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NOTE

from: Presidency
to: COREPER/Mixed Committee
 (EU-Iceland/Liechtenstein/Norway/Switzerland)
No. Cion prop.: 15498/10 VISA 252 CODEC 1130 COMIX 702 (COM(2010) 662 final)
No. prev doc : 9466/11 VISA 84 FRONT 56 CODEC 697 COMIX 281
Subject: Draft Decision of the European Parliament and of the Council on the list of travel
 documents entitling the holder to cross the external borders and which may be
 endorsed with a visa and on setting up a mechanism for establishing this list

I - INTRODUCTION

On 12 November 2010, the Commission tabled a proposal for a draft Decision on the list of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list. The purpose of the proposal is to set up a mechanism to ensure that the list of travel documents issued by third countries is constantly updated, to establish a centralised mechanism for the technical assessment of such travel documents and, finally, to ensure that Member States express their position in relation to the recognition or non-recognition of these documents.

This proposal has been discussed several times in the Visa Working Party as well as by the JHA Counsellors.

At the JHA Counsellors meeting on 3 May 2011, the Presidency submitted doc. 9466/11 VISA 84 FRONT 56 CODEC 697 COMIX 281 containing a compromise text of the draft Decision. The outcome of this meeting as well as of the Visa Working Party on 18 May is set out in the Annex. The amendments to the text in the second column as **already agreed** by the Working Party/JHA Counsellors appear in **bold** (the text of Recital 11 concerning Denmark has been adapted as the standard clause to be used for that Member State has changed since the entry into force of the Treaty of Lisbon).

Subject to a general reservation by DE on the whole text of the draft Decision, the only outstanding issue is the consequence of the absence of notification by a Member State on the recognition or not of travel documents (see item II below).

On 12 April 2011, the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE) had an orientation vote on the proposal.

Coreper/Mixed Committee is invited to examine the outstanding issue set out below with a view to reaching agreement with the European Parliament.

II - OUTSTANDING ISSUE SUBMITTED TO COREPER

Article 4(1) of the draft Decision provides that after the Commission has communicated the list of travel documents, Member States shall notify to the Commission their position on recognition or non recognition of the travel documents.

During the negotiations a legal gap has been identified: *What should happen if a Member State fails to notify its position on recognition or non-recognition of the travel document within the deadline referred to in paragraph 1?*

There are two possible options to tackle this issue:

- 1) option 1: stating that the travel document concerned is deemed to be recognised until the Member State's notification on its non-recognition ("positive presumption");
- 2) option 2: stating that the travel document concerned is deemed to be non-recognised until the Member State's notification on its recognition ("negative presumption").

During the previous discussions and at the JHA Counsellors meeting on 3 May 2011, a suggestion by the Presidency to retain the first option ("positive presumption") was supported by a large majority of delegations and the Commission. However, five delegations (DE/AT/CY/PT/IT) could not accept this solution.

However, as Portugal lifted its reservation at the Visa Working Party on 18 May 2011, the actual text of the draft Decision can now be supported by a sufficient majority.

During the discussions, the Council Legal Service (CLS) expressed the view that the text proposed by the Presidency on Article 4(1) fully respects the competence of Member States regarding the recognition of travel documents issued by third countries. Furthermore, CLS emphasised that for the sake of legal security for travellers and to facilitate the work of border guards and consular staff it is necessary to fill the legal vacuum with a presumption, and that the choice to be made between the positive and the negative presumption is not a legal but a political one.

LIBE is also in favour of including a positive presumption in order to fill the legal vacuum identified. On 10 May 2011, following the JHA Counsellors meeting, the Presidency briefed the *Rapporteur* during an informal meeting on the state of play of the discussions in the Council. The *Rapporteur* was still strongly in favour of a positive presumption. All the other changes to the Commission's proposal agreed in the Council (second column in the Annex) were accepted by the *Rapporteur*, while all other amendments resulting from the orientation vote on 12 April in LIBE (third column in the Annex) were acceptable to the Council. Furthermore, LIBE envisages to adopt its report on the proposal on 15 June 2011.

