

Visas: third countries whose nationals are subject to or exempt from a visa requirement

2010/0137(COD) - 27/05/2010 - Legislative proposal

PURPOSE: to add Albania and Bosnia and Herzegovina to Annex II, Part I of Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

LEGAL BASE: Article 77(2)(a) of the Treaty on the Functioning of the EU.

BACKGROUND: Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders (the negative list) and those whose nationals are exempt from that requirement (the positive list). The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating inter alia to illegal immigration, public policy and security, and to the EU's external relations with third countries. Consideration is also given to the implications of regional coherence and reciprocity. In view of the criteria of public order and illegal immigration, particular attention should be paid also to the security of travel documents issued by the third countries concerned.

As the criteria set out in Regulation (EC) No 539/2001 can evolve over time in relation to third countries, the composition of the negative and positive lists should be reviewed when appropriate.

Regulation (EC) No 539/2001 has been amended most recently with regard to the outcome of the visa liberalisation dialogues by transferring the former Yugoslav Republic of Macedonia, Montenegro and Serbia to the positive list.

In a joint Declaration adopted in November 2009, the European Parliament and the Council underlined their political support for a quick abolition of the visa regime for the citizens of these two countries and urged the authorities of Albania and Bosnia and Herzegovina to intensify efforts to comply with all the benchmarks set out in the Commission's roadmaps. In addition, the European Parliament and the Council invited the Commission to present a legislative proposal for amending the Regulation (EC) No 539/2001 as soon as it had assessed that each country meets the benchmarks of the roadmaps, and took the commitment to examine the Commission proposal as a matter of urgency.

In April 2010, the Commission presented to the European Parliament and the Council its assessment of the progress made by these two countries in the implementation of the remaining open benchmarks of the roadmaps towards visa liberalisation. The assessment reports concluded that Albania and Bosnia and Herzegovina made important progress and only a very limited number of benchmarks remain open.

IMPACT ASSESSMENT: none

CONTENT: in proposing this amendment to Regulation (EC) No 539/2001 as last amended by Regulation (EC) No 1244/2009, the Commission is pursuing the objective of adjusting the annexes to the Regulation, taking into consideration the progress made in the visa liberalisation dialogues with Albania and Bosnia and Herzegovina during the last seven months and transferring these two countries from Annex I (the list of third countries whose nationals must be in possession of visas when crossing the external borders of

Member States) to the Annex II (the list of those third countries whose nationals are exempt from that requirement) of the Regulation. This transfer is in line with the political commitment taken by the EU on the liberalisation of the short-stay visa requirement for all Western Balkan citizens as part of the Thessaloniki agenda.

Considering the introduction of biometric passports by the Western Balkan countries as an element of fundamental importance for the successful completion of the regional visa liberalisation process and as in Regulation (EC) No 1244/2009, the proposal, for reasons relating to security and prevention of illegal migration, limits the visa waiver for the citizens of Albania and Bosnia and Herzegovina to those persons holding the new biometric passports issued by these countries.

In parallel with the examination of its proposal in the European Parliament and the Council, the Commission will continue to assess the implementation of the open benchmarks for Albania and Bosnia and Herzegovina and it will share its assessment in a timely manner with the European Parliament and the Council.

For Albania, the remaining open benchmarks relate to:

- the development of a strategy and policy to support the reintegration of Albanian returnees;
- the strengthening of capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption, including through the allocation of adequate human and financial resources;
- the effective implementation of the legal framework in the area of the confiscation of organised crime assets.

For Bosnia and Herzegovina, the remaining open benchmarks relate to:

- the strengthening of capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption, including through the allocation of adequate human and financial resources;
- the progressive implementation of the action plan from March 2010 on establishment of electronic data exchange between police and prosecution bodies ;
- the harmonisation of the criminal codes of the entity level and Brcko district with the state-level criminal code.

As in Regulation (EC) No 1244/2009, there is no reason to make the implementation of the visa waiver for Albania and Bosnia and Herzegovina contingent on the conclusion of visa waiver agreements with the EU, taking into account the European vocation of these two countries and the fact that they have already exempted all EU citizens from the visa requirement.

FINANCIAL IMPLICATIONS: the proposed amendment has no implication on the European Union budget.