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THE COUNCIL

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N O T E

from: General Secretariat of the Council

to : Article K.4 Committee

Subject: Resolutions adopted by the European Parliament in April 1994

Article K.4 Committee members' attention is drawn to the annexed European Parliament Resolutions concerning justice and home affairs, adopted at Parliament's plenary part-session in April.

B3 ES

Legislative resolution embodying the opinion of the European Parliament on the proposal for a Council regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States (COM(93)0684 - C3-0012/94), adopted on 21 April 1994

(Consultation procedure)

The European Parliament,

- having regard to proposal for a regulation COM(93)0684[1],
- having been consulted by the Council pursuant to Article 100c of the EC Treaty (C3-0012/94),
- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Legal Affairs and Citizens' Rights and the Committee on Foreign Affairs and Security (A3-0193/94),

1. Approves the Commission proposal subject to Parliament's amendments;
2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 189a(2) of the EC Treaty;
3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
5. Instructs its President to forward this opinion to the Council and Commission.

[1] OJ C 11, 15.1.1994, p. 15.

9. External borders *

(a) A3-0193/94

Proposal for a Council regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States (COM(94)0684 - C3-0012/94)

The proposal was approved with the following amendments:

Text proposed by the Commission[1]	Text amended by Parliament
(Amendment 1) Title	
Proposal for a Council regulation (EC), based on Article 100c of the Treaty establishing the European Community, determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States	Proposal for a Council regulation (EC), based on Articles 3d and 100c of the Treaty establishing the European Community, concerning uniform visas and determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States
(Amendment 2) First citation	
Having regard to the Treaty establishing the European Community, in particular Article 100c thereof,	Having regard to the Treaty establishing the European Community, in particular Articles 100c and 3(d) thereof,
(Amendment 3) Recital 1	
Whereas Article 100c of the Treaty requires the Community to determine the third countries whose nationals must be in possession of a visa when crossing the external border of the Member States; whereas its place in the Treaty shows that this article forms an integral part of the provisions relating to the internal market;	Whereas Article 100c of the Treaty requires the Community to determine the third countries whose nationals must be in possession of a visa when crossing the external border of the Member States; Whereas that process of determination must be based on clearly understood, objective and publicly stated criteria as to why certain third countries' nationals are included on the negative list and others are excluded;

[1] OJ C 11, 15.1.1994, p. 15.

	Whereas Member States may not impose visa requirements on countries which have for fair and objective reasons been excluded from the list;
	Whereas no third country whose nationals do not at present require a visa for entry to a Member State should be on the negative list of those countries who are obliged to obtain visas under this Regulation;
	Whereas Article 3(d) of the EC Treaty provides that the activities of the Community include measures concerning the entry and movement of persons in the internal market as provided for in Article 100c;

(Amendment 4)
Recital 4

Whereas the purpose of Article 100c is to harmonize the regulations and practices of the Member States in this regard; whereas divergences between the regulations and practices of Member States should be authorized for a limited period as a transitional measure, on the understanding that they may not give rise to controls contrary to Article 7a; whereas it should be stipulated that this transitional regime shall expire on 30 June 1996 and that prior to that date the Council shall decide with respect to each third country whether its nationals are to be subject to a visa requirement or are to be exempted from that requirement;	Whereas the purpose of Article 100c is to harmonize the regulations and practices of the Member States in this regard; whereas divergences between the regulations and practices of Member States should be authorized for a limited period as a transitional measure, on the understanding that they may not give rise to controls contrary to Article 7a; whereas it should be stipulated that this transitional regime shall expire on 31 December 1995 and that prior to that date the Council shall decide with respect to each third country whether its nationals are to be subject to a visa requirement or are to be exempted from that requirement;

(Amendment 5)
Recital 4a (new)

	Whereas Article 100c draws no distinction between the different categories of visa; whereas this Regulation should therefore give precise definitions of the different categories of visas;