Consequently, the Presidency strongly believes that the best basis for a compromise which is acceptable to both the Council and the Parliament is option 1 ("positive presumption"). In order to have the broadest possible support for this option at the Council and to reach a swift agreement with the Parliament, the Presidency once again invites delegations having a reservation (DE/AT/CY/IT) on this option to reconsider their position and to accept Article 4(1) as set out in the second column of the Annex. It is in this regard noted that Recital 6 makes it clear that the mechanism does not preclude Member States to notify a change of their position in any given moment, and that Article 1(3) provides that the Decision does not affect Member States' competence for the recognition of travel documents.

III - CONCLUSION

In light of the above, Coreper is invited to agree on the text set out in the Annex with a view to reaching an agreement with the European Parliament at the next informal triilogue which is envisaged for 1 June 2011.

ANNEX

Draft Decision of the European Parliament and of the Council on the list of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list

COMMISSION PROPOSAL	CURRENT COUNCIL DRAFT TEXT	EP DRAFT AMENDMENTS
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national Parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national Parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:	

<p>(1) On the basis of Article 17(3) (a) of the Convention implementing the Schengen Agreement of 14 June 1985¹, Decisions SCH/Com-ex (98)56² and SCH/Com-ex (99)14³ established the Manual of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa. These Decisions should be adapted to the institutional and legal framework of the European Union.</p>	<p>(1) On the basis of Article 17(3) (a) of the Convention implementing the Schengen Agreement of 14 June 1985⁴, Decisions SCH/Com-ex (98)56⁵ and SCH/Com-ex (99)14⁶ established the Manual of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa. These Decisions should be adapted to the institutional and legal framework of the European Union.</p>	
<p>(2) The lists of travel documents issued by third states should be monitored systematically to ensure Member States' authorities dealing with the processing of visa applications and border control have accurate information at their disposal about the travel documents presented by third country nationals. Exchanges of information between Member States on the travel documents issued and on Member States' recognition of these travel documents and making available of the entire compilation to the public should be modernised and made more efficient.</p>	<p>(2) The lists of travel documents issued by third states should be monitored systematically to ensure Member States' authorities dealing with the processing of visa applications and border control have accurate information at their disposal about the travel documents presented by third country nationals. Exchanges of information between Member States on the travel documents issued and on Member States' recognition of these travel documents and making available of the entire compilation to the public should be modernised and made more efficient.</p>	

¹ OJ L 239, 22.9.2000, p. 19.

² OJ L 239, 22.9.2000, p. 207.

³ OJ L 239, 22.9.2000, p. 298.

⁴ OJ L 239, 22.9.2000, p. 19.

⁵ OJ L 239, 22.9.2000, p. 207.

⁶ OJ L 239, 22.9.2000, p. 298.

	<p>(2a) The purpose of the list of travel documents is twofold: on the one hand it allows border control authorities to verify whether a given travel document is recognised for the purpose of crossing the external borders as set out in Article 5 (1)(a) of Regulation(EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code); on the other hand it allows consular staff to verify whether Member States recognise a given travel document for the purpose of affixing the visa sticker.¹</p>	
(3) Under Article 48 (1) (c) of Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas ² an exhaustive list of travel documents issued by the host country should be drawn up within local Schengen cooperation.	(3) Under Article 48 (1) (c) of Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas ³ an exhaustive list of travel documents issued by the host country should be drawn up within local Schengen cooperation.	

¹ COM explained the steps leading to the adoption of the list of travel documents and its updating. It emphasised that this mechanism fully respects MS' national sovereignty, as it is only after the establishment of the list by the Commission within the committee procedure that Member States (MS) would decide on the recognition or not of the listed travel documents; that list, including MS' indications on recognition or non-recognition would then be published.

² DE has a general reservation on the whole proposal.

² OJ L 243, 15.9.2009, p.1.

³ OJ L 243, 15.9.2009, p.1.

