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

2011/0138(COD) - 23/04/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Agustín DÍAZ DE MERA GARCÍA CONSUEGRA (EPP, ES) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

The committee recommends that the position of the European Parliament adopted in first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Reciprocity: it is stated that **full visa reciprocity** is an objective which the Union should pursue in a proactive manner in its relations with third countries, thus contributing to improving of the credibility and consistency of the Union's external policy at international level.

Reintroduction mechanism of a visa requirement: a series of amendments have been made to introduce, reintroduce or maintain visa requirements. Where a third country listed in Annex II introduces, reintroduces or maintains a visa requirement for nationals of one or more Member State(s), the following provisions shall apply:

- within 30 days of the implementation by the third country of the visa requirement or, in cases where the requirement is maintained, within 30 days of the date of entry into force of this Regulation, the Member State(s) concerned shall notify the European Parliament, the Council and the Commission in writing. It shall, immediately following the date of publication of that notification and in consultation with the Member State concerned, take steps with the authorities of the third country in order to restore or introduce visa-free travel and shall inform the European Parliament and the Council about those steps without delay;
- if within 90 days of the date of publication of the notification(s) and despite all the steps taken in particular in the political, economic and commercial fields, the third country has not lifted the visa obligation, the Member State(s) concerned may request the Commission to **propose to suspend the exemption from the visa requirement for the nationals of the third country concerned and inform the European Parliament and the Council thereof**;
- if within 6 months of the date of publication of the notification the third country concerned has not lifted the visa requirement, the Commission, at the request of the Member State or at its own initiative: (i) may adopt a **delegated act amending Annex II** and suspending for the period of 12 months the exemption from the visa requirement for the nationals of the third country concerned; or (ii) shall submit to the European Parliament and the Council a report assessing the situation and setting out the **reasons why it does not propose to suspend the exemption from the visa requirement;**
- if within 24 months of the date of publication of the notification, the third country concerned has not lifted the visa requirement, the Commission shall adopt a delegated act amending Annex II and suspending for a period of 12 months the exemption from the visa requirement for the nationals of the third country concerned;
- if within 6 months of the date where the delegated act has taken effect, the third country concerned has not lifted the visa obligation, the Commission may submit a legislative proposal, to be adopted in accordance with the ordinary legislative procedure, in order to transfer the reference to the third country concerned from Annex II to Annex I;
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- **where the third country in question abolishes the visa requirement**, the Member State(s) concerned shall immediately notify the European Parliament, the Council and the Commission of that fact. Any delegated act adopted shall cease to have effect seven days after the publication of the notification in the Official Journal of the European Union.

Upon receipt of a notification from a Member State that a third country listed in Annex II to Regulation (EC) No 539/2011 has decided to introduce visa requirements for that Member State's nationals, **all Member States should react in common**, thus providing a Union response to a situation which affects the Union in its entirety and allows for its citizens to be subjected to differing treatments.

Safeguard clause in case of an emergency situation: it is stipulated that the draft Regulation should establish a **mechanism for the temporary suspension of the visa waiver for a third country** listed in Annex II to Regulation (EC) No 539/2001 in the event of an **emergency situation**, where an urgent response is needed in order to resolve the difficulties faced by one or more Member States, and taking account of the overall impact of the emergency situation on the Union as a whole.

Amendments have been introduced to ensure that this special mechanism should only apply in emergency situation(s), as a **last resort**. This clause should apply in particular in a series of specific circumstances where Member State are confronted with circumstances leading to an emergency situation which it is unable to remedy on its own (e.g. a **substantial and sudden increase**, over a six month period, in the number of nationals of a third country listed in Annex II found to be staying in the Member State's territory without the right to do so, in comparison with the same period in the **previous year**).

The Commission shall examine the notification(s) made by one or more Member State(s), taking into account the number of Member States affected by any of the emergency situations and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as the overall question of **public policy and internal security**, in consultation with the Member State(s) concerned. The Commission shall inform the European Parliament and the Council of the results of its examination.

The Commission shall:

- take into account the consequences of a suspension of the exemption from the visa requirement for the external relations of the Union and its Member States with the third country concerned, and work in close cooperation with that third country to find alternative long-term solutions;
- within three months of receipt of the notification, adopt a delegated act amending Annex II and suspending for the period of (12) months the exemption from the visa requirement for the nationals of the third country concerned.

Where imperative grounds of urgency so require, any decision suspending the exemption from the visa requirement for nationals of the third country concerned, must be taken by delegated act.

Derogations: derogations have been proposed to enable Member State to provide for exceptions from the visa requirement or from the exemption from the visa requirement as regards:

- holders of diplomatic passports, service/official passports or special passports;
- civilian air and sea crew members in the performance of their duties;
- civilian sea crew members when they go ashore who hold a seafarer's identity document issued in accordance with the International Labour Organisation Conventions or other International instruments;
- crew and members of emergency or rescue missions in the event of disaster or accident.

Report: at the latest four years after the entry into force of this Regulation, the Commission shall submit a report to the European Parliament and to the Council assessing the effectiveness of the reciprocity and suspension mechanisms and shall, if necessary, submit a legislative proposal for amending this Regulation in order to amend the relevant mechanisms. The European Parliament and the Council shall act on such a proposal by the ordinary legislative procedure.

Delegated acts: the Commission shall be empowered to adopt delegated acts in accordance with Article 290 of the TFEU in respect of amending Annex II to Regulation (EC) No 539/2001 in relation to the third country for which the visa requirement is temporarily restored. The Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. In exceptional cases relating to an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by one or more Member States, the Commission shall be empowered to adopt delegated acts in respect of amending Annex II in accordance with the urgency procedure.