COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual

Proposal for a

COUNCIL REGULATION

on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No….

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. GENERAL MATTERS

In aiming to establish progressively an area of freedom, security and justice, the Amsterdam Treaty marked a major advance in European integration. Building upon the Maastricht Treaty, new competences for adopting measures have also been given to the European Community in relation to measures on immigration policy such as the conditions of entry and residence of third country nationals and in relation to visa policy. The conclusions of the special European Council in Tampere on the creation of this area of freedom, security and justice within the European Union have underlined the importance of ensuring fair treatment for third country nationals who reside legally on the territory of Member States. The need for more efficient management of migration flows and an enhanced fight against illegal immigration and the importance of effective controls at external borders as a necessary complement to the implementation of these policies were also emphasised.

While preparing for the accession of new Member States, the EU is confronted with new situations, especially related to external border crossings in a future enlarged European Union. In order to face these new situations necessary legislation has to be introduced to avoid problems occurring at the future external EU borders, and in particular as regards persons transiting by land between two parts of the same third country via the territory of one or more Member States, at present this situation will apply in case of the Russian region of Kaliningrad. This kind of entry and return transit does not currently exist in the EU and therefore the acquis does not provide specific rules for such a situation.

Respecting the Council's wish that solutions should comply with the principles of the acquis and should not prevent the new Member States concerned from fully participating in the Schengen framework, it should be stressed that this does not mean that the acquis cannot cater for special circumstances. Indeed, the acquis is continually under development. It follows that the EU's position should, having reviewed a range of options, be defined both by its legal obligations and by its own, and the candidates', political interests.

Following the discussion on Kaliningrad at the Moscow EU-Russia Summit in May 2002, the Seville European Council of June 2002 invited the Commission to submit a study on the possibilities for an effective and flexible solution of the transit of persons and goods to and from the Kaliningrad oblast, in compliance with the acquis and with the agreement of the candidate countries concerned.

In its Communication to the Council on Kaliningrad: Transit[1], the Commission recommended that the EU's position should be based upon a package of measures in addition to what has already been set out in the EU Common Line of 13 May 2002. The Brussels European Council on October 2002 and the Brussels EU-Russia Summit of 11 November 2002 acknowledged the unique situation of the Kaliningrad region and agreed to make a special effort to accommodate the concerns on both sides related to the future transit of persons and goods between the Kaliningrad region and other parts of Russia.

One of the measures, suggested in the Commission Communication and taken up in the Joint Statement with Russia as well as with the relevant candidate countries, aimed at establishing a

[1] COM(2002) 510 final

"Facilitated Transit Document" (FTD), which could be issued to Russian citizens travelling frequently by land from Kaliningrad to the Russian mainland and vice versa. It would allow for multiple-entry transit between different parts of the same third country and would be valid for a substantial period of time, several years, where appropriate. The FTD would be issued in a format rendering the documents compatible with the required security standards.

In addition, a "*Facilitated Rail Transit Document*" (FRTD) for rail passengers would be created, which should be valid exclusively for direct transit between Kaliningrad and the Russian mainland for a single transit by rail (entry-return). The FRTD will have the same level of document security as the FTD, only the application and issuing procedure would differ from those of the FTD.

As a suitable balance has to be found between, on the one hand, the facilitation of travel for Russians wishing to travel between the mainland Russia and Kaliningrad or vice versa and, on the other hand, the sovereignty of Lithuania and other new Member States especially as regards the control of its external borders and national security, two regulations, developing the Schengen acquis, are presented:

– Regulation (EC) No….establishing a Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual, which sets out the definition, the validity, the issuing procedures, and the conditions for obtaining such documents.

– Regulation (EC) No …..on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD), which lays down the description of the models for the uniform format; this needs to be supplemented by further technical specifications which are to remain secret in order to prevent counterfeiting and falsifications and which may not include personal data or references to such data. The implementation powers at the technical level in relation to the proposal will be delegated to the Commission with the assistance of the Committee created by Article 6 of Regulation 1683/95 laying down the uniform format for visas, in line with the procedure set out in Article 5 of Decision 1999/468/EC[2] in compliance with Article 7 thereof. Under this procedure the technical specifications to render the documents compatible with the required security standards will be established. This mechanism will also ensure a continuous peer control in relation to the security of the document and adaptation to new situations as the need arises.

The FTD and FRTD documents are not identical with the uniform format for visas but they are deemed to substitute for and deemed to be equivalent to a transit visa, thus representing an authorisation to enter the EU/Schengen territory in view of the specific transit described above.

With these proposals, the Commission intends to put in place the required legislative measures developing the Schengen acquis in order to offer solutions for third country nationals wishing to undertake this specific kind of transit.

The present Regulations are based on Article 62 (2) of the Treaty establishing the European Community. Article 62 (2) relates to rules on the crossing of the external borders of the Member States.

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[2] OJ L 184, 17.7.1999, p. 23

The Commission will present as soon as possible a proposal for establishing the legal basis to cover the additional costs of Member States for operating the FTD/FRTD after 1st of May 2004.

