This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL REGULATION (EC) No 789/2001

of 24 April 2001

reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications

(OJ L 116, 26.4.2001, p. 2)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Decision 2004/927/EC of 22 December 2004	L 396	45	31.12.2004

▼B

COUNCIL REGULATION (EC) No 789/2001

of 24 April 2001

reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points 2 and 3 of Article 62 thereof,

Having regard to the initiative of the Republic of Finland ([1]),

Having regard to the opinion of the European Parliament ([2]),

Whereas:

(1) The Common Consular Instructions (CCI) on Visas for the Diplomatic Missions and Consular Posts, listed under reference SCH/Com-ex (99) 13 in Article 1 of Annex A to Council Decision 1999/435/EC of 20 May 1999 concerning the definition of the Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis ([3]), were established with a view to implementing the provisions of Title II, Chapter 3, of the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, hereinafter referred to as 'the Convention'.

(2) Certain detailed provisions and practical procedures for examining visa applications in the diplomatic missions and consular posts of Member States participating in the closer cooperation referred to in Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union, hereinafter referred to as the 'Protocol', contained in the CCI and the Annexes thereto, are to be adopted and regularly amended and updated in order to meet the operational requirements of the relevant consular authorities.

(3) In addition, a manual of documents to which a visa may be affixed, listed under reference SCH/Com-ex (98) 56 and SCH/Com-ex (99) 14 in Annex A to Decision 1999/435/EC, has been established pursuant to Annex 11 of the CCI. It is necessary that the provisions of this manual be adopted and regularly amended and updated in order to meet the operational requirements of the relevant consular authorities.

(4) Furthermore, a manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented has been established as Document SCH/II (95) 16, 19th revision, listed under reference SCH/Com-ex (99) 13 in Annex A to Decision 1999/435/EC. It is also necessary that the provisions of this manual be adopted and regularly amended and updated.

(5) Finally, pursuant to Council Decision 2000/645/EC of 17 October 2000 correcting the Schengen acquis as contained in Schengen Executive Committee SCH/Com-ex (94) 15 rev. ([4]), document SCH/II-Vision (99) 5 (hereinafter referred to as 'Schengen Consultation Network (Technical Specifications)') which, inter alia, lays down the principles pursuant to which the computerised

([1]) OJ C 164, 14.6.2000, p. 7.
([2]) Opinion delivered on 13 March 2001 (not yet published in the Official Journal).
([3]) OJ L 176, 10.7.1999, p. 1.
([4]) OJ L 272, 25.10.2000, p. 24.

▼B

procedure for consultation, for the purposes of issuing visas, of the central authorities referred to in Article 17(2) of the Convention must be applied is attached to Schengen Executive Committee decision SCH/Com-ex (94) 15 rev. It is also necessary that the provisions of the Schengen Consultation Network (Technical Specifications) be adopted and regularly amended and updated.

(6) Various provisions of Title II, Chapter 3, of the Convention, and in particular Article 17 thereof, and of the CCI, provide for implementing decisions to be taken by the Executive Committee, established by the Schengen agreements adopted before 1 May 1999, for which the Council has substituted itself, pursuant to Article 2 of the Protocol. Pursuant to Article 1 of the Protocol, cooperation in the context of the Schengen acquis is to be conducted within the institutional and legal framework of the European Union and with respect for the relevant provisions of the Treaty on European Union and of the Treaty establishing the European Community.

(7) It is therefore appropriate to set out in a Community act the procedure by which such implementing decisions should be taken.

(8) Since the Member States have an enhanced role in respect of the development of visa policy, reflecting the sensitivity of this area, in particular involving political relations with third countries, the Council reserves the right, during the transitional period of five years referred to in Article 67(1) of the Treaty, to adopt, amend and update the detailed provisions and practical procedures referred to above by unanimity, pending a review by the Council of the conditions under which such implementing powers would be conferred on the Commission after the end of that transitional period.

(9) Some of those provisions and procedures require confidential treatment in order to prevent risk of abuse.

(10) It is also necessary to provide for a procedure whereby the members of the Council and the Commission are informed without delay of all amendments to the manual of documents to which a visa may be affixed, to the manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented, to Annexes 6 and 9 of the Schengen Consultation Network (Technical Specifications), and to those Annexes to the CCI which consist, in whole or in part, of lists of factual information which must be provided by each Member State in accordance with the rules which it currently applies, and which therefore do not fall to be adopted, amended or updated by an act of the Council.

(11) Those elements of the CCI and the Annexes thereto which are not subject to amendment by either of the procedures provided for in this Regulation should be amended in accordance with the provisions of Title IV of the Treaty establishing the European Community, and in particular points 2 and 3 of Article 62 and Article 67 thereof.

(12) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not participating in the adoption of this instrument, and is therefore not bound by it or subject to its application. Given the fact that this instrument is an act which aims to build upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, Article 5 of the abovementioned Protocol applies,

▼B

HAS ADOPTED THIS REGULATION:

Article 1

1. The Council, ►M1 acting by qualified majority ◄, at the initiative of one of its members or on a proposal from the Commission, shall amend, as necessary, Parts II, III, V, VI, VII and VIII of the CCI, as well as Annex 2 (with the exception of Schedule B and excepting the visa requirements relating to those countries mentioned in Schedule A which do not need to be the subject of prior consultation) and Parts I and III of Annex 3 as well as Annexes 6, 10, 11, 12, 13, 14 and 15 thereto.

2. The Council, ►M1 acting by qualified majority ◄, at the initiative of one of its members or on a proposal from the Commission, shall amend, as necessary, the introduction and Parts I, II and III of the Schengen Consultation Network (Technical Specifications), as well as Annexes 2, 2A, 3, 4, 5, 7 and 8 thereto.

3. To the extent that such amendments concern confidential provisions and procedures, the information contained therein shall be made available only to authorities designated by the Member States and to persons duly authorised by each Member State or by the institutions of the European Communities, or otherwise entitled to obtain access to such information.

Article 2

1. Each Member State shall communicate to the Secretary-General of the Council such amendments as it wishes to make to the CCI concerning Part III of Annex 1 thereto, Schedule A of Annex 2 thereto (with the exception of the visa requirements relating to the countries mentioned in that Schedule which must be the subject of prior consultation) and Schedule B of Annex 2, Part II of Annex 3, and to Annexes 4, 5, 7 and 9 thereto, to the manual of documents to which a visa may be affixed, to the manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented, and to Annexes 6 and 9 of the Schengen Consultation Network (Technical Specifications).

2. Any Member State wishing to make an amendment to Annex 4, 5B, 5C, 7 or 9 to the CCI shall first submit a proposal for amendment to the other Member States and afford them an opportunity to comment on the proposal.

3. Amendments made pursuant to paragraphs 1 and 2 shall be deemed to take effect as from the date on which the Secretary-General communicates such amendments to the members of the Council and to the Commission.

Article 3

The General Secretariat of the Council shall be responsible for the preparation of revised versions of the CCI and the Annexes thereto, of the manual of documents to which a visa may be affixed, of the manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented, and of the Schengen Consultation Network (Technical Specifications), in order to incorporate amendments made pursuant to Articles 1 and 2. It shall transmit these versions to the Member States as necessary.

Article 4

This Regulation shall enter into force on the day of its adoption.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.