(Amendment 15)
Article -1 (new)

Article -1

Definitions

For the purposes of this Regulation:

'entry visa' means authorization or decision by a Member State, given in accordance with decisions adopted under Article 100c of the Treaty establishing the European Community to enable a person to enter its territory who is required to hold a visa to do so, subject to other entry conditions being fulfilled;

'transit visa' means authorization or decision by a Member State, given in accordance with decisions adopted under Article 100c of the Treaty establishing the European Community to enable a person to transit through its territory or through the transit zone of a port or airport who is required to hold a visa to do so, subject to other transit conditions being fulfilled; the time taken for transit shall not exceed five days;

're-entry visa' means authorization by a Member State, given in accordance with decisions adopted under Article 100c of the Treaty establishing the European Community enabling a person who is not a national of that State and who is present in the territory of that State to re-enter within a specified period without re-obtaining an entry visa to that State;

'uniform visa' means entry, transit or re-entry visa of the uniform format provided for in Article 100c(3) of the Treaty establishing the European Community issued under the rules specified in Article 2a of this Regulation.

(Amendment 7)
Article 1(2) and (3)

2. Until 30 June 1996 Member States shall decide whether to require visas of nationals of third countries not listed in the Annex. Prior to that date the Council shall decide according to the procedure laid down in Article 100c either to add each of those countries to that list or to exempt its nationals from visa requirements.	2. Until 31 December 1995 Member States shall decide whether to require visas of nationals of third countries not listed in the Annex. Prior to that date the Council shall decide according to the procedure laid down in Article 100c either to add each of those countries to that list or to exempt its nationals from visa requirements.
3. Within 10 working days of the entry into force of this Regulation, Member States shall notify the other Member States and the Commission of their measures taken pursuant to paragraph 2. Any fresh measures taken pursuant to paragraph 2 shall be similarly notified within 5 working days. The Commission shall publish the information notified pursuant to this paragraph in the Official Journal of the European Communities, C series.	3. Within 10 working days of the entry into force of this Regulation, Member States shall notify the other Member States and the Commission of their measures taken pursuant to paragraph 2. Any fresh measures taken pursuant to paragraph 2 shall be similarly notified within 5 working days. The Commission shall publish the information notified pursuant to this paragraph in the Official Journal of the European Communities, C series.
	3a. The list of third countries in the Annex shall be updated regularly on a proposal from a Member State or the European Commission and after consultation of the European Parliament.

(Amendment 8)
Article 2

A Member State shall not be entitled to require a visa of a person who seeks to cross its external frontiers and who holds a visa issued by another Member State, where that visa is valid throughout the Community.	A Member State shall not be entitled to require a visa issued by its own authorities of a person applying to stay for a short time within its territory who holds a uniform visa or who holds a residence permit or authorization issued by another Member State permitting him to reside in that State and which is valid for at least a further four months at the time of entry.

(Amendment 9)
Article 2a (new)

Article 2a

Uniform visas shall be issued on the basis of the following common conditions and criteria:

- travel documents presented upon application for a visa must be checked to ensure that they are in order and authentic,

- the expiry date of the travel document must be at least three months later than the final date for stays stated on the visa, account being taken of the time within which the visa must be used,

- the travel document must be recognized by all Member States,

- the travel document must be valid in all Member States,

- the travel document must allow for the return of the traveller to his country of origin or his entry into a third country,

- the existence and validity of an authorization or a re-entry visa for the traveller to return to the country of departure must be checked if such formalities are required by the authorities of that country. The same shall apply to any authorization required for entry to a third country.

(Amendment 10)
Article 2b (new)

Article 2b

There shall be a right of appeal to the competent authorities of the Member State concerned against a refusal to grant a uniform visa.

(Amendment 11)
Article 2c (new)

	Article 2c
	The uniform visa shall be issued by the diplomatic and consular authorities of the Member States.

