



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 30 June 2008 (02.07)
(OR. fr)**

11253/08

**FRONT 62
COMIX 533**

COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	25 June 2008
to:	Mr Javier SOLANA, Secretary-General/High Representative
Subject:	Commission Recommendation of 25/VI/2008 amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C(2006) 5186 final)

Delegations will find attached Commission document C(2008) 2976 final.

Encl.: C(2008) 2976 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25/VI/2008
C(2008) 2976 final

COMMISSION RECOMMENDATION

of 25/VI/2008

amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C (2006) 5186 final)

COMMISSION RECOMMENDATION

of 25/VI/2008

amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C (2006) 5186 final)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) Commission Recommendation of 6 November 2006 (C (2006) 5186 final) established a "Practical Handbook for Border Guards (Schengen Handbook)" containing common guidelines, best practice and recommendations on border controls.
- (2) The Commission committed itself to ensuring regular updates of the Practical Handbook for Border Guards.
- (3) The Practical Handbook should be adjusted to the latest developments including, in particular, the enlargement of the Schengen area and the adoption of following legal acts:
 - Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention¹;
 - Council Regulation (EC) No 1932/2006 of 21 December 2006 amending Regulation (EC) No 539/2001 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 requirement²;
 - Council Decision 2007/801/EC of 6 December 2007 on the full application of the provisions of the Schengen *acquis* in the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic³.

¹ OJ L 405, 30.12.2006, p.1.

² OJ L 405, 30.12.2006, p.23.

³ OJ L 323, 8.12.2007, p.34

- (4) Further emphasis should be given to checks on minors presenting themselves at the external borders of the Member States. National contact points should be consulted in order to exchange information in case of suspicion of unauthorised exit of a minor.
- (5) Member States should be encouraged to continue to instruct their national authorities competent for carrying out border controls on persons to use the Practical Handbook as the main tool when performing their border control tasks and also to continue to use the Practical Handbook for the purpose of training the personnel to be assigned to border control duties,

HEREBY RECOMMENDS:

1. Annex to the Recommendation of 6 November 2006 (C(2006)5186 final) is amended as set out in the Annex to this Recommendation.
2. Member States should transmit the annexed amendments to the Practical Handbook for Border Guards to their national authorities competent for carrying out border controls on persons.

Done at Brussels, 25/VI/2008.

For the Commission
Jacques BARROT
Member of the Commission

ANNEX

(1) In Part One points 1 and 2 are replaced by the following:

"1. **SCHENGEN STATES** (States fully implementing the Schengen *acquis* and having abolished border control at their internal borders)³:

1. Austria	9. Greece	17. Netherlands
2. Belgium	10. Hungary	18. Norway
3. Czech Republic	11. Iceland	19. Poland
4. Denmark	12. Italy	20. Portugal
5. Estonia	13. Latvia	21. Slovakia
6. Finland	14. Lithuania	22. Slovenia
7. France	15. Luxembourg	23. Spain
8. Germany	16. Malta	24. Sweden

N.B. The agreement between the EU/EC and **Switzerland** on the latter's association with the implementation, application and development of the Schengen *acquis* entered into force on 1 March 2008. Switzerland is expected to implement the Schengen *acquis* at the end of 2008, following the appropriate Schengen evaluation procedures.

A Protocol between the EU/EC, Switzerland and **Liechtenstein** on the accession of Liechtenstein to the Schengen *acquis* was signed on 28 February 2008.

³ Bulgaria, Cyprus and Romania are not yet full Schengen States, but apply the common rules on external border control.

2. EU MEMBER STATES:

1. Austria	10. Germany	19. The Netherlands
2. Belgium	11. Greece	20. Poland
3. Bulgaria	12. Hungary	21. Portugal
4. Cyprus	13. Ireland	22. Romania
5. Czech Republic	14. Italy	23. Slovakia
6. Denmark	15. Latvia	24. Slovenia
7. Estonia	16. Lithuania	25. Spain
8. Finland	17. Luxembourg	26. Sweden
9. France	18. Malta	27. United Kingdom."