2. SUBSIDIARITY AND PROPORTIONALITY

Article 5 of the EC Treaty provides that "action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty". The form taken by Community action must be the simplest form allowing the proposal to attain its objective and to be implemented as efficiently as possible.

The proposal introducing an FTD/FRTD will allow facilitated transit via one or more Member States making sure at the same time that the necessary security needs related to the area without internal border controls are guaranteed. By its very nature, this can only be done by a Community action, purely national measures would not have the desired effect of laying down rules affecting all Schengen states. As the proposed initiatives are developing the Schengen acquis, the form of a regulation has been chosen in order to assure a harmonised application in all Member States applying the Schengen acquis.

The harmonisation of document formats and of their security features will provide a guarantee against counterfeiting. By preventing forgery and counterfeiting of travel and residence documents the Commission intends to enhance the high level of security, a target set out both by the Treaty and the European Council of Tampere. This level of harmonisation can only be reached by a Community action as already demonstrated by the adoption of several other instruments aiming at rendering documents more secure.

The proposal related to the uniform formats of the FTD/FRTD aims at rendering them more secure, legally binding and easy adaptable to new circumstances in view of suspected counterfeiting and forgery of the two documents, which should meet special situations for crossing of the external borders of the European Union and should therefore be the same throughout the EU. The main reason for preferring regulations to directives is that the proposal aims at a total harmonisation of the layout of such documents, and their security features, thus leaving no room for discretion to the Member States.

3. CONSEQUENCES IN RELATION TO THE VARIOUS PROTOCOLS ANNEXED TO THE TREATY

The legal bases for the proposals concerning entry conditions and documents issued by Member States to third-country nationals fall within Title IV of the Treaty and thus imply the variable situation as laid down by the protocols on the position of the United Kingdom, Ireland and Denmark. The present Regulations are building upon the Schengen acquis. Therefore the following consequences in relation to the various protocols have to be considered:

United Kingdom and Ireland

According to Article 4 and 5 of the Protocol integrating the Schengen acquis into the framework of the European Union, "Ireland and the United Kingdom of Great Britain and Northern Ireland, which are not bound by the Schengen acquis, may at any time request to take part in some or all of the provisions of the acquis".

These Regulations constitute a development of provisions of the Schengen acquis, in which the United Kingdom and Ireland do 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, and Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis. The United Kingdom and Ireland are therefore not taking part in their adoption and are not bound by them or subject to their application.

Denmark

By the Protocol annexed to the Amsterdam Treaty on the position of Denmark, Denmark does not take part in the adoption by the Council of measures pursuant to Title IV of the EC Treaty, with the exception of "measures determining the third countries whose nationals must be in possession of visas when crossing the external borders, or measures relating to a uniform format for visas" (former Article 100c).

Where however, as in this case, the proposals constitute a development of the Schengen acquis and following Article 5 of the Protocol, "Denmark shall decide within a period of 6 months after the Council has decided on a proposal or initiative to build upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, whether it will implement this decision in its national law".

Norway and Iceland

In accordance with Article 6 first indent of the Schengen Protocol, an agreement has been signed on 18 May 1999 between the Council, Norway and Iceland in order to associate those two countries with the implementation, application and development of the Schengen acquis[3].

Article 1 of this agreement stipulates that Norway and Iceland are associated with the activities of the EC and the EU in the areas covered by the provisions referred to in Annexes A (provisions of the Schengen acquis) and B (provisions of acts of the European Community, which have replaced corresponding provisions of, or adopted pursuant to, the Schengen Convention) of the agreement as well as by those which will follow from them.

According to Article 2 of the agreement, the provisions of all acts or measures taken by the European Union amending or building upon the integrated Schengen Acquis (Annex A, B) shall be implemented and applied by Norway and Iceland.

The present proposals build upon the Schengen acquis as defined in Annex A of the agreement.

As a consequence the matter has to be discussed in the "Mixed Committee" as provided for in Article 4 of the Agreement to give the possibility to Norway and Iceland "to explain the problems they encounter in respect of " the measure and "to express themselves on any questions concerning the development of provisions of concern to them or the implementation thereof".

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[3] OJ L 176, 10.07.99, p. 35

4. CONSEQUENCES IN RELATION TO THE TWO-PHASE IMPLEMENTATION PROCEDURE OF ACTS BUILDING UPON THE SCHENGEN ACQUIS

The accession treaty will contain an article stipulating that the provisions of the Schengen acquis, the acts building upon it or otherwise related to it, listed in the annex to that Article, shall be binding on and applicable in the new Member States as from accession. The provisions and acts not referred to in that annex , while binding on the new Member States as from accession, will only become applicable in the new Member States following a special Council decision to that effect, made in accordance with that Article.

The Council Regulation on a uniform format for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) will be added to the annex of the article in the Accession Treaty, consistent with the fact that all other acts related to the uniform format of travel documents are listed in that annex, and thus become applicable upon accession.