<p>(4) A mechanism should be established to ensure that the list of travel documents is constantly updated and to allow for a common technical assessment, where appropriate, of the listed travel documents and place an obligation on Member States to express their position on the recognition and non-recognition of these documents.</p>	<p>(4) A mechanism should be established to ensure that the list of travel documents is constantly updated (...).</p>	
	<p>(4a) Considering the relevance of the security of the travel documents with regard to their possible recognition, where appropriate, the Commission, assisted by experts of the Member States, should provide a technical assessment.</p>	
<p>(5) Member States are and should remain responsible for the recognition of travel documents for the purpose of allowing the holder to cross the external borders and affixing a visa.</p>	<p>(5) Member States are and should remain competent for the recognition of travel documents for the purpose of allowing the holder to cross the external borders and affixing a visa.</p>	<p>(5) Member States are and should remain <i>competent</i> for the recognition of travel documents for the purpose of allowing the holder to cross the external borders and affixing a visa.</p>

<p>(6) Member States should notify their position in relation to all travel documents and endeavour to harmonise their positions on the different types of travel documents.</p>	<p>(6) Member States should notify their position in relation to all travel documents and endeavour to harmonise their positions on the different types of travel documents. Since a Member State's failure to notify its position with regard to a travel document may cause problems to holders of this travel document, a mechanism should be established to place an obligation on Member States to express their position on the recognition and non-recognition of these documents. This mechanism does not preclude Member States to notify a change of their position in any given moment.</p>	
	<p>(6a) An online database containing specimens of all travel documents should be established in the long term to facilitate the examination of a given travel document by border control authorities and consular staff. This database should be kept up to date in line with any changes as referred to in Article 4(3) of this Decision.</p>	<p><i>(6a) An online database containing specimens of all travel documents should be established in the long term to facilitate the examination of a given travel document by border control authorities and consular staff. This database should be kept up to date in line with any changes as referred to in Article 4(3) of this Decision.</i></p>

	<p>(7a) For information purposes, the Commission should draw up a non-exhaustive list of known fantasy and camouflage passports, brought to its attention by the Member States. The fantasy and camouflage passports which are on the list are not subject to recognition or non-recognition. They do not entitle their holder to cross the external borders and may not be endorsed with a visa.</p>	
(7) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹ .	<p>(7b) In order to ensure <i>uniform conditions for compiling and updating of the list of travel documents, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers</i>².</p>	<p><i>(7) In order to ensure uniform conditions for compiling and updating of the list of travel documents, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers</i>³.</p>

¹ OJ L 184, 17.7.1999, p. 23.

² OJ L 55, 28.2.2011, p. 13.

³ OJ L 55, 28.2.2011, p. 13.

	(7c) The advisory procedure should be used for the drawing-up and updating of the list of travel documents, given that those acts merely constitute the compilation of issued travel documents.	<i>(7a) The advisory procedure should be used for the drawing-up and updating of the list of travel documents, given that those acts merely constitute the compilation of issued travel documents.</i>
(8) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen acquis ¹ , which falls within the area referred to in Article 1, points (A), (B) and (C) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ² .	(8) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen acquis ³ , which falls within the area referred to in Article 1, points (A), (B) and (C) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ⁴ .	

¹ OJ L 176, 10.7.1999, p. 36.

² OJ L 176, 10.7.1999, p. 31.

³ OJ L 176, 10.7.1999, p. 36.

⁴ OJ L 176, 10.7.1999, p. 31.

<p>(9) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis¹, which fall within the area referred to in Article 1, points (A), (B) and (C), of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC².</p>	<p>(9) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis³, which fall within the area referred to in Article 1, points (A), (B) and (C), of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁴.</p>	
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¹ OJ L 53, 27.2.2008, p.52.

² OJ L 53, 27.2.2008, p. 1.

³ OJ L 53, 27.2.2008, p.52.

⁴ OJ L 53, 27.2.2008, p. 1.

<p>(10) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, points (A), (B) and (C) of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC¹.</p>	<p>(10) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, points (A), (B) and (C) of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC².</p>	
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¹ OJ L 83, 26.3.2008, p. 3.