(2) In Part Two, Section I, is amended as follows:

(a) In point 1.1, the box indicating the legal basis is replaced by two following boxes:

" Legal basis:*

- Schengen Borders Code (Article 5)
- Council Regulation (EC) No 539/2001, as amended by:
- Council Regulation (EC) No 2414/2001
- Council Regulation (EC) No 453/2003
- Council Regulation (EC) No 851/2005
- Council Regulation (EC) No 1932/2006

** Link:*

- List of third countries whose nationals must be in possession of visas when crossing the external borders and of those whose nationals are exempt

from that requirement;

- Exceptions to the visa requirement for holders of diplomatic passports, official-duty passports and other official passports;
- Exceptions to the visa requirement for recognised refugees and stateless persons;
- Other exceptions to the visa requirement;
- Exceptions from the visa exemption as regards persons carrying out a paid activity;
- List of third countries whose nationals are subject to the airport transit visa requirement."

(b) The second indent of point 3.1.1 is replaced by two following indents:

- "members of the family of EU and EEA citizens who are nationals of a third country: passport. They may also be required to have an entry visa, if they are nationals of a third country subject to the visa obligation, unless they are in possession of a valid residence permit or card, issued by a Member State (or by EEA countries);
- members of the family of CH citizen who are nationals of a third country: passport. They may also be required to have an entry visa, if they are nationals of a third country subject to the visa obligation."

(c) In point 3.5 the following box is inserted under the box indicating the legal basis :

"* *Link*

- Exceptions to the visa requirement for holders of diplomatic passports, official-duty passports and other official passports;
- Other exceptions to the visa requirement."

- (d) In point 3.6, the box indicating the legal basis is replaced by the following box:

** Legal basis:*

- Regulation (EC) No 1931/2006 of the European Parliament and of the Council
- Bilateral agreements concluded by Schengen States on local border traffic

- (e) In point 3.7 the following new point 3.7.4 is added:

"3.7.4 If there is doubt whether a minor who is a citizen of the EU or a third-country national legally residing in the EU is authorised to cross the border on exit, the national contact point of the Member State of the minor's nationality or residence should be contacted.

If information is received indicating the possibility of abduction or suspicion of unauthorised exit of a minor who is a citizen of the EU or a third-country national legally residing in the EU, the border guard should:

- refuse the exit of the minor; or
- in circumstances where there are insufficient grounds to refuse the exit of a minor but there are concerns about the right of parental care, collect information about the person accompanying the minor and their destination. That information should, in accordance with the applicable national legislation, be forwarded immediately to the national contact point of the Member State of nationality or residence of the minor.

In the context of the above-mentioned procedure, the tasks of the national contact points should include:

- providing, where possible, information on the identity (name, nationality and date of birth) of the minor and of the person accompanying the minor and on the relationship between them;
- alerting other national agencies concerned with minors who give cause for concern and informing them about any precautionary measures concerning the minors;

- providing advice and assistance to other Member States on national procedures and document requirements".

(f) In point 3.7 the following box is inserted under the box indicating the legal basis:

<i>"* Link</i> – List of national contact points for consultation purposes on minors (Annex 37 to the Practical Handbook for Border Guards) – List of contact points in Member States for border management issues (Annex 2 to the Practical Handbook for Border Guards)."
--

(g) The point 3.8 is amended as follows:

(i) The introductory text in point 3.8.1 is replaced by the following:

"School pupils who are nationals of a third-country subject to the visa obligation but who are legally residing in an EU Member State and who are travelling in the framework of a school excursion are not required to be in possession of a visa for a transit or for a short stay on the territory of another Member State provided the following conditions are fulfilled:"

(ii) The box indicating the legal basis is replaced by the following box:

<i>"* Legal basis:</i> – Council Decision 94/795/JHA of 30 November 1994 – Regulation (EC) No 539/2001 (Article 4) – Council Regulation (EC) No 1932/2006"

(h) In point 6.3.2 the second paragraph is replaced by the following:

"In case where a third-country national who is a member of the family of an EU/EEA citizen is not in possession of the required visa but can prove his/her identity and family tie with the EU/EEA citizen, and if there is no evidence that he/she poses a risk to the public policy, public security or public health requirements of the Member States, a visa must be issued to him/her at the

border. Such a visa must be issued free of charge (see also point 7.10, Section I)."