The annex to the Article in the Accession Treaty will not contain any acts related to the definition, the validity, the issuing procedures, and the conditions for obtaining travel documents. The Council Regulation introducing a specific Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual shall therefore not be listed in that annex and, while binding on all Member States, will only become applicable in the new Member States following a Council decision to that effect. Until such a decision, facilitated transit remains to be regulated at national level. As a consequence, the other Member States do not have to recognise the facilitated transit documents until the second Council decision lifting the internal borders is adopted.

5. COMMENTS ON THE ARTICLES

5.1 COUNCIL REGULATION establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual

Article 1

There is as yet no specific acquis on transit of persons by land through EU territory from one part of a third country to another part of the same third country. The definition for such facilitated transit is given in article 1.

Article 2

Two specific travel authorisations for facilitated transit are drawn up in the form of uniform formats (adhesive stickers) in accordance with Regulation (EC) …. corresponding to that used for visas, *mutadis mutandis,* in accordance with the rules and specifications determined by Regulation 1683/95 of 29 May 1995 establishing a uniform format for visas. This will ensure a high standard of protection against counterfeiting.

The Facilitated Transit Document (FTD) may be issued by Member States for facilitated transit by whatever means of land transport for multiple entries. The FTD would substitute for the normal multiple-entry transit visas for persons who travel frequently and can justify continued use.

For single entry-return passengers travelling by train, a Facilitated Rail Transit Document (FRTD) may be issued by Member States. The FRTD would substitute for the normal single-entry transit visas.

Article 3

The FTD and the FRDT are deemed to be equivalent to transit visas. They will be territorially valid only for the issuing Member State and, as the case may be, other transited Member States. For the purposes of this Regulation, a transited Member State means:

– After accession, the Member States who have decided to recognise FTDs [and/or FRTDs] valid for transit via their territory in cases which comply with the definition for facilitated transit in Article 1 and with the validity of the FTD as described in Article 4;

– After the lifting of the internal border controls, all Member States via which the facilitated transit can take place in accordance with Article 1 and 4.

Article 4

The specific authorisations allowing for facilitated transit (FTD and FRTD) have been designed to cater for the special transit situation from one part of a third country to another part of the same third country.At present, this kind of transit only takes place in practice between Kaliningrad and the Russian mainland.

On the one hand, it is therefore necessary to adapt the time of each transit, which according to the current rules in force is up to 5 days, to better correspond to geographical realities. The FTD has a validity of maximum 24 hours per transit, which is considered reasonable for transit by land of Russian citizens, who necessarily need to pass through the territory of one or several Member States.

On the other hand, in the spirit of the Joint Statement of the Brussels EU-Russia Summit, it is necessary to take into account the fact that in the case of transit between two parts of the same country the need for multiple entry transit documents, which are valid for a substantial period of time, is bigger than in the case of traditional transit. Article 4 fixes the time period up to three years.

The FRTD, being a special facilitation for rail passengers within the system of facilitated transit, has the validity of maximum 6 hours per transited country within a time period equal to the validity of the train ticket.

Article 5

The conditions to be fulfilled for obtaining an FTD/FRTD follow, as applicable, the conditions set out in Article 5.1 of the Convention implementing the Schengen Agreement (hereafter the Schengen Convention).

The issuing conditions for the purposes of this Regulation are as established by Article 5.1 (a), (d) and (e) of the Schengen Convention. Further, persons who travel frequently shall justify the need for continued use in order to obtain a multiple-entry FTD valid for several years (up to three years depending on the need). This provision replaces the entry condition described in Article 5.1. (c) of the Schengen Convention, as other elements mentioned in that provision are not applicable to the facilitated transit. As an FTD/FRTD will be deemed to be equivalent to a visa, Article 5.1 (b) of the Schengen Convention is not relevant.

It is for the Member States to give the exact content to the concept of frequent travellers in individual cases. A diversity of reasons could be considered, including a work contract; proof that a firm is situated both in Kaliningrad and mainland Russia; proof of property or family on the other side of the border. Someone with family or property in mainland Russia, for example, would not have to prove a need to visit them or the property that often, the mere existence of family or property being a sufficient indication of entitlement to a multiple-entry FTD.

Article 6

This article sets out that the request for an FTD should be presented to the consular offices of the Member State who has decided in accordance with Article 13 to issue FTDs. For the FRTD, the Member State can, as a general rule, accept the Personal Data Sheet being transmitted by other authorities or third parties (like train ticket offices or travel agencies).

Article 7

This Article sets out the issuing procedure. It makes the distinction between the issuing (decision and filling in of the sticker) procedure which in any case has to be done by the consular office and the procedure of affixing the ready sticker into the passport or the separate sheet established by Regulation (EC) 333/2002. The article allows for the affixing procedure of the FRTD to be carried out by other authorities and outside the consular office. The third sentence has been added as in general the affixing of the FRTD should be not carried out at the border but should take place for example beforehand on the train in order to avoid a long stoppage of the train at the border.

The 2nd to 4th paragraph are standard provisions of the Common Consular Instructions, which are repeated here for reasons of clarity.

Article 8

The FRTD should be issued free of charge as the practical problems for collecting the fee would be higher than the benefits. As the FTD is valid for frequent travelling, the fee of 5€ is deemed appropriate.