(Amendment 12)
Article 3

For the purposes of this Regulation, the following definition shall apply:	1. Until 31 December 1995, this Regulation shall be applicable:
visa: any authorization granted by a Member State which either	(a) to entry visas valid for a stay of no more than three months, or a number of stays not exceeding a total of three months in any six-month period commencing on the date of the first entry;
- entitles a person to enter its territory, subject to other entry conditions being fulfilled, and is valid for a stay of no more than three months, or a number of stays not exceeding a total of three months in any six-month period commencing on the date of the first entry, or	(b) to transit visas;
- entitles a person to transit through its territory or through the transit zone of a port or airport, subject to other transit conditions being fulfilled, or	(c) to re-entry visas.
- entitles a person who is present on its territory to re-enter within a specified period.	2. With effect from 1 January 1996, this Regulation shall be applicable to all the visas defined in Article -1.

(Amendment 13)
Article 4, second paragraph

However, Article 1(1) and (2) and Article 2 shall become applicable one month thereafter.	However, Article 1(1) and (2), Article 2, Article 2a and Article 2b shall not become applicable until one month thereafter.

(Amendment 14)
ANNEX

(The list must be amended so that it conforms to the principles laid down in recital 1, third paragraph)

Legislative resolution embodying the opinion of the European Parliament on the proposal for a decision, based on Article K.3 of the Treaty on European Union, establishing the Convention on the crossing of the external frontiers of the Member States (COM(93)0684 - C3-0011/94), adopted on 21 April 1994

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(93)0684)[1],
- having been consulted by the Council pursuant to Article K.3 of the Treaty on European Union (C3-0011/94),
- having regard to Rule 58 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Legal Affairs and Citizens' Right and of the Committee on Foreign Affairs and Security (A3-0190/94),

1. Approves the Commission proposal subject to Parliament's amendments;
2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
3. Instructs its President to forward this opinion to the Commission and the Council.

9(b) A3-0190/94

Proposal for a decision, based on Article K.3 of the Treaty on European Union, establishing the Convention on the crossing of the external frontiers of the Member States (COM(93)0684 - C3-0011/94)

(Consultation procedure)

The proposal was approved with the following amendments:

Text proposed by the Commission[1]	Text amended by Parliament
(Amendment 1) First citation a (new)	
	Having regard to the Treaty establishing the European Community, and in particular Articles 3(d), 7a and 100c thereof,
(Amendment 2) Recital 2a (new)	
	Whereas the rules governing border crossings shall be without prejudice to the rights of persons entitled under Community law or to the powers of the European Community;
(Amendment 3) Recital 4a (new)	
	Whereas the common policy on visas shall include determining the third countries whose nationals must be in possession of a visa and introducing a uniform format for visas pursuant to Article 100c, paragraphs 1 and 3 of the Treaty establishing the European Community;
(Amendment 4) Recital 4b (new)	
	Whereas it is also necessary to adopt common criteria for issuing visas, establish an information system on visas to be set up jointly by the Commission and the Member States and publish implementing measures;

[1] OJ C 11, 5.1.1994, p. 6.

(Amendment 5)
Recital 8

Whereas the Member States intend to conduct these controls in compliance with their common international commitments, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the status of refugees as well as with more favourable constitutional provisions on asylum,	Whereas the Member States intend to conduct these controls in compliance with their common international commitments, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, and the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the status of refugees as well as with more favourable constitutional provisions on asylum,

(Amendment 6)
Text of Convention
Article 1(c), (d), (e) and (f)

(c) 'entry visa' means authorization or decision by a Member State, given in accordance with decisions adopted under Article 100c of the Treaty establishing the European Community, to enable a person to enter its territory who is required to hold a visa to do so, subject to other entry conditions being fulfilled;	(c) 'entry visa' means an entry visa as defined by Council Regulation .....;
(d) 'transit visa' means authorization or decision by a Member State, given in accordance with decisions adopted under Article 100c of the Treaty establishing the European Community, to enable a person to transit through its territory or through the transit zone of a port or airport who is required to hold a visa to do so, subject to other transit conditions being fulfilled; the time taken to transit shall not exceed five days;	(d) 'transit visa' means a transit visa as defined by Council Regulation .....;

