



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 June 2000

7724/1/00

**REV 1
LIMITE**

**FRONT 15
COMIX 332**

NOTE

From : Portuguese Delegation
To : Frontiers Working Party/Mixed Committee
Subject : Draft initiative of the Republic of Portugal relating to the updating of the
Common Manual.

Delegations will find attached a revised draft initiative of the Republic of Portugal relating to the updating of the Common Manual.

DRAFT INITIATIVE
of the Republic of Portugal
reserving to the Council implementing powers
with regard to certain detailed provisions and practical procedures for carrying out border checks
and surveillance

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(a) and Article 67(1) thereof,

Having regard to the initiative of the Republic of Portugal,¹

Having regard to the Opinion of the European Parliament,²

Whereas:

- (1) the Common Manual, listed under reference SCH/Com-ex (99) 13 in Annex A to Council Decision 1999/435/EC of 20 May 1999³ has been established with a view to implementing the provisions of Title II, Chapter 2 of the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, hereinafter referred to as “the Convention”;

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3 OJ L 176, 10.7.1999, p. 1.

- (2) the crossing by persons of the external borders of those States which have decided to abolish checks at their internal borders, including the rules and arrangements with which those States must comply when carrying out checks on persons at external borders, surveillance of border areas and cooperation with the services responsible for border control, is a matter covered by Article 1 of the Council Decision of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis⁴ and in respect of which closer cooperation has been authorised;
- (3) certain detailed provisions and practical procedures for carrying out border checks and surveillance at the external borders of Member States participating in the closer cooperation referred to in Article 1 of the Schengen Protocol, contained in the Common Manual and the Annexes thereto, must be adopted and regularly amended and updated to meet the operational requirements of the relevant border authorities;
- (4) various provisions of Title II, Chapter 2 of the Convention, and in particular Article 8 thereof, provide for implementing decisions to be taken by the Executive Committee, established by the Schengen agreements adopted before 1 May 1999, for which the Council has now been substituted, pursuant to Article 2 of the Schengen Protocol. Whereas, pursuant to Article 1 of that Protocol, cooperation in the context of the Schengen *acquis* shall be conducted within the institutional and legal framework of the European Union and with respect for the relevant provisions of the Treaty on European Union and of the Treaty establishing the European Community;
- (5) it is therefore appropriate to set out in a Community act the procedure by which such implementing decisions should be taken;

⁴ OJ L 176, 10.7.1999, p. 31.

- (6) since the Member States have an enhanced role in respect of the development of border policy, reflecting the sensitivity of this area, in particular involving political relations with third countries, the Council reserves the right, during the transitional period of five years referred to in Article 67(1) of the Treaty establishing the European Community, to adopt, amend and update the detailed provisions and practical procedures referred to above by unanimity, pending a review by the Council of the conditions under which such implementing powers would be conferred on the Commission after the end of this transitional period;
- (7) some of those provisions and procedures require confidential treatment in order to prevent risk of abuse;
- (8) it is also necessary to provide for a procedure whereby the members of the Council and the Commission are informed without delay of all amendments to those Annexes of the Common Manual which consist, in whole or in part, of lists of factual information which must be provided by each Member State in accordance with the rules which it currently applies, and which therefore do not fall to be adopted, amended or updated by an act of the Council;
- (9) those elements of the Common Manual and the Annexes thereto which are not subject to amendment by either of the procedures provided in this Regulation and which do not correspond to any elements of the Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts (hereinafter "Common Consular Instructions")⁵ which may be amended pursuant to the provisions of Regulation []⁶ shall be amended in accordance with the provisions of Title IV of the Treaty establishing the European Community, and in particular Articles 62(2)(a), and 67 thereof;

⁵ Also listed under reference SCH/Com-ex (99) 13 in Annex A to Decision 1999/435/EC (see footnote 3)

⁶ Draft Regulation to be adopted pursuant to the initiative of the Republic of Finland with a view to the adoption of a Regulation reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications.

HAS ADOPTED THIS REGULATION:

Article 1

1. The Council, acting unanimously, at the initiative of one of its members or on a proposal from the Commission, shall amend, as necessary, Part I points 1.2, 1.3, 2.1, 3.1.2, 3.1.3, 3.1.4, 3.2.4, 4.1, 4.1.1, 4.1.2, and Part II points 1.1, 1.3, 1.4.1, 1.4.1a, 1.4.4, 1.4.5, 1.4.6, 1.4.7, 1.4.8, 2.1, 2.2.2, 2.2.3, 2.2.4, 2.3, 3.1, 3.2, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5, 3.3.6, 3.3.7, 3.3.8, 3.4, 3.5, 4.1, 4.2, 5.2, 5.3, 5.4, 5.5, 5.6 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10 and 6.11 of the Common Manual as well as Annexes 8, 9 and 14 thereto.
2. To the extent that such amendments concern confidential provisions and procedures, the information contained therein shall be made available only to authorities designated by the Member States and to persons duly authorised by each Member State or by the institutions of the European Union, or otherwise entitled to obtain access to such information.

Article 2

1. Each Member State shall communicate to the Secretary-General of the Council such amendments as it wishes to make to Annexes 1, 2, 3, 7, 12 and 13 of the Common Manual.
2. Amendments made pursuant to paragraph 1 shall be deemed to take effect as of the date on which the Secretary-General communicates these amendments to the members of the Council and to the Commission.

Article 3

The Secretariat General of the Council shall be responsible for the preparation of revised versions of the Common Manual and the Annexes thereto, in order to incorporate amendments made pursuant to the provisions of Articles 1 and 2 of this Regulation and pursuant to Regulation []⁷, in respect of those elements of the Common Consular Instructions which correspond to certain Annexes of the Common Manual. It shall transmit these versions to the Member States as necessary.

Article 4

Amendments to Annexes 4, 5, 5a, 6, 6a, 6b, 6c, 8a, 10, 11, 14a and 14b of the Common Manual shall be made in accordance with the provisions of Regulation []⁸.

Article 5

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

⁷ See footnote 6.

⁸ See footnote 6.