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Visa and Document Security

DG MIGRATION AND HOME AFFAIRS

Disclaimer: ***These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union'***

Common visa policy – legal basis

TFEU Art. 77

1. The Union shall develop a policy with a view to:

(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;

(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;

(c) […].

2. For the purposes of paragraph 1, the European Parliament and the Council, […] shall adopt measures concerning:

(a) **the common policy on visas and other short-stay residence permits**;

(b) the checks to which persons crossing external borders are subject;

(c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;

[…]

Common visa policy – legal basis

- **Exclusive EU competence** that has been exercised extensively (both internal and external)
- Series of "internal" legislation and international visa facilitation and visa waiver agreements
  - http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/visa-policy/index_en.htm
  - http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/document-security/index_en.htm
- **Part of the Schengen *acquis***, thus only some of the instruments have been applicable as from the EU accession

Common visa policy -definitions

"authorisation issued by a Member State with a view to transit through or an intended stay on the territory of the Member States of a duration of no more than 90 days in any 180-day period"

(Visa Code, Art. 2(2))

= short-stay, Schengen visa processing / waiver

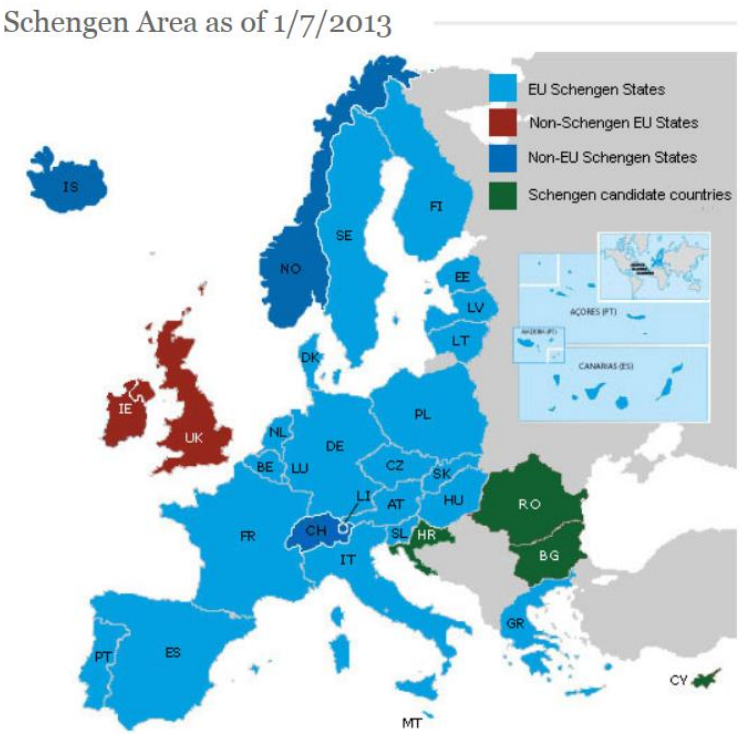
(+ document security)

Main legal instruments -Visa

- Regulation 539/2001 (**Visa Regulation**) and its amendments
- Regulation 810/2009 (**Visa Code**) and its amendments
- Regulation 767/2008 (**VIS Regulation**) and its amendments

- *[Decision 565/2014 (recognition of Schengen visas/residence permits as equivalent to CY/RO/BG/HR national short-stay visas)]*

Countries that fully apply the visa *acquis*



Full application:

- EU Schengen States
- Schengen "associated countries": CH, NO, IS, (LI)

Only for visa requirement, including airport transit (+document security):

- BG, **CY**, HR, RO

Not at all: UK and IE

Visa acquis applicable from EU accession

- Regulation 539/2001 (Visa Regulation)

- Art. 3 of the Visa Code (airport transit visas)

- Security features of passports, visas and residence permits

= Directly applicable/does not require much legislation

= As regards the documents, necessary machines, templates, infrastructure, know-how shall already be in place