Article 9

This is a provision related to refusal inspired by the existing rules related to visas in the Common Consular Instructions. It is repeated here for reasons of clarity.

Article 10

This is a standard provision envisaging effective, proportionate and dissuasive penalties. It leaves to the Member States the discretionary power to determine the penalties applicable in the event of a violation of the scheme by the holder of the document. However, it provides for the withdrawal of the FTD/FRTD in case of misuse.

Article 11

This article confirms that in cases where no specific rules are set out in these Regulations the rules of the Schengen acquis in relation to visa and external border control will apply *mutadis mutandis*. Therefore these Regulations will only refer to the specific arrangements for the FTD/FRTD and only repeat already existing rules where it is necessary for reasons of clarity.

Article 12

The present Regulation as well as Regulation No. ….. [4] should both be annexed to the Common Consular Instructions and the Common Manual for reasons of clarity. In order to draw attention to the existence of the FTD/FRTD scheme also in the core text of the above-mentioned instruments, references have been added in the appropriate places. The final incorporation into the text of these two legal instruments will take place at the time of the legislative recast of the Common Consular Instructions and the Common Manual.

Article 13

In order to make sure that all Member States and interested third parties are informed about the Member State(s)' decision to issue or no longer to issue the FTD/FRTD, the decision should be communicated to the Council and the Commission. For transparency, it should be published in the Official Journal.

Article 14

The facilitated transit scheme has to be evaluated and possibly adapted to more practical working methods. Therefore the Commission should establish a report on the functioning of the system and for reasons of transparency transmit the latter to the European Parliament and the Council.

Article 15

Standard final provisions.

5.2 COUNCIL REGULATION on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No….

Certain provisions in the Articles are already standard for regulations on the harmonisation of documents as they have been agreed by the Council in Regulations (EC) 1683/95, 333/02, 334/02 and 1030/02.

Article 1

These provisions describe the general characteristics of the uniform format for both documents, FTD and FRTD.

Article 2

This Article confers the implementing powers as regards the Regulation to the Committee created in Article 6 of Regulation (EC) 1683/95 laying down a uniform format for visas.

The Committee not only establishes the necessary technical specifications, but also the conditions of storage and filling in the forms, linked to the security of the uniform formats.

The second paragraph will enable the Committee to change the colours of the uniform format due to urgent circumstances.

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[4] OJ…..

Article 3

Obviously, some technical particulars should not be published under any circumstances, in order to prevent such information being used for the purposes of counterfeiting or falsification. These technical particulars will therefore need to be laid down in a decision, since under Article 254 of the EC Treaty decisions do not need to be published. The Committee already set up to deal with the uniform visa format will take decisions in this framework, since the same experts already have the relevant experience of very high technical standards, notably as regards safeguards against counterfeiting and falsification, and secret documents.

For the same reasons, it is necessary to ensure that only persons so authorised by the Member States and Community bodies have access to this information. This also applies to the printing bodies, which are thus restricted in the first sentence of Article 3(2) to one per Member State

Article 4

This Article confers the implementing powers as regards the Regulation to the Committee created in Article 6 of Regulation (EC) 1683/95 laying down a uniform format for visas in compliance with the regulatory procedure set out in Article 5 of Decision 1999/468/EC and in compliance with Article 7 thereof.

Article 5

The Community is bound to respect fundamental rights such as protection of privacy, and data protection.

The wording of this article covers all applicable provisions on data protection: Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[5].

It ensures that the person to whom the document has been issued is able to check the information introduced and that there is no other additional information provided.

It sets out that the machine-readable information introduced shall correspond to the data entered on the document.

Article 6

This Article sets out a reasonable period for the implementation of the security measures. The integration of the photograph into the FTD/FRTD should follow the same conditions as provided for in Regulation (EC) 334/02 amending Regulation 1683/95 laying down a uniform format for visa. The date 3 June 2007 is the final date for the implementation of the integration of the photograph into the uniform format for visa.

Article 7

This is a standard provision.

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5 OJ L 281, 23.11.1995, p. 31

Annex

The annexes only set out the technical specifications, which are not secret. They refer in their numbering to the models as set out in the annex. The approach has been aligned to the uniform format for visas as the same printers and software as for the uniform format for visas should be used to fill in the FTD/FRTD stickers. The only changes, which have been introduced are:

as regards the FRTD, the duration of stay it is set out as “single entry and return” without indicating the duration of stay (as it will be less than one day) and the number of days as it is not necessary to indicate.

for the FTD, the number of entries, duration of stay and days has to be indicated as the FTD is valid for multiple entries.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission[6],

Having regard to the opinion of the European Parliament[7],

Whereas:

(1) In order to prepare accession of new Member States, the Community should take into account specific situations, which may occur as a result of enlargement and set out the relevant legislation in order to avoid future problems in relation to crossing of the external border.

(2) The Community should to address in particular the new situation of third country nationals necessarily needing to transit via the territory of one or several Member States in order to travel from one part of their country to another part of the same country.

(3) A Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD) should be established for this specific case of transit by land.

(4) The conditions and the procedures for obtaining these documents should be facilitated in line with the provisions of the Schengen acquis.

