



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

**on the functioning of the facilitated transit for persons between the Kaliningrad region
and the rest of the Russian Federation**

I INTRODUCTION

Kaliningrad is a unique part of Russia, separated geographically from the rest of the country and surrounded by the EU. In the framework of enlargement, increasing attention has been focused on the region. The introduction of the *acquis* by new Member States had an impact on third countries in terms of visa requirements and border controls. While the consequences of the *acquis* will be no different for Kaliningrad than for any other part of Russia or other neighbouring third countries, it appeared that the impact on the population may be greater there than in other parts of Russia, given the geographic situation of Kaliningrad.

Without pre-empting the accession negotiations with Poland or Lithuania, it was suggested in the Communication from the Commission to the Council of 17.1.2001¹ that "practical measures should continue to conduct proper and efficient border control, facilitating the movement of persons and goods across the future external border".

It was recommended to look into the possibility to take advantage of any special arrangements permitted by the *acquis*, using examples offered by existing arrangements, including in candidate countries. Furthermore, "the cost of passports (the responsibility of Russia) could also be examined, as well as the cost of visas (responsibility of current and future EU Member States), in the wider context of the Community policies. Both new and current Member States could consider opening consulates (or sharing facilities to reduce costs) in Kaliningrad, to facilitate visa issuance and manage migration flows efficiently".

In addition, the common declaration made in the context of the EU – Russia Summit on 3 October 2001 called for examination of the special situation of Kaliningrad in the context of the enlargement.

Following the discussion on Kaliningrad at the Moscow EU-Russia Summit, the Seville European Council on 21/22 June 2002 invited the Commission to "submit, in time for its Brussels meeting, an additional study on the possibilities for an effective and flexible solution of the transit of persons and goods to and from Kaliningrad oblast, in compliance with the *acquis* and in agreement with the candidate countries concerned". In the Communication from the Commission to the Council on Kaliningrad transit² of 18.09.2002 several possibilities for a facilitated transit were suggested. However, one of the preconditions for the solution to be found was that the full participation of Lithuania in the Schengen *acquis* should not be endangered. Finally, the Facilitated Transit Document/Facilitated Rail Transit Document (*FTD/FRTD*) system has been created.

In the Joint Statement on transit of the EU/Russia Summit in Brussels on 11 November 2002 "the Russian Federation took note of the European Union's intention to review the operation of the *FTD* scheme no later than 2005". Reference to a report to the Council and the European Parliament on the functioning of the system has also been made in Article 13 of the Council Regulation (EC) No 693/2003: "The Commission shall report to the European Parliament and the Council on the functioning of the facilitated transit scheme at the latest three years after the entry into force of the first decision as set out in Article 12(1)". Lithuania communicated

¹ COMMUNICATION FROM THE COMMISSION TO THE COUNCIL "The EU and Kaliningrad" COM (2001) 26 final

² COMMUNICATION FROM THE COMMISSION TO THE COUNCIL "Kaliningrad: transit" COM(2002) 510 final

to the Council and to the Commission its decision to apply the *FTD/FRTD* scheme from 1 July 2003. The Commission has, therefore, to present its report by 1 July 2006.

The present report is based on replies from the Russian Federation and Lithuania to a questionnaire established by the Commission services, which also undertook an in-site examination of the *FTD/FRTD* scheme from 22 to 24 March 2006.

II THE FTD/FRTD SYSTEM AS ESTABLISHED BY THE REGULATION AND THE BILATERAL AGREEMENT BETWEEN LITHUANIA AND THE RUSSIAN FEDERATION.

Following the discussion on Kaliningrad at the Moscow EU-Russia Summit³ in November 2002, on the basis of the Communication of the Commission on Kaliningrad Transit (COM (2002) 510 final) the Council adopted the following two regulations on 14 April 2003:

- Council Regulation (EC) No 693/2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual, and
- Council Regulation (EC) No 694/2003 on uniform formats for FTD and FRTD.

Both Regulations are not drawn up only for "Kaliningrad" and Lithuania but for all possible cases of "special transit" related to Member States. Member States can choose to apply Regulation (EC) 693/2003 in such cases.

Basic elements:

a) How does the FTD/FRTD scheme work?