(e) 're-entry visa' means authorization by a State enabling a person who is not a national of that State and who is present in the territory of that State to re-enter within a specified period without re-obtaining an entry visa to that State;	(e) 're-entry visa' means a re-entry visa as defined by Council Regulation .....;
(f) 'uniform visa' means entry, transit or re-entry visa of the uniform format provided for in Article 100c(3) of the Treaty establishing the European Community;	(f) 'uniform visa' means a uniform visa as defined by Council Regulation .....;

(Amendment 7)
Text of Convention
Article 1(ga) (new)

	(ga) 'stay of limited duration' means an uninterrupted stay or successive stays the length of which does not generally exceed one year;

(Amendment 8)
Text of Convention
Article 5(4)

4. Certain controls may, exceptionally, be relaxed, due regard being had for any conditions that may be laid down by measures to give effect to this Convention. Controls upon entry shall take precedence over controls upon departure.	4. Certain controls may be relaxed, due regard being had for any conditions that may be laid down by measures to give effect to this Convention. Controls upon entry shall take precedence over controls upon departure.

(Amendment 9)
Text of Convention
Article 9

Stays other than for a short time	Stays other than for a limited period
Persons who propose to stay in a Member State other than for a short time shall enter that State under the conditions laid down in its national law. In that case access shall be restricted to the territory of that State.	1. Persons who propose to stay in a Member State other than for a limited period shall be admitted to that State under the conditions laid down in its national law. 2. However, until 31 December 1995, this provision shall apply to stays other than for a short time. In that case access shall be restricted to the territory of that State.

(Amendment 10)
Text of Convention
Article 10(3), introduction

3. The decision to put a person on the joint list shall be based on the threat which that person may represent to the public policy or national security of a Member State. It shall be based on a decision taken with due regard for the rules of procedure laid down by national law by the administrative or competent judicial authorities of the Member States on account of:	3. The decision to put a person on the joint list shall be based on the threat which that person represents to the public policy or national security of a Member State. It shall be based on a decision taken in accordance with the rules of procedure laid down by national law by the administrative or competent judicial authorities of the Member States on account of:

(Amendment 11)
Text of Convention
Article 14

Responsibilities of carriers	Deleted
1. Without prejudice to Article 27 and instruments enacted under the Treaty establishing the European Community, the Member States undertake to incorporate in their national legislation measures relating to airlines and shipping companies and to public-service international carriers transporting groups overland by coach, with the exception of local frontier traffic.	
2. The purpose of such measures will be:	
- to oblige the carrier to take all necessary measures to ensure that persons coming from third countries are in possession of valid travel documents and of the necessary visas, and to impose appropriate penalties on carriers failing to fulfil this obligation;	

- to oblige the carrier, where required by the control authorities, to assume responsibility without delay (this may include covering the costs of accommodation until departure), and to return to the State from which he was transported or to the State which issued his passport or to any State to which he is certain to be admitted, a person coming from a third country who is refused admission at the first control on entry into Community territory.

(Amendment 12)
Text of Convention
Article 18

A Member State shall not require a visa issued by its own authorities of a person applying to stay for a short time within its territory who holds a uniform visa.	1. A Member State shall not require a visa issued by its own authorities of a person applying to stay for a limited period within its territory and who holds a uniform visa. 2. However, until 31 December 1995, this provision shall apply only to entry visas valid for a period not exceeding three months or for several stays the length of which does not exceed three months in a six-month period starting on the date of first entry and transit or re-entry visas.

