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Europaudvalget (2. samling)
(Alm. del - bilag 870)
Det Europæiske Råd
(Offentligt)

Medlemmerne af Folketingets Europaudvalg

og deres stedfortrædere

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Til underretning for Folketingets Europaudvalg vedlægges i forbindelse med Det Europæiske Råd i Sevilla den 21.-22. juni 2002 Formandskabets rapport om det ekstraordinære møde i Visumgruppen den 10. juni 2002, 9873/02.

NOTE

fra:	formandskabet
til:	De Faste Repræsentanters Komité
Vedr.:	Visa - KALININGRAD Formandskabets rapport om det ekstraordinære møde i Visumgruppen den 10. juni 2002

Mødet blev afholdt i henhold til det mandat, som De Faste Repræsentanters Komité gav på mødet den 5. juni 2002, og havde til formål at drøfte det dokument, som Kommissionen var blevet bedt om at udarbejde på Moskva-topmødet om de mulige ordninger for transit mellem Kaliningrad og resten af Rusland og følgerne af de forskellige scenarier.

1. Kommissionen fremlagde som dokument den skrivelse, som kommissærerne Verheugen, Patten og Vitorino den 7. juni 2002 sendte til formanden for Rådet (almindelige anliggender). Dette dokument omhandler kun trafik og transit inden for rammerne af gældende fællesskabsret og beskriver det arbejde, der er gjort i dette halvår. I det sidste afsnit anmoder Kommissionen Rådet (almindelige anliggender) om eventuelle retningslinjer fra ministrene med hensyn til, om EU bør overveje nye initiativer (bilag I).

2. Inden for scenariet med overholdelse af gældende fællesskabsret blev Visumgruppen enig om indholdet af det dokument, der findes i bilag II. Heri henvises til tidligere dokumenter, som er blevet godkendt i Visumgruppen (5914/3/02 VISA 17 NIS 25 ELARG 22 COMIX 75 REV 3), og i Gruppen vedrørende Østeuropa og Centralasien, (8304/02 NIS 55 COEST 23 VISA 60 ELARG 141 PECOS 101) – og hvis hovedlinje blev bekræftet på samlingen i Rådet (almindelige anliggender) den 13. maj 2002 – og der anføres nogle supplerende idéer i forbindelse hermed.

3. På mødet i gruppen forelå der også et dokument fra Nederlandene, hvori det foreslås, at man ved hjælp af en forordning ændrer artikel 11 i Schengen-gennemførelseskonventionen. Efter den nederlandske delegations opfattelse vil det ved en sådan forordning være muligt at løse spørgsmålet vedrørende transit fra Kaliningrad specifikt ved hjælp af et særligt dokument, der ikke skal kaldes et visum (bilag III).

Med udgangspunkt i forslaget i sidste afsnit i kommissærernes skrivelse fremsatte endvidere den tyske delegation – sammen med et forslag om en smidig fortolkning af den undtagelse i forbindelse med officielle pas, der er fastsat i artikel 4 i forordning 539/2001 – et andet specifikt forslag, der udelukkende vedrører transit mellem Kaliningrad og resten af Rusland, og som består i, at man indfører et transitrejsedokument, som kan træde i stedet for

De sidste to forslag, der blev fremsat på mødet, fremkaldte negative reaktioner fra nogle delegationer. Det er komplicerede forslag, der umiddelbart ser ud til at falde uden for nuværende gældende fællesskabsret, og de må udformes skriftligt og mere detaljeret, for at de efter en nøjere gennemgang kan behandles ud fra et teknisk synspunkt i Visumgruppen.

BILAG I

BILAG II



KALININGRAD: MOVEMENT AND TRANSIT OF PERSONS

The Visa Working Party has at several meetings (January – March 2002) examined the question of movement of persons from Kaliningrad on the basis of various documents. The position of the Visa Working Party is set out in 5914/3/02 VISA 17 NIS 25 ELARG 22 COMIX 75 REV 3.