(5) It is necessary to provide for penalties in case of misuse of the FTD/FRTD scheme by the holder of the document.

(6) Since by its very nature the objective of the facilitated transit cannot be sufficiently achieved by Member States as it would not have the desired effect of laying down rules for all Member States implementing the Schengen Convention and can therefore be better achieved at Community level, the Community may adopt such rules , in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In

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6 OJ C , , p. .

7 OJ C , , p. .

accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.

(7) A uniform format for FTD and FRTD is established in Regulation (EC) No ……[8]

(8) The Common Consular Instructions[9] and the Common Manual[10] should be amended accordingly

(9) As regards the Republic of Iceland and the Kingdom of Norway, this Regulation constitutes a development of the provisions of the Schengen acquis falling within the area referred to in Article 1, point B, of Council Decision 1999/437/EC 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 acquis[11].

(10) 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 establishing the European Community, Denmark does not take part in the adoption of this Regulation and is therefore not bound by it or subject to its application. However, given that this Regulation aims to build upon the Schengen acquis under the provisions of the third part of Title IV of the Treaty establishing the European Community, Denmark will, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation whether it will transpose it into its national law

(11) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Article 4 and 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community,the United Kingdom does therefore not take part in its adoption and is not bound by it or subject to its application.

(12) This Regulation constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Article Article 4 and 5 of the Protocol integrating the Schengen acquis into the framework of the European Union Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application,

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8 OJ L

9 Consolidated version in OJ C 313, 16.12.2002, p.1

10 Consolidated version in OJ C 313, 16.12.2002, p.97

11 OJ L 176, 10.07.1999, p.31

HAS ADOPTED THIS REGULATION:

Chapter I

GENERAL PROVISIONS

Article 1

Definition

1. This Regulation establishes a Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD) for the purpose of facilitated transit.

2. Facilitated transit shall mean the specific transit by land of a third country national who necessarily needs to pass through the territory of one or several Member States in order to move between the two parts of their own country.

Article 2

Specific authorisation (FTD/FRTD)

1. The FTD is a specific authorisation allowing for a facilitated transit, which may be issued by Member States for multiple entries by whatever means of land transport.

2. The FRTD is a specific authorisation allowing for facilitated transit, which may be issued by Member States for a single entry and return by rail.

3. The FTD/FRTD shall be issued in the form of uniform formats (adhesive stickers) in accordance with Regulation (EC) ……...

Article 3

Scope

The FTD and the FRTD are equivalent to transit visas and are territorially valid for the issuing Member State and other transited Member States.

Article 4

Validity

1. The FTD shall be valid for a maximum period of up to three years. A transit based on the FTD shall not exceed 24 hours.

2. The period of validity of the FRTD shall not exceed the period of validity of the train ticket. A transit based on the FRTD shall not exceed six hours.

Chapter II

ISSUING A FTD/FRTD

Article 5

Conditions

In order to obtain an FTD/FRTD, the applicant shall:

a) possess a valid document, authorising them to cross external borders.

b) not be a person for whom an alert has been issued for the purposes of refusing entry.

c) not be considered to be a threat to public policy, national security or the international relations of any of the Member States.

d) for the FTD, prove the need for frequent travelling between the two parts of the territory of his/her country.

Article 6

Application procedure

1. The application for an FTD shall be presented to the consular authorities of a Member State which has communicated its decision to make use of the FTD/FRTD in accordance with Article 13. This application shall provide evidence of the need for frequent travelling, in particular in the form of documents concerning family links or social, economic or other motives.

2. In the case of an FRTD, a Member State may, as a rule, accept applications transmitted via other authorities or third parties.

3. The application for an FTD shall be presented on the standard form as set out in annex I to this Regulation.

4. The personal data for an FRTD shall be supplied on the basis of the Personal Data Sheet set out in annex II to this Regulation.

Article 7

Issuing procedure

1. The FTD/FRTD shall be issued by the consular offices of the Member State and shall not be issued at the border. The affixing of the FRTD may be carried out outside the consular offices and by other authorities. However, it shall only be only be affixed at the border in exceptional circumstances.

2. No FTD/FRTD shall be affixed in a travel document that has expired.

3. The period of validity of the travel document in which the FTD/FRTD is affixed shall be be longer than that of the FTD/FRTD.

4. No FTD/FRTD shall be affixed in a document if it is valid for none or only for one of the Member States. In this case it should be affixed by the consular offices on the uniform format for forms for affixing the visa in accordance with Regulation (EC) 333/2002[12]

Article 8

Fees for the issue of an FTD/FRTD

1. The fee for the issue of an FTD shall be EUR 5.

2. The FRTD shall be issued free of charge.

Chapter III

COMMON PROVISIONS RELATED TO THE FTD/FRTD

Article 9

Refusal

1. The procedures, and appeal in cases where the consular post refuses to examine an application or issue an FTD/FRTD shall be governed by national law of the respective Member States.

2. If an FTD/FRTD is refused and national law requires the grounds for such a refusal to be given, the reason shall be communicated to the applicant.