(Amendment 13)
Text of Convention
Article 19(2)

2. Uniform visas shall be issued on the basis of the following common conditions and criteria: - travel documents presented upon application for a visa must be checked to ensure that they are in order and authentic, - the expiry date of the travel document must be at least three months later than the final date for stays stated on the visa, account being taken of the time within which the visa must be used,	2. Deleted

- the travel document must be recognized by all Member States,

- the travel document must be valid in all Member States,

- the travel document must allow for the return of the traveller to his country of origin or his entry into a third country,

- the existence and validity of an authorization or a re-entry visa for the traveller to return to the country of departure must be checked if such formalities are required by the authorities of that country. The same shall apply to any authorization required for entry to a third country.

(Amendment 14)
Text of Convention
Article 20(1), third subparagraph

If there is an objection, or if the consultation procedure referred to in the first subparagraph has not been implemented for reasons of urgency, only a national visa with restricted territorial validity shall be issued.	Deleted

(Amendment 15)
Text of Convention
Article 21

Multiple-entry uniform visa	Deleted
1. The uniform visa may be a visa valid for one or more entries. Neither the length of any continuous stay nor the total length of successive stays may exceed three months in a six-month period starting on the date of entry.	
2. The conditions and criteria for issuing multiple-entry uniform visas shall be determined by measures to give effect to this Convention.	

(Amendment 16)

Text of Convention Article 22	
1. The uniform visa shall be issued by the diplomatic and consular authorities of the Member States or, in exceptional cases, by other authorities determined in accordance with national legislation.	1. The uniform visa shall be issued by the diplomatic and consular authorities of the Member States.
2. The Member State which is the main destination shall normally be responsible for issuing the visa. If it is not possible to determine that destination, the Member State of first entry shall be responsible.	2. Deleted
3. The principles stated in this Article shall be implemented by measures to give effect to this Convention.	3. Deleted

(Amendment 17)

Text of Convention Article 23	
Extension of stay	Extension of validity
A Member State may, if necessary, issue a visa the validity of which is restricted to its own territory to the holder of a uniform visa in the course of any one six-month period.	1. The uniform visa may be extended.
A Member State may also authorize a person holding a uniform visa to remain in its territory for more than three months.	2. The procedures for extending a visa shall fulfil the obligations incumbent upon the Member States under the Treaty on European Union and this Convention.

(Amendment 18)
Text of Convention
Article 24

National visas	Deleted
1. Member States may issue visas valid only in their respective territories in the cases provided for in Articles 20, 23 and 25.	
2. In addition, a Member State may, on humanitarian grounds or in the national interest or by reason of international commitments, issue a person who does not meet any or some of the conditions laid down in Article 7(1)(a), (c), (d) and (e) with a visa valid only in its own territory.	
3. A Member State which has issued a person with a visa pursuant to paragraph 2 shall so inform the other Member States if that person is on the joint list or if the State consulted pursuant to Article 20 has objected. This information shall be supplied in accordance with the procedures established under Article 12(2) in accordance with the measures to give effect to this Convention.	
4. Visas issued in accordance with paragraphs 1 and 2 shall indicate their distinct nature and be different in appearance from the uniform visa.	

(Amendment 19)
Text of Convention
Article 25

Long-stay visas	Publication
Visas for stays of more than three months shall be national visas issued by each Member State in accordance with its national law.	The Council shall publish the implementing measures decided on under Articles 17 to 24 of this Convention.
The issue of such visas shall be subject to consultation of the joint list.	

(Amendment 20)
Text of Convention
Article 26

Decisions needed to give effect to this Convention, other than those expressly provided therein, shall be adopted by the Council, acting unanimously on a proposal from the Commission or on the initiative of a Member State.	Decisions needed to give effect to this Convention, expressly provided therein, shall be adopted by the Council, acting with two third majority, in conformity with the provision of Article K.3(2)(c). Other decisions needed to give effect to this Convention shall be adopted by the Council, acting unanimously on a proposal from the Commission or on the initiative of a Member State. In either case decisions of the Council will be taken after consultation of the European Parliament, as provided for in Article K.6.