= Rest of the Visa Code and VIS Regulation will come later *("full" Schengen accession)*

Act of Accession (Cyprus as example)

Article 3 and Annex I

(1) Schengen acquis listed in Annex I shall be binding on and applicable in the new MS from the date of EU accession

(2) Schengen acquis not referred to in paragraph 1, while binding on the new MS from the date of accession, shall only apply once they become "full" Schengen MS

+ **one of the last recitals of the legal acts**, referring to either Art. 3(1) or (3(2)

"Transit" Decision

- Decision 565/2014/EU allows for unilateral recognition as equivalent to national visas of BG, CY, HR and RO, for the purpose of transit through or intended stays up to 90 days in any 180-days of: Schengen visas valid for two or more entries, national (D-type) visas, residence permits
- BG, CY, HR, and RO also recognises as equivalent to their national visas the national long-stay and short-stay visas, as well as residence permits issued by the others

Regulation 539/2001: who needs a Schengen/National visa

Annex I: visa-required

- Afghanistan
- Algeria
- **Russia**
- **Turkey**
- Syria
- …

Annex II: visa free

- Albania
- U.S.
- Canada
- Moldova
- Brazil
- …

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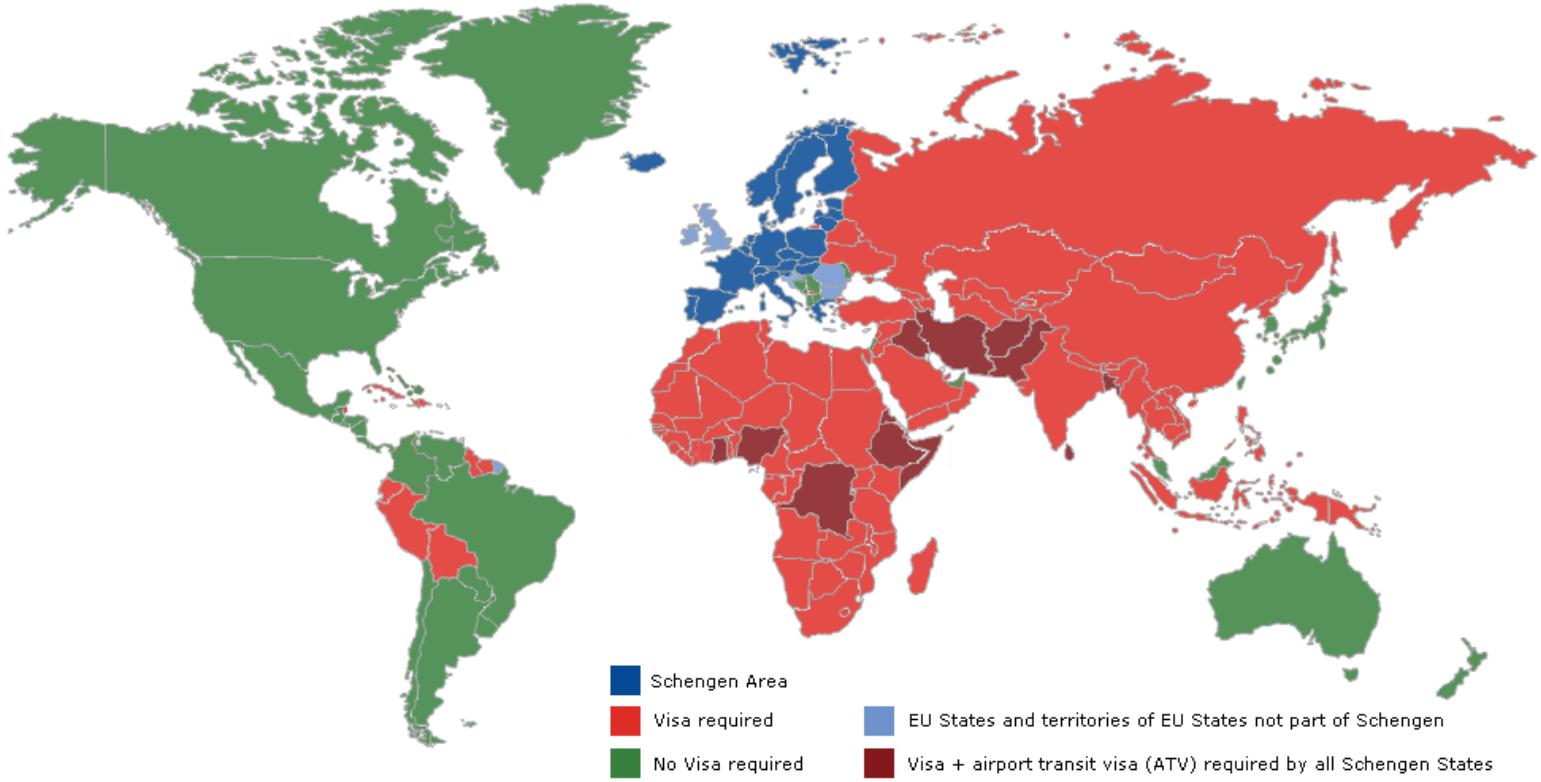
Visa requirements for the Schengen Area