- (i) The subtitle before point 7.10 and point 7.10 are replaced by the following:

"Specific rules for issuing visas at the border to members of the family of citizens of EU/EEA countries who are third-country nationals subject to the visa requirement:

7.10 When a member of the family of an EU/EEA citizen, accompanying or joining the EU/EEA citizen in question, arrives at the border without being in possession of the necessary visa, the Member State concerned must, before turning him/her back, give the person concerned every reasonable opportunity to corroborate or prove by other means that he/she is covered by the right of free movement. If he/she succeeds in doing so and if there is no evidence that he/she poses a risk to the public policy, public security or public health requirements, the visa must be issued to him/her without delay at the border. The visa must be issued free of charge."

- (j) The title of point 9.2 and point 9.2.1 are replaced by the following:

"9.2 Transit through the territory of Member States not fully implementing the Schengen *acquis*"⁶

9.2.1 Until Bulgaria, Cyprus and Romania join the Schengen area, they may recognise

- Schengen uniform visas;
- long-term visas and residence permits issued by a Schengen State;

⁶ Until the Decision of the European Parliament and the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purpose of transit through their territories is adopted and comes into force, this paragraph only applies to Cyprus.

as equivalent to their national visas for the purpose of transit through their territory (each transit not exceeding five days)."

- (k) The box after point 9.2.2 is replaced by the following box:

*"*Legal basis:*

- Decision of the European Parliament and of the Council No 895/2006/EC of 14 June 2006
- Decision of the European Parliament and of the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purpose of transit through their territories

- (l) The point 9.3.2 is replaced by the following:

"9.3.2 For the same purpose, the above-mentioned residence permits may also be recognised as equivalent to a national visa by Bulgaria, Cyprus and Romania (see footnote 6 above)."

- (m) The following new point 9.4 is added:

"9.4 Transit through the territory of the Czech Republic, Hungary, Latvia, Malta, Poland, Slovakia and Slovenia between 21 December 2007 and 30 June 2008

Until 30 June 2008, and during their period of validity, national short-term visas issued by the Czech Republic, Hungary, Latvia, Malta, Poland, Slovakia and Slovenia before 21 December 2007 remain valid for the purpose of transit through the territories of these Member States.

** Legal basis:*

- Council Decision No 2007/801/EC on the full application of the provisions of the Schengen acquis".

- (3) In Part Two, Section II, the box indicating the legal basis is replaced by the following:

*"*Legal basis:*

- Regulation (EC) No 1931/2006 of the European Parliament and of the Council
- Bilateral agreements on local border traffic

- (4) In Part IV, the list of Community law is amended as follows:

- (a) The following sub-indent is added to the indent referring to Council Regulation (EC) No 539/2001:

"- Council Regulation (EC) No 1932/2006 of 21 December 2006 amending Regulation (EC) No 539/2001 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 (OJ L 405, 30.12.2006, p. 23; corrigendum: OJ L 29, 3.2.2007, p. 10);"

- (b) The last indent is replaced by the following:

"- Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ L 405, 30.12.2006, p. 1; corrigendum OJ L 29, 3.2.2007, p. 3);"

- (c) The following indents are added:

- "- Council Decision No 2007/801/EC on the full application of the provisions of the Schengen *acquis* in the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic (OJ L 323, 8.12.2007, p. 34);
- Decision of the European Parliament and of the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain

documents as equivalent to their national visas for the purpose of transit through their territories".