(Amendment 21)
Text of Convention
Article 27(1)

1. This Convention shall be subject to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and to the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the status of refugees and without prejudice to more favourable constitutional provisions of Member States on asylum.	1. This Convention shall be subject to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, to the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, and to the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the status of refugees and without prejudice to more favourable constitutional provisions of Member States on asylum.

(Amendment 22)
Text of Convention
Article 29, 2nd indent

- in disputes concerning the implementation of this Convention, on application by a Member State or the Commission.	- in disputes concerning the implementation of this Convention, on application by a Member State, the Commission or the European Parliament.

(Amendment 23)
Text of Convention
Article 29a (new)

The European Parliament and national parliaments of Member States shall have competence to question the Council concerning the interpretation and the application of this Convention.

(Amendment 24)
Text of Convention

(Throughout the text, wherever the first person masculine form is used, also use the first person feminine form.)

12. Union policy on human rights

B3-0401, 0402, 0403 and 0404/94

Resolution on human rights in the European Union's foreign policy
(adopted on 21 April 1994)

The European Parliament,

- having regard to the provisions of the Treaty on European Union signed in Maastricht on 7 February 1992, and in particular its Title V, Provisions on a Common Foreign and Security Policy,

1. Reaffirms that human rights - as proclaimed, for example, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention on Human Rights - are universal, indivisible and interdependent;

2. Declares that respect for the rights and fundamental freedoms of the individual and his social and economic integration in a pluralist democratic system are essential preconditions for the full development of the individual and form an integral part of respect for human rights;

3. Considers that the consolidation and promotion of democratic regimes subject to the laws and institutions of a constitutional state which guarantee the fundamental freedoms of the individual and the protection of human rights are key aspects of the Union's foreign policy;

4. Asserts that human rights violations are, justifiably, a matter of concern for the international community and that this concern cannot be considered as interference in the internal affairs of individual states; takes the view, therefore, that humanitarian intervention cannot be regarded as interference in a country's internal affairs either;

5. Affirms that the situation of women warrants particular attention on the part of the Union, with the ultimate aim of achieving effective equality between women and men;

6. Expresses particular concern at the fate of millions of children throughout the world who are threatened by famine and various forms of exploitation and violence;

7. Recalls its support for the building of a pluricultural Europe in which tolerance reigns, based on respect for differences in sex, race, religion, language and nationality; recalls, in this connection, its various statements against ethnic cleansing, expresses its support for the action of the CSCE High Commissioner for Minorities and calls for the resources required to prevent conflict to be put at his disposal;

8. Considers that a new and effective policy on refugees needs to be introduced quickly, particularly in those Member States where the matter is causing severe tension, and emphasizes the need for the European Union to lay down principles for improving the sharing amongst the Member States of the burden imposed by the flood of refugees;

9. Takes the view that each and every agreement between the European Union and third countries should include a clause on respect for human rights and social rights and make provision for the automatic suspension of the agreement should these rights be violated, and considers that the effective application of the treaties, once they have been ratified, must be an objective of the Union's foreign policy;

10. Calls on the Council and Commission to increase transparency concerning the budgetary funds earmarked for the launch of a consistent human rights policy, which is indispensable if the priorities, objectives and projects envisaged in this sector are to be correctly analysed and if the efforts of Member States in the field of human rights, which are still too fragmented and dependent on the initiative of individual states, are to be better coordinated;

11. Recognizes that cooperation between Parliament, the Council and the Commission in human rights matters has become even more important with the obligation to reinforce and extend the common foreign and security policy;

12. Stresses the need for the Commission and the Council, subject to necessary guarantees of confidentiality, to provide the European Parliament with more information on these matters;

13. Believes that the parliamentary body dealing with human rights should also include the Union's policies for promoting democracy in its remit;

14. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.