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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.9.2007
COM(2007) 506 final

COMMISSION OPINION

on the request by Ireland to take part in Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third country nationals

I. INTRODUCTION

1. Council Regulation (EC) No. 1030/2002 of 13 June 2002 lays down a uniform format for residence permits for third country nationals¹. This Regulation is based on Article 63(3)a TEC, which is part of Title IV on Visas, asylum, immigration and other policies related to the free movement of persons. Therefore, the position of Ireland and the United Kingdom towards this Regulation is subject to the "Protocol on the Position of the United Kingdom and Ireland". The Protocol states that in principle, these two Member States do not participate in the adoption of, and are not bound by measures based on, Title IV TEC. However each of them can opt in either before the adoption of such a measure (a simple notification to that end is sufficient) or afterwards (notification to the Council and the Commission; opinion from the Commission within 3 months and decision by the Commission within 4 months from the date of notification), without prejudice to the Protocol integrating the Schengen acquis into the framework of the EU.
2. In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, the United Kingdom gave notice, by letter of 3 July 2001, of its wish to take part in the adoption and application of Regulation No.1030/2002, and it indeed participated in the adoption and application of this Regulation.

In accordance with Article 4 of this Protocol, Ireland notified to the Council and the Commission, by letter of 19 December 2003, its wish to participate in Regulation No. 1030/2002. However, the procedure provided in Articles 11(3) and 11a TEC, which should be applied in this case according to Article 4 of the Protocol, has not been followed. Despite this procedural error, all institutions and Member States have acted since then as if Ireland fully participates in the application of Regulation No. 1030/2002.

3. On 24 September 2003, the Commission presented a proposal in view of amending Regulation No. 1030/2002² and on 10 March 2006 a modified proposal³.

During the discussions on this modified proposal, the above mentioned procedural error has been detected.

In order to remedy this error, and in line with the COREPER conclusions of 6 June 2007, Ireland has notified, by letter of 7 June 2007 (and received on the same date), the confirmation of its initial notification and wish to participate in Regulation No. 1030/2002.

4. The present document constitutes the opinion the Commission has to give to the Council, in accordance with Article 11a TEC, on the notification of Ireland, on 7 June 2007, of its intention to participate in Regulation N° 1030/2002, within three months of the date of receipt of this notification.

¹ OJ No. 157, of 15.6.2002, p. 1.

² COM(2003) 558 final.

³ COM(2006) 110 final.

II. EVALUATION BY THE COMMISSION OF IRELAND'S INTENTION TO PARTICIPATE IN REGULATION N° 1030/2002:

1. The Commission expresses a favourable opinion on Ireland's intention to participate in Regulation N° 1030/2002:

- Regulation N° 1030/2002 aims at harmonising the uniform format for residence permits for third country nationals as a measure of harmonised immigration policy in view of entry and exit of third country nationals. Harmonised formats and common security standards for residence permits throughout the European Union facilitate border crossing and contribute thus to a good functioning of an area of freedom and security and justice. Ireland also participated in the Council Joint Action 97/11/JHA⁴ which has been replaced by Regulation N° 1030/2002 after the transfer of this issue into the competence of the EC by the Amsterdam Treaty.
- Ireland also takes part in Regulation (EC) 1683/95 laying down a uniform format for visas. In view of a coherent approach and harmonised solutions on documents for third country nationals, as requested by the European Council of Thessaloniki in June 2003, the participation of Ireland in Regulation (EC) 1030/2002 would serve such a coherent approach.
- Until now, Ireland has *de facto* participated in Regulation N° 1030/2002 and this has caused no problem whatsoever.

2. For these reasons, the Commission intends to take a positive decision, in accordance with Article 11a TEC on the notification by Ireland of its intention to participate in Regulation N° 1030/2002.

Article 11a TEC states that, within four months from the date of notification, the Commission shall take a decision on that notification and on such specific arrangements as it may deem necessary. In the light of the existing situation, there is no need to provide for such specific arrangements.

3. This opinion is addressed to the Council pursuant to Article 4 of the Protocol on the position of the United Kingdom and Ireland in conjunction with Article 11(3) TEC, and forwarded to the European Parliament for information.

⁴ OJ N° L 7, of 10.1.1997, p. 1.