² OJ L 83, 26.3.2008, p. 3.

<p>(11) As provided for in Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the Functioning of the European Union, 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 V of the Treaty on the Functioning of the European Union, 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.</p>	<p>(11) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen acquis, Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the Council has adopted this Decision whether it will implement it in its national law.</p>	
<p>(12) This Decision constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis¹; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.</p>	<p>(12) This Decision constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis²; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.</p>	

¹ OJ L 131, 1.6.2000, p. 43.

² OJ L 131, 1.6.2000, p. 43.

(13) This Decision constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> ¹ ; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.	(13) This Decision constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> ² ; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.	
(14) As regards Cyprus, this Decision constitutes an act building upon the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.	(14) As regards Cyprus, this Decision constitutes an act building upon the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.	
(15) This Decision constitutes an act building upon the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,	(15) This Decision constitutes an act building upon the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,	

¹ OJ L 64, 7.3.2002, p. 20.

² OJ L 64, 7.3.2002, p. 20.

HAVE ADOPTED THIS DECISION:	HAVE ADOPTED THIS DECISION:	
<i>Article 1 Subject matter and Scope</i>	<i>Article 1 Subject matter and Scope</i>	<i>Article 1 Subject matter and Scope</i>
1. This Decision establishes the list of Travel Documents entitling the holder to cross the external borders and which may be endorsed with a visa (hereinafter referred to as "the list of travel documents") and a mechanism for compiling this list.	1. This Decision establishes the list of Travel Documents entitling the holder to cross the external borders and which may be endorsed with a visa (hereinafter referred to as "the list of travel documents") and a mechanism for compiling this list.	
2. This Decision applies to travel documents such as national passport (ordinary, diplomatic or service/official or special passport), an emergency travel document, a refugee or stateless persons travel document, a travel document issued by international organisations or a laissez-passer.	2. This Decision applies to travel documents such as national passport (ordinary, diplomatic or service/official or special passport), an emergency travel document, a refugee or stateless persons travel document, a travel document issued by international organisations or a laissez-passer.	
	3. This Decision does not affect Member States' competence for the recognition of travel documents.	<i>2a. This Decision does not affect Member States' competence for the recognition of travel documents.</i>

<i>Article 2 Compilation of the list of travel documents</i>	<i>Article 2 Compilation of the list of travel documents</i>	<i>Article 2 Compilation of the list of travel documents</i>
1. The Commission shall draw up the list of travel documents with the assistance of Member States and on the basis of information gathered within local Schengen cooperation, as referred to in Article 48(1)(c) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas.	1. The Commission shall draw up the list of travel documents with the assistance of Member States and on the basis of information gathered within local Schengen cooperation, as referred to in Article 48(1)(c) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas.	
2. The list of travel documents shall be drawn up in accordance with the procedure referred to in Article 7(2).	2. The list of travel documents shall be drawn up in accordance with the advisory procedure referred to in Article 7(2).	2. The list of travel documents shall be drawn up in accordance with the <i>advisory</i> procedure referred to in Article 7(2).
<i>Article 3 Structure of the list</i>	<i>Article 3 Structure of the list</i>	<i>Article 3 Structure of the list</i>
1. The list shall be divided into three parts.	1. The list shall be divided into three parts.	
2. Part I shall consist of travel documents issued by the third countries and territorial entities as listed in Annexes I and II to Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement ¹ .	2. Part I shall consist of travel documents issued by the third countries and territorial entities as listed in Annexes I and II to Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement ²	

¹ OJ L 81, 21.3.2001, p. 1.

² OJ L 81, 21.3.2001, p. 1.