Following this contribution to the overall study of the question, COREPER adopted a Common Line for the discussions with the candidate countries on 26 March 2002, and a Common Line for Russia on 25 April 2002. The latter was approved by the General Affairs Council on 13 May 2002.

The EU Common Line for Russia confirms that the EU will base its position on the 'acquis' and explains the possibilities within the acquis, of which the main ones are the following:

multiple entry visas issued on a case-by-case basis, including favourable treatment for certain professionals such as lorry drivers and crews of means of transport who regularly need to cross the border,

flexibility as to the visa fees until the lifting of internal border controls,

exemptions from the visa requirement for certain categories of persons as provided in Council Regulation 539/2001.

Furthermore, it was highlighted in the Common Line that it is important to note that the 'acquis' ensures, in the interest of both parties, that border crossing should proceed in a controlled and secure way and without unnecessarily hampering the movement of persons. The Common Line listed some essential practical measures such as consular facilities and border control procedures, which should urgently be extended and improved. It has also been recalled that there are other important justice and home affairs questions than movement of persons related to Kaliningrad. In discussions with Russia, cooperation aspects have been emphasised.

Russia has not accepted this EU position. The Joint Statement of the EU-Russia Summit, held on 29 May 2002, states that "taking into account the legal and practical consequences of EU enlargement, Russia and the EU agreed to continue joint work with a view to reaching mutually acceptable solutions for the Kaliningrad region."

At the meeting on 10 June 2002, the Visa Working Party has, as requested by COREPER, examined whether there are any further possibilities within the 'acquis' to facilitate travel to and from Kaliningrad. The working Party confirms that the main possibilities are presented in the Common Line. However, the Visa Working Party has suggested the following additional initiatives:

- Discussions with Russia should continue to explain the possibilities within the acquis.
- Discussions with Lithuania and Poland should continue to verify that the preparations for the introduction of visa are well under way and identify possible problem areas in the practical arrangements, including discussions on travel documents and border infrastructure, procedures and training.
- The transit passengers should be in possession of passports fulfilling international (ICAO) standards, and if accepted by Lithuania, of internal passports. In this case, a special sheet shall be used for affixing the visa sticker (cf. Council Regulation 333/2002)

- The EU should in cooperation with Russia and the candidate countries work to ensure that the necessary consular facilities be in place to issue visas effectively. Russians travelling between Kaliningrad and mainland Russia should be able to obtain visas as fast as possible without prejudice to procedural obligations.
- An information campaign could be launched in order to prevent unnecessary concerns among Russian citizens in relation to the issue of movement of persons to and from Kaliningrad.
- The situation in Kaliningrad could be monitored and assessed at regular intervals by

the Visa Working Party.

- Poland and Lithuania (and, as the case may be, Latvia and Estonia) should be encouraged to mutually recognize Schengen visas and each other's national visas as valid for transit (to and from Kaliningrad and en route to the Schengen area).

It was agreed that the Visa Working Party will examine the question of possible adaptations of the provisions of the 'acquis' in view of the situation after the lifting of the internal border controls vis-à-vis the new Member States.

BILAG III

Suggestion submitted by the Netherlands delegation

Essence

The Netherlands would like to suggest a specific approach to the transit of people between Kaliningrad and other parts of the Russian Federation under the Schengen regulations. This approach has several advantages. It does not alter the fundamental requirements under the Schengen acquis. It provides a specific provision for the particular situation of Kaliningrad, thereby preventing possible undesirable precedence effects. And finally, but not without importance, it provides to some extent the flexibility within the Schengen acquis the EU has promised to the Russians at several occasions. It allows the application of a requirement for travel between Kaliningrad and the rest of Russia over Schengen territory, but the word "visa" can be avoided if necessary. It also allows the issuance of such document on favourable terms, e.g. at cost price, for multiple entries, and for longer duration. Finally it would show the willingness of the EU to turn its commitments in this field into a number of elements which will be fixed in the Schengen regulations, and which will thus be more than political promises and commitments.

