

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0075/2003

20 March 2003

REPORT

1. on the proposal for a Council regulation establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transport Document (FRTD) and amending the Common Consular Instructions and the Common Manual (COM(2003) 60 – C5-0052/2003 – 2003/0026(CNS))

2. on the proposal for a Council regulation on uniform formats for Facilitated Transport Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No... (COM(2003) 60 – C5-0051/2003 – 2003/0027(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Arie M. Oostlander

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
PROCEDURAL PAGE.....	4
1. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
2. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	8
EXPLANATORY STATEMENT.....	10

PROCEDURAL PAGE

By letter of 18 February 2003 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council regulation establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transport Document (FRTD) and amending the Common Consular Instructions and the Common Manual (COM(2003) 60 – 2003/0026(CNS)).

By letter of 18 February 2003 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council regulation on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transport Documents (FRTD) provided for in Regulation (EC) No ... (COM(2003) 60 – 2003/0027(CNS)).

At the sitting of 10 March 2003 the President of Parliament announced that he had referred the proposals to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy for its opinion (C5-0052/2003, C5-0051/2003).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Arie M. Oostlander rapporteur at its meeting of 19 March 2003.

The committee considered the Commission proposals and the draft report at its meeting of 19 March 2003.

At that meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Jorge Salvador Hernández Mollar (chairman), Robert J.E. Evans (vice-chairman), Johanna L.A. Boogerd-Quaak (vice-chairman), Arie M. Oostlander (rapporteur), Giuseppe Brienza, Gérard M.J. Deprez, Francesco Fiori (for Marcello Dell'Utri (pursuant to Rule 153(2)), Adeline Hazan, Hubert Pirker, Martine Roure, Heide Rühle, Patsy Sørensen and Anna Terrón i Cusí.

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy decided on 18 March 2003 not to deliver an opinion.

The report was tabled on 20 March 2003.

1. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transport Document (FRTD) and amending the Common Consular Instructions and the Common Manual (COM(2003) – C5-0052/2003 – 2003/0026(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2003) 60)¹,
 - having regard to Article 62(2) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0052/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0075/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

Recital 1 a (new)

The ratification of bilateral border agreements between Member States and third countries is a necessary step towards the implementation of this Regulation and should therefore be given the highest

¹ Not yet published in OJ.

priority.

Justification

In the Commission proposals countries are deliberately not mentioned by name and this approach is respected here. However, the intention is that bilateral border agreements between the three Baltic states on the one hand, and Russia and Belarus on the other, should be ratified by their parliaments as soon as possible so that this Regulation can be implemented under optimum conditions. In view of the neutral wording, this Regulation will also apply to Latvia and Estonia as the latter will be countries of transit between Kaliningrad and the Russian area of St Petersburg.

Amendment 2
Recital 1 b (new)

The Community must devise a solution for local frontier traffic at the Union's external borders as a matter of urgency before the candidate countries join the European Union.

Justification

Although this Regulation excludes local frontier traffic, the Committee on Citizens' Freedoms attaches particular importance to this point which has been ignored by both the Commission and the Council. This nonetheless poses a real problem for many future citizens of the EU.

Amendment 3
Recital 4 b (new)

In order to prevent abuses and misinterpretations, a more precise definition of frequent traveller is required for issuing the FTD.

Justification

There is no precise definition of frequent traveller. Consequently, there is a risk of abuses by persons acting in bad faith or misinterpretations arising from the resulting legal uncertainty.

Although Article 5 (conditions for obtaining an FTD document) and Article 6 (procedure) provide some indication they are not really clear enough.

Amendment 4
Recital 5 b (new)

The Member States and the European Commission, on behalf of the European Union, are invited to open or extend a Community consulate in the regions concerned, where required.

Justification

Regrettably the proposal to open an EU consulate in Kaliningrad has still not come to anything, despite the Committee's earlier requests. As specific areas are deliberately not named in this regulation, this amendment has been neutrally worded.

2. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transport Documents (FRTD) provided for in Regulation (EC) No...

(COM(2003) 60 – C5-0051/2003 – 2003/0027(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2003) 60)¹,
 - having regard to Article 62(2) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0051/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0075/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

Recital 6

(6) The measures necessary for the implementation of this Regulation should be adopted *in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the*

(6) The measures necessary for the implementation of this Regulation should be adopted *by the Commission, which is accountable to Parliament.*

¹ Not yet published in OJ.

***exercise of implementing powers
conferred to the Commission.***

Justification

There is no harm in raising once again the difference of opinion between the institutions on comitology.

Amendment 2
Article 4

1. The Commission ***shall*** be assisted by the Committee set up by ***Article 6(2)*** of Regulation (EC) No 1683/95.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply. The period laid down in Article 5(6) of Decision 1999/468/EC shall be two months.

