

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

2011/0138(COD) - 12/09/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 328 votes to 257 with 46 abstentions, a legislative resolution 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.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise between Parliament and Council. They amend the proposal as follows:

Reciprocity mechanism: the mechanism regarding reciprocity should be applicable when a third country listed in Annex II to Regulation (EC) No 539/2001 (exempt from the visa requirement) applies a visa requirement for nationals of one or more Member States. Upon receipt of a notification from a Member State that a third country listed in Annex II to Regulation (EC) No 539/2001 applies a visa requirement for that Member State's nationals, **all Member States should react in common, thus providing an EU response** to a situation which affects the Union in its entirety and allows for its citizens to be subjected to differing treatments.

It is specified 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.

Suspension mechanism: the revised Regulation also establishes 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 case 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 European Union as a whole (particularly where there is a substantial increase in illegal immigrants, of unfounded asylum applications or rejected readmission applications over a six month period).

Reintroduction mechanism of a visa requirement: a series of amendments have been made to respond 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 mechanism is designed to react in a **step-by-step manner**, and is comprised of several stages. Generally, 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 may **adopt an implementing act temporarily suspending** the exemption from the visa requirement for certain categories of nationals of the third country concerned for a period of up to six months (visas will be required for the external borders of Member States.)

Public policy and internal security: the Commission must investigate any abuse resulting from the granting of visa free travel for short-stay visits for nationals of a particular third-country where they pose a threat to the public policy ('ordre public') and internal security of the Member States.

The Commission shall take into account the consequences of a suspension of the exemption of the visa requirement for the external relations of the EU and its Member States with the country concerned, and work in close cooperation with that third country to find alternative long-term solutions.

Derogations: new 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;
- crew and members of emergency or rescue missions in the event of disaster or accident;
- holders of travel documents issued by intergovernmental international organisations of which one or more Member States are members, or by other entities recognised by the Member State concerned as subjects of international law, to officials of these organisations or entities.

Report: at the latest four years after the entry into force of the 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.

Implementing and delegated acts: in order to ensure the efficient application of the suspension mechanism and of certain provisions of the reciprocity mechanism and in particular in order to allow for the adequate taking into consideration of all relevant factors and possible implications of the application of these mechanisms, the Commission will be granted:

- implementing powers with regard to the **determination of the categories of the nationals of the third country concerned that should be subject to a temporary suspension of the exemption from the visa requirement within the framework of the reciprocity mechanism;**
- the powers to determine the corresponding temporary scope of that suspension;
- powers to implement the suspension mechanism. The examination procedure should be applicable for the adoption of such acts.

In order to ensure the adequate involvement of the Council and the European Parliament in the second phase of application of the reciprocity mechanism, given the particularly sensitive political nature of the suspension of the exemption from the visa requirement for all the nationals of the third country concerned and its horizontal implications for Member States, the powers to adopt delegated acts is granted to the Commission with regard to certain elements of the reciprocity mechanism. Conferring such powers on the Commission takes into account the need for political discussion on the Union policy on visas in the Schengen area. It also reflects the need to ensure the adequate transparency and legal certainty in application of the reciprocity mechanism when applied to all the nationals of the third country concerned.

The power to adopt delegated acts will be conferred on the Commission for a period of five years from the date of entry into force of the Regulation.

A delegated act adopted shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of four months of notification of that act to the

European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.