EU/Tonga Agreement: short-stay visa waiver

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PURPOSE: to conclude the Agreement between the European Union and the Kingdom of Tongo on the short-stay visa waiver.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: Regulation (EU) No 509/2014 of the European Parliament and of the Council amended Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States and those whose nationals are exempt from that requirement. The Regulation was adopted on 20 May 2014 and entered into force on 9 June 2014.

In July 2014, the Commission presented a Recommendation to the Council to authorise it to start **negotiations on visa waiver agreements with each of the following 17 countries**: Dominica, Grenada, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Solomon Islands, Timor-Leste, Tonga, Trinidad and Tobago, Tuvalu, the United Arab Emirates and Vanuatu. On 9 October 2014, the Council addressed negotiating directives to the Commission

The negotiations on the visa waiver agreement with Tonga were opened on 19 November 2014 in Brussels. During that meeting the entire draft text could be reviewed and agreement was reached on all its aspects. After a number of subsequent informal exchanges, the **agreement was initialled by an exchange of letters between the chief negotiators on 29 May 2015 (Tonga) and 10 June 2015 (Union)**.

The Commission considered that the objectives set by the Council in its negotiating directives were attained and that the draft visa waiver agreement is acceptable to the Union.

CONTENT: the Commission proposes that the Council **approve the Agreement between the European Union and the Kingdom of Tongo on the short-stay visa waiver**.

The content of the agreement may be summarised as follows:

Purpose and duration of stay: the agreement provides for visa-free travel for the citizens of the European Union and for the citizens of Tongo when travelling to the territory of the other Contracting Party **for a maximum period of 90 days in any 180-day period**.

In order to safeguard equal treatment of all EU citizens, a provision has been included in the agreement stating that Tonga may suspend or terminate the agreement only in respect of all the Member States of the European Union and that the Union may also only suspend or terminate the agreement in respect of all of its Member States.

The agreement takes into account the situation of the Member States that do not yet apply the Schengen acquis in full. As long as they are not part of the Schengen area without internal borders, the visa waiver confers a right for the nationals of Tonga to stay for 90 days in any 180-day on the territory of each of those Member States (currently Bulgaria, Croatia, Cyprus and Romania), independently of the period calculated for the whole Schengen area.

Scope: the visa waiver covers **all categories of persons** (ordinary, diplomatic, service/official and special passport holders) travelling for all kinds of purposes, **except for the purpose of carrying out a paid activity**. For this latter category, each Member State and also Tongo remain free to impose the visa requirement on the citizens of the other Party in accordance with the applicable Union or national law. In order to ensure harmonised implementation, a joint declaration is attached to the agreement on the interpretation of the category of persons travelling for the purpose of carrying out a paid activity.

Territorial application: in the case of France and the Netherlands, the visa waiver would entitle nationals of Tongo to stay only in those Member States' European territories.

The provisions of the Agreement do not apply to the United Kingdom and Ireland.

The Agreement establishes a **Joint Committee** for the management of the Agreement, which shall adopt its rules of procedure.