries - Draft regulations on Entry/Exit system and Touring visa

The Commission has proposed to amend Article 20(2) of the Convention implementing the Schengen Agreement (CISA) both under Article 54 of the draft Regulation establishing the Entry Exit System (EES) and under Article 12 of the draft Regulation on the touring visa.¹

Aware of the importance of the bilateral agreements for delegations in the context of the two proposals, the Presidency put forward a compromise suggestion regarding Article 54 of the draft Regulation establishing the Entry Exit System (EES) in 12114/16 with a view to the discussions at the meeting of the Working Party on Frontiers on 26 September and at the Visa Working Party on 26-27 September 2016.

That compromise suggestion aimed at respecting the existence of those bilateral agreements as much as possible and at the same time sought to maximize the benefit of the EES.

¹ See respectively 7675/16 FRONT 165 VISA 91 CODEC 391 COMIX 268 (COM(2016)194 final) and 8406/14VISA 91 CODEC 974 COMIX 202 (COM(2014) 163 final).

Based on the outcome of the discussions at the two meetings referred to above and on the comments which were forwarded by delegations to the Presidency following those meetings, the Presidency has prepared a new compromise suggestion as set out in the Annex.

Delegations will find in the Annex a compromise suggestion concerning Article 54 of the EES draft Regulation.

Compared to the last version in 12114/16, the provisions on transit have been deleted, meaning that exit from the Schengen area will only be allowed through the territory of the Member State which is a Contracting Party to the bilateral agreement and the authorities of which have extended the stay.

The solution proposed, if agreed by delegations, would be retained in both proposals (EES and Touring visa).

Article 54

Amendment to the Convention implementing the Schengen Agreement

In Article 20, of the Convention implementing the Schengen Agreement, paragraph 2 is replaced by the following:

2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days in any 180-day period an alien's stay in its territory in exceptional circumstances or if [...] a bilateral agreement concluded before the entry into force of this Convention **and notified to the Commission,** provides a right to stay beyond 90 days in any 180-day period.

The stay of an alien in the territory of a Contracting Party may only be extended upon request of the alien and lodged with the competent authorities of that Contracting Party upon entry or during the stay of the alien at the latest [on the last day] [7 days before the last day] of his/her 90-day stay in any 180-day period.

In case where the stay is extended, the competent authorities of that Contracting Party shall enter the data related to the extension in the latest relevant entry/exit record in accordance with Article 17 of the Regulation establishing the Entry/Exit system.

The alien shall exit at the external borders of that Contracting party.

The competent authority that has extended the stay shall inform the alien concerned that the extension of stay is authorised only in the territory of that Contracting party and he/she shall exit at the external border of that Contracting party.

For the purposes of the application of this paragraph, the Contracting Parties shall notify to the Commission within three months after entry into force of this Regulation the text of their relevant applicable bilateral agreements. If the Contracting party cease to apply bilateral agreements it shall notify this to the Commission. The Commission shall make the information available to the Contracting Parties (and eu-LISA) and the public through publication in the Official Journal of the European Union.
