



European Migration Network

Ad-Hoc Query on visas in expired travel documents

Requested by LT EMN NCP on 30th January 2009

Compilation produced on 25th February 2009



Responses from AT, BE, BG, CZ, DE, EE, EL, FI, FR, HU, IT, LV, LT, MT, NL, PL, PT, RO, SE, SI, SK (21 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.






1. Background Information

The Lithuanian State Border Guard Service and the Migration Department under the Ministry of Interior are reviewing borders' crossing procedures in Lithuania. In this context, we would like to know how other Member States deal with valid visas in expired passports – are they recognised as valid?











2. Responses

		Wider Dissemination?	Is a visa, which is still valid but affixed to an expired travel document, recognized as valid by your country?
	Belgium	Yes	In principle the validity of the travel document (passport) should be longer than the validity of the visa. In cases described above there are 2 possibilities: or somebody from the embassy comes to the airport to extend the validity of the passport, if not the foreigner is refused entry and driven back to the country of departure. Please note that in such cases the carrier will also get an administrative fine of 3.750 Euro.
	Bulgaria	Yes	According to the Law for the Foreigners in the Republic of Bulgaria, Art. 8, a foreigner may enter the Republic of Bulgaria if he/she holds <u>a regular foreign-travel document</u> as well as a visa, if required. According to the Ordinance for the Conditions and the Order of Issuing Visas the diplomatic and consular representations of the Republic






Disclaimer: The following responses have been provided for the purpose of information exchange among EMN NCPs in the framework of the EMN. This information, therefore, reflects the opinions and views of the contributing EMN NCPs, but does not necessarily represent the official policy of an EMN NCPs' Member State.

			of Bulgaria are responsible for issuing of the Bulgarian visas. When a third country national applies for a visa, the competent officials must check the validity period of his travel document. Visa shall not be issued to a foreigner whose passport or substituting travel document has expired <u>or if its term of validity will expire in 3 months after the date on which the envisaged period of stay in the Republic of Bulgaria will expire (according to the grounds of the requested visa).</u>
	Czech Republic	Yes	<p>Taking into account the fact that the respective question was raised several times at various occasions already (e.g. Council Working Party on Frontiers) we would like to stress the key points in this regard.</p> <p>Firstly, in accordance with the Common Consular Instructions - part V (1.3), it is not allowed to issue a visa with a validity going beyond the validity of the passport. The case of a valid visa in an expired passport should therefore not appear.</p> <p>When detecting such a case we would urge the respective border guard authority to contact immediately the Member State whose foreign consular office issued the visa to inform it about the wrong practice. The person in question should be also advised to apply for a new passport and visa.</p> <p>Secondly, should such an exceptional case appear (valid visa in an expired passport - especially in the situation if the person in question is in possession of a valid travel document and an expired travel document with a valid visa), the Czech Border Guard would apply a case by case assessment of the situation. Article 5 of the Schengen Borders Code defines entry conditions for third-country nationals, which are i.a. a possession of a valid travel document (1a) and a possession of a valid visa (1b) – therefore this does not necessarily mean that the third-country national has to be in possession of only one travel document where a valid visa is affixed.</p> <p>Besides the exceptional situations described above, in case of a short term visa, § 61 of the Czech Aliens Act stipulates that a visa shall be recognized invalid if the travel document to which it was affixed is invalid. In case of a long term visa, § 37 of the Aliens Act stipulates that the visa shall be cancelled in case the police find out reason for this under § 9 of the Aliens Act (the person in question is not in possession of a valid travel document). Under § 116 of the Aliens Act it is explained that a travel document is considered to be invalid when it has been e.g. damaged, falsified (also expired).</p>
	Germany	Yes	No – a valid passport is the document which has priority.
	Estonia	Yes	<p>No.</p> <p>According to the State Borders Act § 11´section 3 an alien crossing the state border shall hold <u>a valid travel document</u> issued by a foreign state or an international organisation, or an alien’s travel document or a permit of return issued by the Republic of Estonia in which data concerning his or her <u>visa or residence permit are entered</u>, unless otherwise provided by law or an international agreement.</p>
	Greece	Yes	Valid visas affixed to expired passports are not recognized as valid. In order a third country national to be granted a visa, his passport must continue to be valid for at least 3 months after the expiry date of the required visa.
	France		<p>There exist 2 sorts of visas:</p> <ul style="list-style-type: none"> - The short-stay visas (Schengen visas, which are governed by EU rules), - the long-stay visas, valid for the French territory and only for people wanting to settle in France. <p>In those 2 cases, visas are issued by the French authorities for the period of validity of the passport. In any case, the validity of the visa shall not exceed the passport.</p>

Disclaimer: The following responses have been provided for the purpose of information exchange among EMN NCPs in the framework of the EMN. This information, therefore, reflects the opinions and views of the contributing EMN NCPs, but does not necessarily represent the official policy of an EMN NCPs' Member State.