Explanation

It is recalled that the EU common line towards Kaliningrad and the movement of people mentions the following possibilities within the Schengen acquis:

multiple entry visas issued on a case-by-case basis, including favourable treatment for certain professionals such as lorry drivers and crews of means of transport who regularly need to cross the border;

flexibility with the visa fees until the lifting of internal border controls;

exemptions from the visa requirement for certain categories of persons as provided in Regulation 539/2001.

However, such possibilities do not address the fact that the Schengen acquis in its actual form does not deal with the situation of transit from one part of a third country to another part of that same country. Article 11 of the Schengen Implementation Convention defines the various categories of visas to be issued under that Convention. In chapter 1, under b, it describes a "transit visa" as:

‘...a visa with which the holder is allowed to travel once, twice or, as an exception, more often via the territory of one of the Schengen partners to a third country, provided that the transit period does not exceed a period of five days.’

The Schengen Implementation Convention defines the various categories of visas to be issued under that Convention. In chapter 1, under b, it describes a "transit visa" as:

In relation to the Kaliningrad issue, the Visa Group has suggested to add a sentence to that provision in order for it to include the possibility of transit from one part of a third country to another part of the same third country. The Netherlands suggests that a better solution would be the addition of a new provision in article 11 (first chapter under c) of the Schengen Implementation Convention. Such a new provision would cater specifically and exclusively for the situation created by Kaliningrad. It would define the requirement for travel through Schengen territory to and from Kaliningrad. The requirement would not need to be named a "visa", but could e.g. carry the name "laissez passer" ", or "transit pass" or "travel pass".

Such a document would be issued to:

‘an alien in order to travel through various parts of the territory of a third country, provided that the territory of departure of this third country does not have a common border with the territory of destination of this third country.’

In other words, the document could be obtained both in Kaliningrad for travel from Kaliningrad, and in the rest of Russia for travel to Kaliningrad. Persons from other third countries legally residing in Russia (including Kaliningrad) could also obtain the document. Further details would need to be laid down in implementing legislation, which should address validity, price and the possibility of multiple entries, as well as modalities for transit through Schengen territory (maximum duration of journey, fixed routes).

In the view of the Netherlands, this approach has several advantages. It would not alter the fundamental requirements under the Schengen acquis. Thus, even if the document required would bear another name and can be obtained at low cost and for multiple entries, the requirement of obtaining a document and the accompanying possibility of prior checks on those requesting a document is preserved. The approach provides a specific provision for the specific situation of Kaliningrad, thereby preventing possible undesirable precedence effects. And finally, but not without importance, it provides to some extent the flexibility within the Schengen acquis the EU has promised to the Russians at several occasions. It could thus be presented to Russia as a concrete legislative step in order to relieve requirements on Russians travelling to and from Kaliningrad and thereby to facilitate transit to and from Kaliningrad.

In addition to the name to be given to the requirement proposed, other issues to be addressed shortly are the following:

-Is the issuance of the document dependent upon having an internationally recognised travel document? If this is the case, one of the priorities should be the equipping of the inhabitants of Kaliningrad with valid travel documents.

-Should a difference be made between the period upon accession in which internal border checks between Lithuania and other Member States persist, and the period after the abolition of those internal border controls?

-How should travelling minors be treated?

-Timely consultations should be held with Lithuania on the question of controls and checks.

Finally, the Netherlands would like to emphasise that this approach represents only one element in a solution to the situation of Kaliningrad. Other elements that are vital to progress are the proposed package of EU measures to assist the socio-economic development of the Kaliningrad region (including the proposed Kaliningrad fund), the opening of EU consulates in Kaliningrad, and finally but perhaps most importantly, the conclusion of a readmission agreement with Russia.