3. Part II shall consist of the following travel documents issued by Member States of the European Union:	3. Part II shall consist of the following travel documents issued by Member States including those issued by the Member States of the European Union which are not taking part in the adoption of the present Decision and by the Member States of the European Union which do not yet apply the provisions of the Schengen <i>acquis</i> in full:	
(a) travel documents issued to third country nationals,	(a) travel documents issued to third country nationals,	
(b) travel documents issued to refugees under the United Nations Convention Relating to the Status of Refugees of 28 July 1951,	(b) travel documents issued to refugees under the United Nations Convention Relating to the Status of Refugees of 28 July 1951,	
(c) travel documents issued to stateless persons under the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954	(c) travel documents issued to stateless persons under the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954	
	(ca) travel documents issued to persons who do not hold the nationality of any country and who reside in a Member State (...),	
(d) travel documents issued by the United Kingdom to British citizens who are not nationals of the United Kingdom of Great Britain and Northern Ireland for the purposes of Union law.	(d) travel documents issued by the United Kingdom to British citizens who are not nationals of the United Kingdom of Great Britain and Northern Ireland for the purposes of Union law.	

4. Part III shall consist of travel documents issued by international organisations.	4. Part III shall consist of travel documents issued by international organisations.	
5. As a general rule, the listing of a given travel document applies to all series of that travel document that are still valid.	5. As a general rule, the listing of a given travel document applies to all series of that travel document that are still valid.	
6. If a third country does not issue a particular type of travel document, this shall be indicated by entering "not issued" in the list.	6. If a third country does not issue a particular type of travel document, this shall be indicated by entering "not issued" in the list.	
<i>Article 4 Notification of recognition or non recognition of listed travel documents</i>	<i>Article 4 Notification of recognition or non recognition of listed travel documents</i>	<i>Article 4 Notification of recognition or non recognition of listed travel documents</i>
1. Within one month after the communication of the list referred to in Article 2(1), Member States shall notify to the Commission their position on recognition or non-recognition of the travel documents.	1. Within <u>three months</u> after the communication of the list referred to in Article 2(1), Member States shall notify to the Commission their position on recognition or non-recognition of the travel documents.	
	<u>If a Member State fails to notify within the deadline referred to in paragraph 1, the travel document concerned is deemed to be recognised until the Member State's notification on its non-recognition¹.</u>	<i>1a. If a Member State fails to notify its position within the deadline referred to in paragraph 1, the travel document concerned shall be deemed to be recognised until the Member State notifies to the Commission its position on non-recognition.</i>

¹ **DE, AT, CY, and IT** maintains their reservation as they cannot accept that no notification would mean recognition. **COM** recalled that the Commission could agree on the three-month delay only if the absence of notification implies recognition. **PT** lifted its reservation at the Visa Working Party on 18 May 2011.

2. In the framework of the Committee referred to in Article 7(1), Member States shall exchange information on the grounds for the recognition or non-recognition of specific travel documents with a view to reaching a harmonised position.	2. In the framework of the Committee referred to in Article 7(1), Member States shall exchange information on the grounds for the recognition or non-recognition of specific travel documents with a view to reaching a harmonised position.	
3. Member States shall notify to the Commission of all changes to previously indicated recognition or non recognition of a given travel document.	3. Member States shall notify to the Commission of all changes to previously indicated recognition or non recognition of a given travel document.	
<i>Article 5 New travel documents issued</i>	<i>Article 5 New travel documents issued</i>	<i>Article 5 New travel documents issued</i>
1. Member States shall notify the Commission of new travel documents referred to in points (a) to (c) of Article 3(3).	1. Member States shall notify the Commission of new travel documents referred to in points (a) to (ca) of Article 3(3).	
2. Member States shall inform the Commission of new travel documents issued by third states, Member States and international organisations referred to in Article 3(2), in Article 3(3)(d) and Article 3(4).	2. Member States shall inform the Commission of new travel documents issued by third countries , Member States and international organisations referred to in Article 3(2), in Article 3(3)(d) and Article 3(4). The Commission shall, in cooperation with the Member States, endeavour to collect specimens of new travel documents in order to share them.	