	Italy	Yes	No. According to art. 13 of the Law no. 388/1993 on “Convention implementing the Schengen Agreement” provides that the visa is issued in the presence of a valid travel document. For the issue of the visa is necessary that the travel document has to expire at least three months later than the expiration of the visa.
	Latvia	Yes	Latvia recognizes valid visas in valid travel documents only. There has been very active debate on this question and we have prepared amendments to Immigration Law where this provision has been laid down in a more comprehensible way so that we can avoid any misunderstandings by interpreting this regulation in future.
	Lithuania	Yes	No. According to the Article 22 (8) of the Law on the Legal Status of Aliens of the Republic of Lithuania, a visa shall be invalid if the travel document to which it was affixed becomes invalid.
	Luxembourg		
	Hungary	Yes	No, but pursuant to the regulations laid down in the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals the above-mentioned situation can hardly arise. When lodging an application for a visa for a validity period not exceeding three months the applicant shall present his/her valid travel document. According to the general rules, the validity period of the travel document must exceed the planned date of exit from the territory of the Schengen States by at least three months and must have at least one suitable page where the visa can be installed.
	Malta	Yes	Should a Third Country National present himself/herself at a Border Crossing Point with an expired passport, he or she will be turned back, even if he / she has a valid visa affixed on the passport. The need of a valid travelling document is paramount. So technically, Maltese Immigration authorities do not recognise a valid visa on an expired passport. Immigration authorities will also inform the issuing authority of their oversight as visas cannot and should not be issued for periods that exceed the validity of the passport they are to be affixed upon.
	Netherlands	Yes	No. According to article 13:2 Schengen Agreement the travel document has to be valid 3 months longer than the visa. However, when this problem occurs in practice, the border control can for example decide to affix a valid visa in a new/valid passport should the passenger be in the possession of both passports instead of refusing entry. So the solution in practice depends on several factors that the border control takes into account in order to make a sound decision.
	Austria	No.	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Poland	Yes	In principle – NO , unless the TCN possesses the second, valid (and authentic) passport issued on the same personal data. The situation should not concern the visas issued by the EU member states (national / Schengen), yet it arrives sometimes with regard to, for example, visas issued by the USA. In general, each case undergoes special verification.
	Portugal	Yes	According to the Act that approves the legal framework of entry, permanence, exit and removal of foreigners into and out of national

Disclaimer: The following responses have been provided for the purpose of information exchange among EMN NCPs in the framework of the EMN. This information, therefore, reflects the opinions and views of the contributing EMN NCPs, but does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>territory, regarding the "Section II - General conditions of entry", in the Article 9°, n.° 1 Travelling documents and documents that may replace them</p> <p><i>1- To enter into or depart from Portuguese territory foreign citizens have to hold an accepted and valid travelling document. And in the Article 10°, n.° 1 "Entry Visa</i></p> <p><i>1- For entering national territory, foreign citizens must hold a valid visa which is adequate to the purpose of the visit, granted in the terms of the present Act, or by the competent authorities of the States that are Parties to the Schengen Implementing Convention".</i></p> <p>In spite of what it was written above, if for any reason the travelling document is out of time, it is possible to emit a special visa, in border post, according to the article n. ° 68°, that permits the entrance in national territory. However, this is an exception.</p>
	Romania	Yes	<p>The Government Emergency Ordinance 194/2002 on aliens' regime set that visa represents the authorisation, materialised by the application of a sticker or a stamp onto a valid travel document, which allows the alien subject to this obligation to arrive at a border crossing point in order to request the transit or temporary stay for a limited duration.</p> <p>Also, the same legal act provides that the validity of the travel document into which the visa is be applied must exceed the validity of the requested visa by at least 3 months.</p> <p>Exception from this rule are the emergencies, humanitarian reasons or national interest, international obligations assumed by Romania. Inthese situations, visas may be granted to aliens who are in possession of travel documents with a validity of less than the above mentioned, on condition that the duration of validity of the visa shall not exceed that of the document.</p>
	Slovenia	Yes	<p>In accordance with our national legislation valid visas in expired passports are not considered to be valid. The person in possession of such documents is refused entry unless an additional – valid passport is presented.</p>
	Slovak Republic	No	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.</p>
	Finland	Yes	<p>No. According to Aliens Act, section 21(2), a visa is valid for no longer than the expiry date of the travel document. In other words, valid visa should always be affixed to a valid travel document.</p>
	Sweden	Yes	<p>No.</p> <p>This should only occur very rarely since visas should not be issued for longer time span than the validation of the travel document.</p>
