EU/Tuvalu Agreement: short-stay visa waiver

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PURPOSE: to conclude the Agreement between the European Union and Tuvalu 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 a visa when crossing the external borders of the Member States and those whose nationals are exempt from that requirement.

Regulation (EU) No 509/2014 was adopted on 20 May 2014 and entered into force on 9 June 2014. It is applied by all Member States with the exception of Ireland and the United Kingdom.

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**.

The first series of visa waiver agreements were signed on 6 May 2015 (United Arab Emirates), 26 May 2015 (Timor-Leste) and 28 May 2015 (Dominica, Grenada, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Trinidad and Tobago and Vanuatu) and provisionally apply from the date of signature pending their entry into force. The Council has authorised the signature of a **second series** of visa waiver agreements with Tonga (signed on 20 November 2015), Colombia (signed on 2 December 2015), Kiribati (date of signature to be determined) and Palau (signed on 7 December 2015). These four agreements provisionally apply from the day following the date of signature pending their entry into force.

The negotiations with Tuvalu were opened on 19 November 2014. **The agreement was initialled by the chief negotiators in Brussels on 8 October 2015**.

The Commission considers 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 calls on the Council to adopt a decision aiming to approve the **Agreement between the European Union and Tuvalu on the short-stay visa waiver**.

The final 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 Tuvalu when travelling to the territory of the other Contracting Party for a maximum period of 90 days in any 180-day period. A joint declaration on the interpretation of this period of 90 days in any 180-day period is attached to the agreement.

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 Tuvalu 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.

A provision has been included in the agreement stating that Tuvalu 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.

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 those travelling to carry out a paid activity, each Member State and also Tuvalu remain free to impose the visa requirement on the citizens of the other Party in accordance with the applicable Union or national law. 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 Tuvalu to stay only in those Member States' European territories.

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

A joint declaration on the association of Norway, Iceland, Switzerland and Liechtenstein to the implementation, application and development of the Schengen acquis is annexed to the agreement.

Lastly, the Agreement sets up a **Joint Committee of experts** for the management of the Agreement.