3. The Commission shall update the list in accordance with the notifications and information received and shall request Member States to notify their position on recognition or non recognition in accordance with Article 4.	3. The Commission shall update the list in accordance with the notifications and information received and shall request Member States to notify their position on recognition or non recognition in accordance with Article 4.	
4. The updated list shall be drawn up in accordance with the procedure referred to in Article 7(2).	4. The updated list shall be drawn up in accordance with the advisory procedure referred to in Article 7(2).	4. The updated list shall be drawn up in accordance with the <i>advisory</i> procedure referred to in Article 7(2).
	<i>Article 5a</i> <i>Information concerning known fantasy and camouflage passports</i>	
	The Commission shall also draw up and update a non-exhaustive list of known fantasy and camouflage passports on the basis of information received from the Member States.	

<i>Article 6 Assessment of the technical standards of travel documents</i>	<i>Article 6 (...) Assessment of the travel documents</i>	<i>Article 6 Assessment of the technical standards of travel documents</i>
1. In order to assist the Member States in their assessment of the technical standards of the travel documents, the Commission may in accordance with the procedure set out in Article 7(2), provide for a technical analysis of such travel documents.	1. In order to assist the Member States in their technical assessment of the travel documents, the Commission, assisted by experts of the Member States, may provide for a technical analysis of such travel documents taking into account notably the relevant ICAO standards and recommendations.	1. In order to assist the Member States in their assessment of the technical standards of the travel documents, the Commission may in accordance with the <i>advisory</i> procedure set out in Article 7(2), provide for a technical analysis of such travel documents.
2. The results of the technical assessment of a travel document shall be communicated to the Member States	(...)	
	2. Where relevant the conditions and procedures for issuing travel documents may be also analysed in this framework.	
	3. The results of the assessments referred to in paragraphs (1) and (2) shall be communicated to the Member States.¹	

¹ This additional paragraph was suggested by the Presidency at the JHA Counsellors meeting on 3 May. None of the delegations opposed to it.

<i>Article 7 Committee procedure</i>	<i>Article 7 Committee procedure</i>	<i>Article 7 Committee procedure</i>
1. The Commission shall be assisted by a committee (the Travel Document Committee).	1. The Commission shall be assisted by a committee (the Travel Document Committee). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee (the Travel Document Committee). <i>That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</i>
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.	2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, <i>Article 4 of Regulation (EU) No 182/2011 shall apply.</i>
<i>Article 8 Publication of the list</i>	<i>Article 8 Publication of the list</i>	<i>Article 8 Publication of the list</i>
The Commission shall make the list, including the notifications pursuant to Article 4, available to the Member States and the public via a constantly updated electronic publication.	The Commission shall make the list referred to in Article 3 , including the notifications pursuant to Article 4, and the list referred to in Article 5a , available to the Member States and the public via a constantly updated electronic publication.	
<i>Article 9 Repeals</i>	<i>Article 9 Repeals</i>	<i>Article 9 Repeals</i>
Decisions SCH/Com-ex (98) 56 and SCH/Com-ex (99) 14 shall be repealed.	Decisions SCH/Com-ex (98) 56 and SCH/Com-ex (99) 14 shall be repealed.	

<i>Article 10 Entry into force</i>	<i>Article 10 Entry into force</i>	<i>Article 10 Entry into force</i>	
1. This Decision shall enter into force on the [...] day following that of its publication in the <i>Official Journal of the European Union</i> .	1. This Decision shall enter into force on the [...] day following that of its publication in the <i>Official Journal of the European Union</i> .		
2. All provisions of this Decision shall apply at the date of its entry into force except for Article 9 that will apply at the date of the first publication by the Commission of the list referred to in Article 8.	2. All provisions of this Decision shall apply at the date of its entry into force except for Article 9 that will apply at the date of the first publication by the Commission of the list referred to in Article 8.		
<i>Article 11</i>	<i>Article 11</i>	<i>Article 11</i>	
This Decision is addressed to the Member States in accordance with the Treaties.	This Decision is addressed to the Member States in accordance with the Treaties.		
Done at [...],	Done at [...],		
<i>For the European Parliament</i> <i>The President</i> [...]	<i>For the Council</i> <i>The President</i> [...]	<i>For the European Parliament</i> <i>The President</i> [...]	<i>For the Council</i> <i>The President</i> [...]