

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

2010/0192(COD) - 05/07/2010 - Legislative proposal

PURPOSE: to delete Taiwan and Northern Mariana Islands from Annex 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.

BACKGROUND: Council Regulation (EC) No 539/2001 lays down the list of third countries whose national must be in possession of visas when crossing the external borders (“negative list”) and those whose national are exempt from that requirement (“positive list”). The determination of those third countries or territories whose citizens 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, among other things, to illegal immigration, public policy and security, and to the European Union's external relations with third countries or territories. Consideration is also given to the implications of regional coherence and reciprocity, and particular attention is paid to the security of travel documents issued by the third countries or territories concerned.

As the criteria set out in Regulation (EC) No 539/2001 can evolve over time in relation to third countries or territories, the composition of the negative and positive lists should be reviewed regularly. The present review of the Regulation aims at:

- ensure that the composition of the lists of third countries and territories complies with the criteria set out in recital 5 of the Regulation, in particular as regards the illegal immigration and public policy criteria and the external relations criterion, and transferring countries from one annex to another as appropriate;
- ensure that, in accordance with Article 77 (2) (a) of the TFEU, the Regulation determines exhaustively whether a third-country or territory citizen is to be subject to or exempt from the visa requirement.

As a result, a new modified version of Regulation (EC) No 239/2001 is proposed in order to include a certain number of states in the Regulation’s positive and negative lists.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASE: Article 77 (2) (a) of the TFEU.

CONTENT: in accordance with the approach followed in the context of previous amendments to Regulation (EC) No. 539/2001, it is proposed to:

- **transfer Taiwan to the positive list:** despite the fact that the EU does not recognise Taiwan as a sovereign state and has no diplomatic or formal relations with Taiwan, the EU has developed regular contacts and cooperation in a number of areas with the Taiwanese authorities. As a result, the EU is the largest foreign investor in Taiwan. Upon analysis, it became apparent that transferring Taiwan to the positive list would reinforce regional coherence as the EU grants visa free regime to

other countries and entities of the region. As regards migration, the risk of illegal immigration from Taiwan is very low. On that basis, imposing a visa requirement on the nationals of Taiwan is no longer justified;

- **transfer of the Northern Mariana Islands to the positive list:** the Northern Mariana Islands are a commonwealth in political union with the United States of America, and the head of the state of Northern Mariana is the president of the United States. The citizens of the Islands have US passports. Following from the above information, the reference to the Northern Mariana Islands should be deleted from Annex I. This will entail that the citizens of the Northern Mariana Islands, as US nationals, enjoy visa-free travel.

Lastly, it should be noted that the draft Regulation proposes a new Part 4 under Annex II : this is entitled “Entities and territorial authorities that are not recognised as States by at least one Member State,” and the list is comprised of Taiwan.

BUDGETARY IMPACT : the proposal has no impact on the EU’s budget.