Regulation (EC) No 693/2003 sets out the basic principles for the functioning of the *FTD/FRTD* scheme. The practical details have been established by a bilateral agreement on the procedure of issuance of *FRTDs* between the Russian Federation and Lithuania of 20 June 2003 and Regulation N361, adopted by the Russian Federation, on measures aimed at fulfilment of engagements taken by the Russian Federation under the Joint Statement of the Russian Federation and the EU on transit between the Kaliningrad oblast and the rest of the territory of the Russian Federation.

The *FTD* is issued to Russian citizens travelling frequently by land from Kaliningrad region to the mainland and vice versa. It allows for multiple-entry transit and can be valid for up to several years. The application procedure at the consular office is similar (quasi identical) to the visa issuing procedure. The *FTD* would be affixed in the passport of the Russian national. The price of the *FTD* is fixed at 5 EUR.

The *FRTD* has been created for rail passengers and is valid exclusively for direct transit between Kaliningrad and the Russian mainland for a single return transit (entry-return). The issuing procedure is facilitated and it is given for free.

³ Joint Statement of the European Union and the Russian Federation on transit between the Kaliningrad region and the rest of the Russian Federation of 11 November 2002.

For those Russian citizens intending to make single return trips by train through the territory of the Republic of Lithuania, a Facilitated Rail Travel Document (*FRTD*) can be obtained on the basis of personal data submitted at the time of ticket purchase. This information is forwarded in electronic form to the Lithuanian authorities, who will respond within 24 hours. Tickets are not issued by the Russian authorities to those Russian citizens where the Republic of Lithuania has objections to their transit via Lithuanian territory. An *FRTD* is then delivered by the Lithuanian consular authorities to the passenger at, or before, the Lithuanian border once the Republic of Lithuania has checked that the travel documentation carried by the passenger was in order.

In accordance with Regulation (EC) 693/2003 a Russian citizen wishing to travel by train with an international passport should receive an *FRTD* affixed in his passport. The bearer of Russian internal passports would however receive an *FRTD* affixed on a separate sheet as set out in Regulation (EC) 333/2002. From 1.1.2005 Russian nationals are required to have an international passport to which the *FRTD* sticker can be affixed. Bearers of an *FRTD* would not alight in Lithuania and the duration for each transit would be limited in time to 6 hours per transit.

b) Financial support for the FTD/FRTD scheme⁴

In the context of political priorities related to the accession of the Republic of Lithuania to the European Union in 2004, the European Council has agreed that it is essential to support Lithuania in delivery of a transit solution, in order to enable a facilitated visa regime between the Russian mainland and the Kaliningrad Region. Therefore it was laid down in the accession treaty in Protocol 5 "Kaliningrad" that Lithuania will get financial support covering the additional costs for the *FTD/FRTD* system.

Two Kaliningrad support programs have been set up by the EU to provide assistance to Lithuania in implementing the *FTD/FRTD* scheme:

- The first program was implemented under the PHARE program, providing EUR 12 million for the time period December 2003 till April 2006.
- The second program is providing EUR 40 million for the time period May 2004 till December 2006 to cover foregone (visa) fees and additional costs for investments, training and operational costs (e.g. salaries).
- With regard to the New Financial Perspective 2007-2013, the Commission proposed a separate mechanism ("Kaliningrad Transit Scheme") in Article 6 of the (draft) Decision of the European Parliament and the Council establishing the External Borders Fund for the period 2007-2013 as part of the general programme 'Solidarity and Management of Migration Flows'. In Article 15(9), for 2007-2013 a maximum amount of € 108 million has been proposed to support foregone fees from transit visas and additional costs incurred in implementing the *FTD/FRTD* scheme. However, the decision on the final amount is now to be taken by the Council and the Parliament.

⁴ This point is only for information purpose as it is not subject of the evaluation.

III IMPLEMENTATION OF THE FTD/FRTD SYSTEM

The implementation of the FTD/FRTD system started (on a national basis) on 1st of July 2003 and under Community regime on 1 May 2004.

a) Statistics

The most popular means of transport from Kaliningrad to mainland Russia and back is train (70%) followed by car (20%) and plane (10%). On average 1.5 million persons travel annually to/from Kaliningrad using all means of transport, a vast number considering that the population of the Oblast is around one million. The number of travellers rises during the summer season and decreases between February and March. According to the reply of the Lithuanian authorities the number of travellers has been as set out in the following table.

| | 2003 (1.7.-31.12.) | 2004 | 2005 |
|--|--------------------|---------|---------|
| Number of passengers; 1.078.459 of them using FRTD | 293.719 | 613.101 | 412.711 |
| Number of FTD issued | 1.836 | 3.095 | 3.149 |

The *FTDs* are mainly used by Russian nationals from mainland Russia. The majority of the Kaliningrad Russian citizens travel with *FRTDs*. However, it is more convenient for them to obtain a Lithuanian visa that grants the possibility not only to travel in transit but also to visit Lithuania. The procedures to obtain these visas and the *FTD* are very similar but the *FTD* has a 5 € fee while the Lithuanian visas for the Kaliningrad residents are free of charge. This explains why the number of Lithuanian visas issued to the Kaliningrad residents is two-three times higher than the *FTDs*. On the other hand, the requirement introduced in April 2005 to have compulsory health insurance in order to receive a Lithuanian visa (this is not required for obtaining an *FTD*) will also contribute to an increase in the demand for *FTDs*.

b) The FTD/FRTD system in practice

As mentioned before, the implementation of the FTD/FRTD system started (on a national basis) on 1st of July 2003 and under Community regime on 1 May 2004.

Already during the first visit in the framework of the Kaliningrad Facility in June 2004 as well as during the second in March 2006, it has been noticed that the system runs smoothly and that no major problems occurred. It was noticed that the *FRTDs* are not affixed in the Russian passport but always on a separate sheet. With this procedure the *FRTD* can be thrown away and requested again several times, without filling up the passport. However a disadvantage is that frequent travelling, where an *FTD* would be more appropriate, is less identifiable. This may happen frequently as the *FRTD* is easier to obtain (at the station) and it

is free of charge whereas the *FTD* is for multiple trips and should be applied for at the consular office at a cost of 5 EUR. It also explains why the number of issued *FTDs* is so low.

The Lithuanian authorities argued that it is difficult in a running train to affix the *FRTD* in a passport. Therefore they prepare the sheets in advance and only hand out the sheets in the train when controlling the list of passengers and the passports.

The second more detailed visit was carried out from 22-24 March 2006. The purpose of the mission was an assessment field visit, in cooperation with the Lithuanian and Russian authorities.

As a preparatory step, the Commission had sent letters to the Lithuanian and Russian authorities with a questionnaire on different aspects of the implementation of the transit regime. The replies received were very positive as regards the *FTD/FRTD* system. They reflected what had been voiced before, that the transit system is working smoothly and no major changes should be introduced. Some statistics were also given.

IV GENERAL REMARKS:

Already in June 2004, Commission experts visited Lithuania and were informed about the procedures which could be seen on the trains. Apparently the system runs smoothly and it has only produced one incident on the train, which was not directly linked to the *FRTD* scheme.

During both visits, the Lithuanian and Russian sides acknowledged the good functioning of the facilitated transit regime and voiced appreciation for the efforts undertaken by their respective authorities in its implementation. No major problems were noticed, also no delays in delivering *FRTDs* and *FTDs*. Russia pointed out that (i) the facilitated transit regime as well as (ii) the visa regime provided by the Lithuanian-Russian Agreement of 30 December 2002 concerning mutual travel should continue after Lithuania joins the Schengen area of free movement without internal borders. It appears there is a real cooperation and commitment between the relevant services of both Lithuania and Russia in implementing the transit regime.

However, Russia said that since the coming into force of the facilitated transit regime they noticed a passenger drop of about 30 %, which leads to a loss of 122 million Rubel for the national train company. Neither Lithuanian nor Russian authorities have clearly defined the reasons for this reported decrease in the number of passengers travelling by trains. It could be related to the increase of passengers travelling by air (air transport is subsidised). Furthermore the requirement for an international passport since 1 January 2005 could cause a significant drop in passengers as military personal stationed in Kaliningrad are not in a position to get such passports and consequently have to travel by plane. This situation can only be changed by Russia as this is a national matter.

V EVALUATION

The transit regime is an integral part of the Schengen acquis and, therefore, fully Schengen compatible. In principle, there are no major reasons to change the *FTD/FRTD* scheme.

Some issues had to be clarified:

- There seemed to be misunderstandings in relation to the fees which will be raised for Schengen visas but not for *FRTD/FTD*, as the *FTD/FRTD* are not considered as a visa.
- It was clarified that the Regulation does not request personal appearance at the train station, so that e.g. a group of children does not have to come to the train station if their passports are shown when purchasing the ticket.

