

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

2011/0138(COD) - 11/12/2013 - Final act

PURPOSE: to review some elements of [Regulation \(EC\) No 539/2001](#) listing the third countries whose nationals must be in possession of visas (“negative list”) when crossing the external borders and those whose nationals are exempt from that requirement (“positive list”).

LEGISLATIVE ACT: Regulation (EU) No 1289/2013 of the European Parliament and 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.

CONTENT: this Regulation seeks to review some elements of [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.

Essentially, the Regulation intends to introduce new provisions on:

- the introduction of a **“suspension clause”** allowing on a temporary basis, in specific circumstances, to reintroduce the visa requirement for nationals of a third country who are usually exempt from visas to enter the European Union (countries listed in annex II of the regulation);
- the strengthening of the reciprocity mechanism to apply to counter-measures against a **violation of reciprocity** committed by a third country when it introduced a visa requirement from one or more Member States.

The suspension mechanism: under the amended Regulation, **when a Member State is confronted**, over a six-month period (in comparison with the same period in the previous year or with the last six months prior to the implementation of the exemption from the visa requirement for nationals of a third country listed in Annex II), **with one or more of the following well-defined circumstances leading to an emergency situation** which it is unable to remedy on its own, the Member State concerned may request the Commission **to suspend the exemption from the visa requirement for certain categories of nationals of that third country**. The exemption from the visa requirement shall be temporarily suspended as a last resort.

The circumstances would include::

- a substantial and sudden increase in the number of migrants in an irregular situation (for example, an increase exceeding a threshold of 50%);
- unfounded asylum applications;
- rejected readmission applications.

While the conditions for the activation of the safeguard clause are clearly defined, the Commission should assess the situation, and **no automatism should result from the notifications of the Member States**.

If the Commission decides, on the basis of the examination it conducted and taking into account the consequences of the exemption from the visa requirement on the external relations of the Union and its Member States with the third country concerned, that measures must be taken, it should 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. The implementing act specifies the date on which the suspension of the exemption of the visa requirement should take effect.

The reciprocity mechanism: the reciprocity mechanism aims to implement a procedure where if a third country listed in Annex II to Council Regulation (EC) No 539/2001 applies a visa requirement for nationals of at least one Member State, this requires a Union response as an **act of solidarity**, if a third country applies a visa requirement for nationals of at least one Member State.

Different stages to apply the mechanism are scheduled in this case, as described in the Regulation, to allow for a measured response on the part of the EU regarding the reintroduction of a visa requirement by a third country.

Report: by 10 January 2018, 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.

Territorial provisions: the United Kingdom and Ireland would not participate in the adoption of the Regulation and are not bound by it or subject to its application.

ENTRY INTO FORCE: 09.01.2014.

Delegated acts: the Commission may adopt delegated acts with regard to some elements of the reciprocity mechanism. The power to adopt delegated acts shall be conferred on the Commission for a period of five years from 9 January 2014. The European Parliament or the Council may raise objections in regard to a delegated act within four months of notification of that act (this period may be extended by two months). If the European Parliament or the Council make objections, the delegated act will not enter into force.