3. The Committee shall adopt its rules of procedure.

1. In establishing the implementing measures to be taken, the Commission may be assisted by the Committee set up by Article 5 of Regulation (EC) No 1683/95. The period laid down in Article 5(6) of Decision 1999/468/EC shall be two months.

2. The Commission shall report to the European Parliament in accordance with Article 7(3) of Decision 1999/468/EC.

Deleted

Justification

There is no harm in raising once again the difference of opinion between the institutions on comitology.

EXPLANATORY STATEMENT

1. Introduction

From May 2004 onwards, Kaliningrad will be surrounded by the EU, more specifically by its neighbouring states, Lithuania and Poland. The introduction of an EU visa requirement would have a very negative effect on life in Kaliningrad. Journeys to and from the rest of Russia would amount to foreign travel and journeys to the neighbouring countries would be more difficult. This could hurt business, dishearten people and, finally, harm the economy of the region in general.

Appropriate legislation must consequently be introduced to avoid problems occurring at the future external borders, in particular as regard persons transiting by land between two parts of the same third country via the territory of one or more Member States.

This kind of entry and return transit does not currently exist in the EU and so the *acquis* does not provide specific rules for such a situation.

Therefore, following the conclusions of the European Council in Brussels on October 2002 and the Brussels EU-Russia summit of 11 November 2002, the Commission has presented two Council regulations: one establishing a Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD), and the other more is a more technical proposal establishing uniform formats for the two documents.

2. Content of the proposals

The FTD and FRTD are equivalent to transit visas; they will be valid only for the territory of the issuing Member State and other transited Member States (Article 3 of the first Regulation). After accession these documents will be valid for those Member States who so decide. After the lifting of the internal borders, they will be valid for all Schengen Member States.

To correspond better to the geographical realities of Kaliningrad, the time of each transit (normally up to 5 days) will be limited to 24 hours per transit in the case of FTD and to 6 hours in the case of FRTD during the period of validity of the train ticket.

As regards the FTD, there is the fact a multiple entry transit document could be necessary for transit between two parts of the same country. Consequently, its validity is longer than in case of traditional transit and has been fixed up to three years.

In order to obtain a multiple entry FTD persons will have to prove they are frequent travellers (for instance a work contract; proof that the firm is situated both in Kaliningrad and mainland Russia; proof of property or family in the other part of the country). It has to be noticed that the frequent travellers are not really well-defined in articles 5 and 6 of the first Regulation. Some misinterpretation and abuse is possible and should be avoided.

The FRTD will be free of charge and for the FTD there will be a fee of 5 euros. Finally the proposals mention the issue of the protection of personal data as well as sanctions for the abusive use of these documents.

These documents, as proposed in the Commission proposals, seem to respond adequately to the needs. But the precondition for their application is of course the ratification of bilateral borders agreements. Since many years already the ratification of bilateral borders agreements "are on their way"; not only between Russia and Lithuania; Belarus and Lithuania; and Belarus and Russia, but also between Estonia and Russia and Latvia and both Belarus and Russia. But it is an absolute necessity they are given the highest priority now. Ratification must be unavoidable and should take place before this regulation enters into force. A technical problem that will have also to be solved is that the existing electronic railway reservation system that Russia uses and wants to continue to use, cannot absorb the 30 entries of information required for obtaining a FTD. The Commission will have to make sure that those entries, which serve security purpose, are at least mentioned. These requisites were previously underlined by Mr Elmar Brok during his visit to Moscow on 3 March, during the meeting of the Parliamentary monitoring group on Kaliningrad.

3. Some proposals for amendments

Once more this Parliament is faced with a "fait accompli" and has to give its assent on something it can hardly change anymore. These two regulations have to enter into force before May 2004 and are part of the package deal made between Lithuania and the EU during the enlargement negotiations. Lithuania committed itself, at least politically, to take this regulation. Because of the general character of the regulation the *transit countries* Latvia and Estonia are also involved, especially with regard to the region of Saint-Petersburg. As written, nothing is wrong with the content. Therefore it has been chosen not to amend the legislative text but to stress some claims made by Parliament previously.

The amendments regard :

- the eventual ratification of the bilateral border agreements as mentioned above,
- a better definition of the frequent traveller, as mentioned above,
- the opening and extension of the Delegation of the European Commission in Kaliningrad as repeatedly asked by this Committee as well as the opening of a common EU consulate,
- the urgent need for a Commission proposal regarding the regulations for small border crossing between the EU and third countries as this problem has not been tackled and will bring human tragedies
- the full responsibility of the Commission in the execution of the second regulation, and avoid the comitology procedure of June 28th 1999.