For individual Schengen States' ATV requirements, click here [20 KB]

Visa Code (Regulation 810/2009)

- Competent authorities to process the applications
- How to lodge application
- Supporting documents: application form, travel document, biometric identifiers, supporting documents, travel medical insurance
- Visa fee; deadlines
- Examination of the applications (entry conditions)
- Issuing / refusal of the visa

Visa Code (Regulation 810/2009)

- Filling in the visa sticker
- Extension, annulment, revocation
- Visa applied for at external border (exceptional), visas for seafarers, etc.
- Cooperation between MS

+ **Visa Facilitation Agreements**

Visa Information sytem (Regulation 767/2008)

Visa Information System=VIS

Database for the exchange of data on short-stay visas between Schengen MS consulates, central visa authorities and border guards

- Also asylum authorities and law enforcement have limited access
- Strict data protection rules
- VIS rolled-out worldwide

Main legal instruments (document security)

- Resolution of […] of 23 June 1981 concerning the adoption of a passport of uniform pattern (and its supplementing resolutions)
- Regulation 2252/2004 on standards for security features and biometrics in **passports** and travel documents (as amended)
- Regulation 1683/95 laying down a uniform format for **visas** (as amended)
- Regulation 1030/2002 laying down a uniform format for a uniform format for **residence permits** (as amended)

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Passports

Applies to all passport/ travel documents with a validity longer than 12 months

- *One person-one passport* principle
- ICAO compliant: machine readable
- Non-extendable
- Facial image (since 08.2006)
- Two flat fingerprints (since 06.2009)
- Minimum security standards in Annex and additional technical specifications for biometrics in classified decisions.
- Designating *one body* for printing

Visa stickers and residence permits

- Minimum security standards in the Annex to the Regulation and additional technical specifications in classified decisions.
- Designation of "one body" for printing.

Visas: no chip inside; the biometric are stored in the VIS.

Residence permits: Stand-alone document in card form with facial image and two flat fingerprints stored in a chip.

New uniform visa stickers and residence permits are upcoming

VIS and fingerprinting

- Data registered:
  - data given on application form (name, birth date, destination MS, purpose of travel, sponsor etc.)
  - digital photograph
  - **10 fingerprints**
  - decision taken: visa issued or refused
  - modification, annulment, etc.

Outlook- Modernisation of visa policy

- Revision of the Visa Code - Regulation 810/2009 proposed on 14 March 2018

- Revision of the Visa Information system- proposed on 16 May 2018

- Reflection on digital visas

Links

- Visa policy website:
  http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm
- FAQ:
  http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/docs/frequently_asked_questions_en.pdf
- Legislation, notifications, etc.:
  http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/visa-policy/index_en.htm

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THANK YOU FOR YOUR ATTENTION!

QUESTIONS?