[12] OJL 53, 23.02.2002, p.4

Article 10

Penalties

National law shall lay down penalties related to the misuse by the holder of the FTD/FRTD scheme.

Such penalties shall be effective, proportionate and dissuasive, and shall include the possibility of withdrawing the FTD/FRTD.

Chapter IV

FINAL PROVISIONS

Article 11

Subject to the specific rules set out in this Regulation, references in the Schengen acquis to visas shall also apply to the FTD/FRTD.

Article 12

1. The Common Consular Instructions are amended as follows:

(1) In I, the following point 2.5. is added:

"2.5 *Documents equivalent to a visa, authorising the crossing of external borders": FTD/FRTD*

For facilitated transit, an FTD or an FRTD can be issued in accordance with Council Regulations (EC) ……(*) and (EC) …(**)…… (see Annex 17)."

(*) OJ L …..

(**) OJ L …..

(2) The text of this Regulation and of Regulation No. is added as Annex 17.

2. The Common Manual is amended as follows:

(1) In part I, the following point 3.4. is added:

"3.4. DOCUMENTS EQUIVALENT TO A VISA, AUTHORISING THE CROSSING OF EXTERNAL BORDERS": FTD/FRTD

For facilitated transit, an FTD or an FRTD can be issued in accordance with Council Regulations (EC) …(*) and (EC) …..(**) (See Annex 15)."

(*) OJ L…..

(**) OJ L…..

(2) The text of this Regulation and of Regulation No …. is added as Annex 15.

Article 13

Implementation

1. Member States shall communicate their decision on making use of the FTD and the FRTD to the Council and the Commission. The decision shall be published by the Commission in the Official Journal of the European Communities. It shall enter into force on the date of its publication.

2. If Member States decide to no longer make use of the FTD and the FRTD they shall communicate that decision to the Council and the Commission.

The decision shall be published by the Commission in the *Official Journal of the European Communities.* It shall enter into force the thirtieth day following that of its publication.

Article 14

Report

The Commission shall report to the European Parliament and the Council on the functioning of the facilitated transit scheme at the latest three years after the entry into force of the first decision as set out in Article 13(1).

Article 15

Entry into force

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 all Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the Council
The President

AnnexI

Stamp of Embassy or Consulate

Application for an FTD

Photo

This application form is free

1. Surname(s) (family name(s))		For Embassy/ Consulate use only Date application:
2. Surname(s) at birth (earlier family name(s))		
3. First names (given names)		
4. Date of birth (year-month-day)	5. ID-number (optional)	File handled by:
6. Place and country of birth		Supporting documents: □ Valid passport □ Proof of need to travel frequently
7. Current nationality/ies	8. Original nationality (nationality at birth)	
9. Sex □ Male □ Female	10. Marital status: □ Single □ Married □ Separated □ Divorced □ Widow(er) □ Other	
11. Father's name	12. Mother's name	FTD □ Refused □ Granted
13. Type of passport: □ National passport □ Diplomatic passport □ Service passport □ Seaman's passport □ Other travel document (please specify) ……		
14. Number of passport	15. Issued by	
16. Date of issue	17. Valid until	
18. Other FTDs/FRTDs/visas (issued during the past three years) and their period of validity		
19. Reasons for frequent travel (e.g. Business, Family or Friends, Cultural/Sports, Official, Medical reasons, other) Please specify and attach supporting documents …….		Valid from……. To……..

20. Spouse's family name		21. Spouse's family name at birth	For Embassy/ Consulate use only
22. Spouse's first name	23. Spouse's date of birth	24. Spouse's place of birth	
25. Children (Applications must be submitted separately for each person) Name First name Date of birth 1. 2. 3.			
26. I am aware of and consent to the following: any personal data concerning me which appears on the FTD application form will be supplied to the relevant authorities in the Schengen States and processed by those authorities. If necessary, for the purposes of a decision on my FTD application. Such data may be put into, and stored in, databases accessible to the relevant authorities in the various Schengen States. At my express request, the consular authority processing my application will inform me in the manner in which I may exercise my right to check the personal data concerning me and have them altered or deleted, in particular, should they be inaccurate, in accordance with the national law of the State concerned. I declare to the best of my knowledge all particulars supplied by me are correct and complete. I am aware that any false statements will lead to my application being rejected or to the annulment of a FTD already granted and may also render me liable to prosecution under the law of the Schengen State which deals with the application. I undertake to respect the time-limit of the FTD. I have been informed that possession of an FTD is only one of the prerequisites for entry into the European territory to the Schengen States. The mere fact that an FTD has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5.1 of the Schengen Implementation Convention and I am thus refused entry. The prerequisites for entry will be checked again on entry into the territory of the Schengen States.			
27. Applicant's home address		28. Telephone number	
29. Place and date	30. Signature (for minors, signature of custodian/guardian)		

Annex II

Personal Data Sheet for an FRTD

This sheet is free

<table>
<tr><td colspan="2">1. Surname(s) (family name(s))</td><td rowspan="20">For Embassy/ Consulate use only

Date application:

File handled by:

FRTD
☐ Refused
☐ Granted

<

21. Spouse's family name		22. Spouse's family name at birth	For Embassy/ Consulate use only
23. Spouse's first name	24. Spouse's date of birth	25. Spouse's place of birth	
26. Children (Applications must be submitted separately for each person) Name First name Date of birth 1. 2. 3.			
27. I am aware of and consent to the following: any personal data concerning me which appears on the FRTD Personal Data Sheet will be supplied to the relevant authorities in the Schengen States and processed by those authorities. If necessary, for the purposes of a decision on my FRTD application, such data may be put into, and stored in, databases accessible to the relevant authorities in the various Schengen States. At my express request, the consular authority processing my application will inform me in the manner in which I may exercise my right to check the personal data concerning me and have them altered or deleted, in particular, should they be inaccurate, in accordance with the national law of the State concerned. I declare to the best of my knowledge all particulars supplied by me are correct and complete. I am aware that any false statements will lead to my application being rejected or to the annulment of a FRTD already granted and may also render me liable to prosecution under the law of the Schengen State which deals with the application. I undertake to respect the time-limit of the FRTD. I have been informed that possession of an FRTD is only one of the prerequisites for entry into the European territory to the Schengen States. The mere fact that an FRTD has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5.1 of the Schengen Implementation Convention and I am thus refused entry. The prerequisites for entry will be checked again on entry into the territory of the Schengen States.			
28. Applicant's home address		29. Telephone number	
30. Place and date	31. Signature (for minors, signature of custodian/guardian)		

2003/0027 (CNS)

Proposal for a

COUNCIL REGULATION

on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No….

THE COUNCIL OF THE EUROPEANUNION,

Having regard to the Treaty establishing the European Community,

and in particular Article 62 (2) thereof,

Having regard to the proposal from the Commission[13],

Having regard to the opinion of the European Parliament[14],

Whereas:

(1) In order to prepare accession of new Member States, the Community should take into account special situations, which may occur as a result of enlargement and set out the relevant legislation in order to avoid future problems in relation to border crossing.

(2) Council Regulation (EC) No…..[15] establishes a Facilitated Transit Document (FTD) and Facilitated Rail Transit Document (FRTD) for the case of a specific transit by land, allowing a third country national who necessarily needs to transit via the territory of one or several Member States to travel from one part of their country to another part of the same country. Uniform formats for these documents should be established.

(3) These uniform formats should contain all the necessary information and meet high technical standards, in particular as regards safeguards against counterfeiting and falsification. The formats should also be suited to use by all Member States and bear universally recognisable harmonised security features which are clearly visible to the naked eye.

(4) Powers to adopt such common standards should be conferred on the Commission, which will be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas[16].

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13 OJ C , , p. .

14 OJ C , , p. .

15 OJ L , , p. .

16 OJ L 164, 14.7.1995, p.1. Regulation as last amended by Regulation (EC) No 334/2002 (OJ L 53, 23.2.2002, p.23

(5) To ensure that the information in question is not divulged more widely than is necessary, it is also essential that each Member State designate a single body for printing the uniform format for FTD/FRTD, while retaining the possibility of changing that body, if necessary. For security reasons, each Member State should communicate the name of the competent body to the Commission and to the other Member States.

(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 exercise of implementing powers conferred to the Commission[17]

(7) As regards the Republic of Iceland and the Kingdom of Norway, this Regulation constitutes a development of the provisions of the Schengen acquis falling within the area referred to in Article 1, point B, of Council Decision 1999/437/EC 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 acquis.

(8) 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 establishing the European Community, Denmark is not participating in the adoption of this Regulation and is therefore not bound by it or subject to its application. Given that this Regulation aims to build upon the Schengen acquis under the provisions of the third part of Title IV of the Treaty establishing the European Community, Denmark will, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation whether it will transpose it into its national law

(9) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Article 4 and 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community,the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(10) This Regulation constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Article 4 and 5 of the Protocol integrating the Schengen acquis into the framework of the European Union Ireland is therefore not taking part in its adoption and is not bound by it or subject to it,

HAS ADOPTED THIS REGULATION:

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[17] OJ L 184, 17.7.1999, p.23

Article 1

1. Facilitated Transit Documents (FTD) issued by the Member States in conformity with Article 2 (1) of Regulation (EC) No …shall be produced in the form of a uniform format (sticker). They shall conform to the specifications set out in Annex I to this Regulation.

2. Facilitated Rail Transit Documents (FRTD) issued by the Member States in conformity with Article 2 (2) of Regulation (EC) No …shall be produced in the form of a uniform format (sticker). They shall conform to the specifications set out in Annex II to this Regulation.

Article 2

1. Further technical specifications for the uniform format for FTD and FRTD relating to the following shall be established in accordance with the procedure referred to in Article 4:

(a) additional security features and requirements including enhanced anti-forgery, counterfeiting and falsification standards;

(b) technical processes and rules for the filling in of the uniform FTD/FRTD;

(c) other rules to be observed for the filling in of the uniform FTD/FRTD.

