

Third countries whose nationals are subject to or exempt from a visa requirement (Visa Regulation)

2000/0030(CNS) - 23/07/2008 - Follow-up document

Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States (Annex I to the Regulation, the “negative list”) and those whose nationals are exempt from that requirement (Annex II to the Regulation, the “positive list”), as amended by Council Regulation (EC) No 851/2005, is the basic instrument of common visa policy, providing also a reciprocity mechanism for cases where a third country on the positive list maintains or introduces a visa obligation for the citizens of one or more Member States.

In its third report in 2007 (refer to the follow-up document of the procedure file [CNS/2004/0141](#)), the Commission concluded that dialogue with third countries under the new reciprocity mechanism has proven effective. Full reciprocity was achieved with New Zealand and Mexico. Significant progress was achieved in dialogue with Australia. Furthermore, a comprehensive visa waiver agreement should soon be negotiated with Brazil. However, with regard to Canada and the United States of America (USA) it was concluded that little progress had been made. If this continued to be the case, appropriate retaliatory measures could be considered.

This **fourth report** takes stock of the approaches made by the Commission since September 2007 vis-à-vis third countries on the positive list which continue to require visas from nationals of one or more Member States.

The Commission considers that since the last report of 13 September 2007 the dialogue with third countries under the new reciprocity mechanism has once again proven effective. Further full visa reciprocity has been achieved with three third countries (Israel, Malaysia and Paraguay). Furthermore, the Commission has achieved significant progress in the dialogue with Canada, for which only Bulgaria and Romania remain under the visa obligation. In the dialogue with Australia the Commission has achieved access for all Member States to the "autogrant facility" and equal treatment for the nationals of all Member States from October 2008. Nevertheless, the implementation of the Australian eVisitors system will be monitored carefully. The negotiations for a short-stay visa waiver agreement between the European Community and Brazil have started, in order to achieve full visa reciprocity with Brazil.

No progress has been achieved with Japan, Panama, Singapore and the USA. On Singapore, the Commission regrets that a three month visa free stay for the citizens of the EU has not been granted, while Singaporean citizens enjoy a "three months within six months" visa-free stay in the EU. Furthermore the Commission observes that there is no indication that the visa waiver for the EU citizens will reach the level of the three countries enjoying a preferential treatment. (Australia, South Korea and the United States of America enjoy a preferential 90 day stay in Singapore. The Commission suggests that retaliatory measures should be introduced if within a reasonable time no full reciprocity has been achieved.

Regarding the **USA**, despite all efforts of the Commission and individual Member States and the promises by the USA to bring additional EU Member States in the VWP this year, **no tangible progress has been made**. The visa requirement is maintained for nationals of Bulgaria, the Czech Republic, Estonia, Greece, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania and Slovakia.

Therefore, the Commission will propose retaliatory measures e.g. temporary restoration of the visa requirement for U.S. nationals holding diplomatic and service/official passports – as from 1 January 2009 if no progress has been achieved. With regard to the U.S. ESTA (Electronic System for Travel

Authorization), the Commission will prepare a preliminary assessment on whether the travel authorization under the ESTA is tantamount to a visa requirement or not. It will publish a final assessment once the Final Rule is published in the Federal Register i.e. 60 days before its entry into force.

In view of the importance of achieving full reciprocity, the Commission hereby announces its intention to report to the European Parliament and Council again by not later than 30 June 2009, although formally, under Article 1(5) of Council Regulation (EC) No 851/2005, it is not obliged to present such a report until 30 June 2010.