Other issues were noticed and discussed with both parties:

- The possible introduction of the photograph into the *FRTD/FTD* in order to bring these documents in line with the other harmonised formats (visa, residence permits) for security reasons: from the Russian side there is no possibility to introduce the photograph for the *FRTD* as the whole computer system "Express" would have to be adapted which would be totally disproportionate to the gain of security achieved. Until now no forged *FRTD* has been detected. Only one passenger during the three year period covered by this report tried to disembark from the train in Lithuania. Therefore, the Commission will not insist on the introduction of the photograph in the *FRTD* as this would not be proportionate. For the *FTD*, however, it would be possible as it is issued in the consular office, which is already equipped.
- The filling of the *FRTD* personal data form on board the train only by those passengers who, for technical reasons, are not on the passengers list. At the moment of purchasing the ticket, there is only a limited number of 64 characters available in the "Express" system for the transmission of personal data to the Lithuanian authorities. Therefore the form has been introduced in order to give more data to Lithuania for a detailed search in specific cases. It would not be reasonable to abolish this form as it also confirms by the signature that the passenger has taken note of all conditions of transit.
- The possibility to reduce the length of the procedure for issuing the *FRTD*: decrease of the response time for Lithuania from 24h to about 10h or 15h; the Lithuanian authorities have stressed that this is not possible in general. However, the replies are sent as soon as possible so that the 24 hours are not the regular response time, but as provided by the Regulation, a *maximum* response time.
- As it could be seen again in the Lithuanian consular office and in the train, the *FRTDs* are currently affixed on a separate form (in accordance with Regulation (EC) 333/2002). The *FRTD* is printed in the consular office in accordance with the data transmitted by the Russian "Express" system and affixed on the separate sheet as Lithuania considers that it is too difficult to affix the *FRTD* in the passport of Russian citizens on the running train. Also, the passport would be quickly filled with *FRTDs* as it is not only used by travellers for single return trips, but also by Russian citizens who travel frequently by train between Kaliningrad and mainland Russia. However, in the view of the Commission, for frequent travelling the *FTD* should be used and advantage should not be taken of the fact that the *FRTD* is free of cost. Therefore the affixing of *FRTDs* in the passport would –in line with Regulation (EC) 693/2003- make it more obvious, if a person is frequently travelling.

Some issues for improvement lay outside the scope of Regulation (EC) 693/2003:

- To shorten the time required for border control formalities and, to that end, to reduce the duration of train stops at the Russian-Lithuanian and Lithuanian-Belarusian borders, or at least at one of these borders: (Currently there are four border controls, two at each side of

the borders, which last 50 minutes at the Russian side and 40 min at the Lithuanian side, in all approx. 2h 45 min on a railway journey of around 22h from Kaliningrad to Moscow). This time period could be reduced to a significant degree by carrying out border checks during the trip and before the train stops at border crossing points. Another possibility could be that the border guard services of both countries concerned carry out their respective border controls at one stop at each border. However, this is an issue to be settled by the Lithuanian and Russian and Belorussian authorities at a bilateral level.

VI CONCLUSIONS

The Commission is pleased that 3 years after its entry into force the facilitated transit system is running smoothly and both partners are satisfied with the implementation. As noticed during the visits, minor issues could be improved, however mostly related to bilateral arrangements between Lithuania and Russia. The *FTD/FRTD* system seems also to fulfil the requirements of the Schengen acquis as no illegal immigration under this scheme has been noted.

Therefore the Commission sees no need to change the system. In a long term perspective, the facilitated transit regime would depend on the future development of visa policy arrangements between EU and Russia.

The Commission will continue to support the transit scheme financially by the External Borders Fund.

Two points remain to be further examined. However they do not affect the efficiency of the *FTD/FRTD* scheme as a tool to manage the Kaliningrad transit.

- (1) The *FRTD* is affixed on a separate form and not as required by Regulation (EC) 693/2003 in the passport of the person travelling. As a consequence it cannot be identified whether the *FRTD* is used for a single return trips or frequent trips. The correct application would also enhance the requests for *FTDs* as they can be obtained for multiple trips at the costs of 5 EUR (frequent traveller).
- (2) The question of shortening border control formalities could be discussed further on a bilateral basis if Lithuanian, Russian and Byelorussian authorities are interested. This would be possible without reopening the discussion on the transit scheme or changes to the Regulation. Two possibilities appear feasible: (i) instead of two stops (one on each side of the border) to have only one stop at each border. Border authorities of both countries would carry out their controls simultaneously, or (ii) to provide for an arrangement where both sides carry out their controls while the train is travelling.