EC/Saint Kitts and Nevis agreement: short-stay visa waiver

2009/0017(CNS) - 12/02/2009 - Legislative proposal

PURPOSE: to sign, provisionally apply and conclude the Agreement between the European Community and Saint Kitts and Nevis on the short-stay visa waiver.

PROPOSED ACT: Council Decision.

BACKGROUND: Council Regulation (EC) No 1932/2006 amended 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 European Union (negative list), and those whose nationals are exempt from that requirement (positive list) by - inter alia - transferring six third countries from the negative to the positive list. These are **Antigua and Barbuda, the Bahamas, Barbados, Mauritius, Saint Kitts and Nevis and the Seychelles**. The Regulation also points out that the exemptions from the visa requirement for nationals of these countries should not come into force before a bilateral visa waiver agreement between the European Community and the countries in question has been concluded and entered into force. This Regulation was adopted on 21 December 2006 and entered into force in January 2007.

In the meantime, as from 15 January 2007, the CARICOM countries introduced a special visa regime for the nationals of several EU Member States (EU nationals were treated unequally as the citizens of the other Member States remained exempted from the visa obligation) due to the Cricket World Cup 2007 taking place in the Caribbean Community. The introduction of this visa requirement despite the favourable provisions of the new Community Regulation led to the postponement of the preparation of the draft mandates for negotiations with these third countries on the visa waiver.

Having regard to the expiry of the temporary visa regime on 15 May 2007, the Council authorised the Commission, on 5 June 2008, to negotiate an agreement between the European Community and Saint Kitts and Nevis on the short-stay visa waiver. Negotiations on the agreement were opened on 15 July 2008 and concluded on 16 October 2008. Subject to its possible conclusion at a later date, the Agreement initialled in Brussels on 12 November 2008, should be signed.

CONTENT: the Commission considers that the objectives set by the Council in its negotiating directives were attained and that the draft visa waiver agreement is acceptable to the Community. It therefore proposes that the Council:

- decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;
- approve the provisional application of the Agreement pending its entry into force;
- approve the Agreement between the European Community and Saint Kitts and Nevis on the short-stay visa waiver.

The final content of this agreement can be summarised as follows:

Purpose: this agreement provides for visa-free travel for the citizens of the European Union and for the citizens of Saint Kitts and Nevis when travelling to the territory of the other Contracting Party for a maximum period of three months during a six months period.

The citizens of certain Member States are already exempt from the visa obligation by Saint Kitts and Nevis, while those of other Member States are still under the visa requirement. A provision has been included in the Agreement stating that Saint Kitts and Nevis may suspend or terminate the Agreement only in respect of all the Member States of the European Community and, reciprocally, the Community may also suspend or terminate the Agreement only in respect of all of its Member States. The specific situation of the United Kingdom and Ireland is reflected in the preamble.

Scope: the visa waiver covers all categories of persons (ordinary, diplomatic or service/official passport holders) travelling for all kinds of purposes, except for the purpose of carrying out a paid activity. For this latter category, each Member State and also Saint Kitts and Nevis remains free to impose the visa requirement on the citizens of the other Party in accordance with the applicable Community or national law. In order to ensure harmonised implementation, a joint declaration is attached to the Agreement on the interpretation of the category of persons travelling for the purpose of carrying out a paid activity.

Duration of stay: the agreement takes into account the situation of the Member States that do not yet apply the Schengen acquis in full. As long as they are not part of the Schengen area without internal borders, the visa waiver confers a right for the nationals of Saint Kitts and Nevis to stay for three months on the territory of each of those Member States (Cyprus, Bulgaria, Romania), independently of the period calculated for the whole Schengen area.

Territorial application: in the case of France and the Netherlands, the visa waiver would entitle nationals of the six countries to stay only in those Member States' European territories.