2. The colours of the uniform FTD and FRTD may be changed in accordance with the procedure referred to in Article 4.

Article 3

1. The specifications referred to in Article 2 shall be secret and not be published. They shall be made available only to bodies designated by the Member States as responsible for printing and to persons duly authorised by a Member State or the Commission.

2. Each Member State shall designate one body having responsibility for printing FTD and FRTD. It shall communicate the name of that body to the Commission and the other Member States. The same body may be designated by two or more Member States for this purpose. Each Member State shall be entitled to change its designated body. It shall inform the Commission and the other Member States accordingly.

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.

Article 5

Without prejudice to data protection rules, persons to whom the FTD and FRTD is issued shall have the right to verify the personal particulars contained in the FTD FRTD and, where appropriate, to have them corrected or deleted. No information in machine-readable form shall be included in the FTD and FRTD, unless provided for in the Annexes to this Regulation or unless it is mentioned in the relevant travel document.

Article 6

Member States shall issue the uniform format for (FTD) and (FRTD) as referred to in Article 1 no later than one year after the adoption of the additional security features and requirements referred to in Article 2(1)(a).

The integration of the photograph referred to in point 2 of Annex I and point 2 of Annex II has to be implemented at the latest on 3 June 2007.

Article 7

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 all Member States in accordance with the Treaty establishing the European Community..

Done at Brussels,

For the Council

The President

ANNEX I (FTD)

Security features

1. An optically variable mark ('kinegram' or equivalent) shall appear in this space. Depending on the angle of view, 12 stars, the letter 'E' and a globe become visible in various sizes and colours.

2. An integrated photograph produced according to high security standards.

3. The logo consisting of a letter or letters indicating the issuing Member State with a latent image effect shall appear in this space. This logo shall appear light when held flat and dark when turned by 90°. The logos shall be used following Regulation (EC) 1683/95.

4. The word 'FTD' in capital letters shall appear in the middle of this space in optically variable colouring. Depending on the angle of view, it shall appear [colour to be determined].

5. This box shall contain the number of the FTD, which shall be pre-printed and shall begin with the letter or letters indicating the issuing country as described in point 4 above. A special type shall be used.

Sections to be completed

6. This box shall begin with the words 'valid for'. The issuing authority shall indicate the territory or territories for which the FTD is valid.

7. This box shall begin with the word 'from' and the word 'until' shall appear further along the line. The issuing authority shall indicate here the period of validity of the FTD.

8. This box shall begin with the words 'number of entries' and further along the line the words 'duration of transit' and again 'days' shall appear.

9. This box shall begin with the words 'issued in' and shall be used to indicate the place of issue.

10. This box shall begin with the word 'on' (after which the date of issue shall be filled in by the issuing authority) and further along the line the words 'number of passport' shall appear (after which the holder's passport number shall appear).

11. This box shall indicate the name and the forename of the holder.

12. This box shall begin with the word 'remarks'. It shall be used by the issuing authority to indicate any further information, which is considered necessary, provided that it complies with Article 5 of this Regulation. The following two and a half lines shall be left empty for such remarks.

13. This box shall contain the relevant machine-readable information to facilitate external border controls.

The paper shall be [colour to be determined]

The words designating the boxes shall appear in English andGerman. The issuing State may add a third official Community language.

Model of the FTD:



ANNEX II (FRTD)

Security features

1. An optically variable mark ('kinegram' or equivalent) shall appear in this space. Depending on the angle of view, 12 stars, the letter 'E' and a globe become visible in various sizes and colours.

2. An integrated photograph produced according to high security standards.

3. The logo consisting of a letter or letters indicating the issuing Member State with a latent image effect shall appear in this space. This logo shall appear light when held flat and dark when turned by 90°. The logos shall be used following Regulation (EC) 1683/95.

4. The word ‘FRTD’ in capital letters shall appear in the middle of this space in optically variable colouring. Depending on the angle of view, it shall appear [colour to be determined].

5. This box shall contain the number of the FRTD, which shall be pre-printed and shall begin with the letter or letters indicating the issuing country as described in point 4 above. A special type shall be used.

Sections to be completed

6. This box shall begin with the words 'valid for'. The issuing authority shall indicate the territory or territories for which the FRTD is valid.

7. This box shall begin with the word 'from' and the word 'until' shall appear further along the line. The issuing authority shall indicate here the period of validity of the FRTD.

8. In this box shall be stated “single entry and return” and further along the line the word “hours”.

9. This box shall begin with the words 'issued in' and shall be used to indicate the place of issue.

10. This box shall begin with the word 'on' (after which the date of issue shall be filled in by the issuing authority) and further along the line the words 'number of passport' shall appear (after which the holder's passport number shall appear).

11. This box shall indicate the name and the forename of the holder.

12. This box shall begin with the word 'remarks'. It shall be used by the issuing authority to indicate any further information, which is considered necessary, provided that it complies with Article 5 of this Regulation. The following two and a half lines shall be left empty for such remarks.

13. This box shall contain the relevant machine-readable information to facilitate external border controls.

The paper shall be [colour to be determined].

The words designating the boxes shall appear in English andGerman. The issuing State may add a third official Community language.

Model of the FRTD:

