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(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1091/2001  
of 28 May 2001  
on freedom of movement with a long-stay visa**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62(2)(b)(ii) and 63(3)(a) thereof,

Having regard to the initiative of the French Republic <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) There may be a time lag between the arrival in a Member State's territory of a person holding a national long-stay visa issued by that Member State and the moment when the person receives a residence permit enabling him or her to move freely in the other Member States' territories.
- (2) Steps should be taken to facilitate the free movement of holders of national long-stay visas pending the issue of their residence permits, by stipulating that such visas, which currently enable their holders to transit only once through the territories of the other Member States in order to reach the territory of the State which issued the visa, are concurrently valid as uniform short-stay visas, provided that the applicants fulfil the conditions of entry and residence laid down in the Convention implementing the Schengen Agreement of 14 June 1985 signed at Schengen on 19 June 1990.
- (3) This measure is a first step in the harmonisation of the conditions for the issue of national long-stay visas.
- (4) The Convention implementing the Schengen Agreement and the Common Consular Instructions on Visas for the diplomatic missions and consular posts <sup>(3)</sup> should be amended accordingly.
- (5) This instrument constitutes a development of the Schengen acquis, in accordance with the Protocol integrating the Schengen acquis into the framework of the European Union, as defined in Annex A to Council Decision 1999/435/EC concerning the definition of the

Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis <sup>(4)</sup>.

- (6) As provided for in Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not participating in the adoption of this instrument and, accordingly, is neither bound by it nor subject to its application. Given that the present instrument is intended to build upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, Denmark, shall, in accordance with Article 5 of the Protocol, decide within a period of six months after the Council has adopted this instrument whether it will implement this decision in its national law.
- (7) In relation to the Republic of Iceland and the Kingdom of Norway, this instrument constitutes a development of the Schengen acquis within the meaning of the Agreement concluded on 18 May 1999 by the Council of the European Union with these two States <sup>(5)</sup>.
- (8) Pursuant to Article 1 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland and the United Kingdom are not participating in the adoption of this instrument. Consequently, and without prejudice to Article 4 of the said Protocol, the provisions of this instrument apply neither to Ireland nor to the United Kingdom,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 18 of the Convention implementing the Schengen Agreement shall be replaced by the following:

<sup>(1)</sup> OJ C 200, 13.7.2000, p. 4.

<sup>(2)</sup> (Opinion of the European Parliament of 18.1.2001 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 239, 22.9.2000, p. 318.

<sup>(4)</sup> OJ L 176, 10.7.1999, p. 1.

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

*'Article 18*

Visas for stays exceeding three months shall be national visas issued by one of the Member States in accordance with its national law. For a period of not more than three months from their initial date of validity such visas shall be valid concurrently as uniform short-stay visas, provided that they were issued in accordance with the common conditions and criteria adopted under or pursuant to the relevant provisions of Chapter 3, section 1 and their holders fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e). Otherwise, such visas shall merely enable their holders to transit through the territories of the other Member States in order to reach the territory of the Member State which issued the visa, unless the holders do not fulfil the entry conditions referred to in Article 5(1)(a), (d) and (e) or are on the national list of alerts of the Member State through whose territory they seek to transit.'

*Article 2*

Section 2.2 of Part I of the Common Consular Instructions on Visas shall be replaced by the following:

*'2.2. Long-stay visas*

Visas for visits exceeding three months shall be national visas issued by one of the Member States in accordance with its national legislation.

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

Done at Brussels, 28 May 2001.

However, such visas shall, for a period of not more than three months from their initial date of validity, be valid concurrently as uniform short-stay visas, provided that they were issued in accordance with the common conditions and criteria adopted under or pursuant to the relevant provisions of Chapter 3, section 1 of the Convention implementing the Schengen Agreement and their holders fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e) of the said Convention and reproduced in Part IV of these Instructions. Otherwise, such visas shall merely enable their holders to transit through the territories of the other Contracting Parties in order to reach the territory of the Member State which issued the visa, unless the holders do not fulfil the entry conditions referred to in Article 5(1)(a), (d) and (e) of the Convention implementing the Schengen Agreement or are on the national list of alerts of the Member State through whose territory they seek to transit.'

*Article 3*

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

*For the Council*

*The President*

T. BODSTRÖM

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