EU/Brazil Agreement: amending EU /Brazil Agreement on short-stay visa waiver for holders of ordinary passports

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PURPOSE: to conclude, on behalf of the Union, the Agreement between the European Union and Brazil amending the Agreement between the European Union and Brazil on short-stay visa waiver **for holders of ordinary passports**.

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 610/2013 amended the Convention implementing the Schengen Agreement (CISA), Regulation (EC) No 562/2006 (Schengen Borders Code) and Regulation (EC) No 810 /2009 (the Visa Code). In so doing, it has **redefined the term of 'short-stay'** for third-country nationals in the Schengen area.

As from 18 October 2013, for third-country nationals – irrespective of being visa required or exempt – who intend to travel to the Schengen area for a short-stay, the maximum duration of authorised stay is defined as '90 days in any 180-day period'.

The agreement between the Union and Brazil on the short-stay visa waiver should incorporate this new definition.

With a view to implementing the new definition of short stay provided for in the amendment to the Schengen Borders Code, the Commission adopted on 16 July 2014 a recommendation for a Council Decision authorising negotiations to amend the Schengen the short-stay visa waiver between the European Union and **seven countries**: Antigua and Barbuda, the Bahamas, Barbados, **Brazil**, Mauritius, Saint Kitts and Nevis and the Seychelles.

The negotiations with Brazil were successfully finalised on 31 October 2017 by the initialling of the agreements amending the two Agreements between the European Union and Brazil on short-stay visa waiver for holders of diplomatic, service or official passports, and for holders of ordinary passports.

Both parties have agreed to adopt the new definition of 'short-stay', among other technical details, but all amendments are insignificant from the traveller's point of view.

CONTENT: the Commission calls on the Council to adopt a decision aiming to approve the **Agreement between the European Union and Brazil on the short-stay visa waiverfor holders of ordinary passports**.

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 Brazil when travelling to the other Contracting Party for a maximum period of 90 days in any 180-day period (instead of a maximum period of three months during a six months period following the date of first entry).

An amendment has been made clarifying that a suspension of the visa waiver shall actually be lifted if the reasons that led to the suspension disappear. On this point, the amendment aligns the wording of the agreement with Brazil on short-stay visa waiver for holders of ordinary passports with that of all other visa waiver agreements signed by the Union in 2015 and 2016.

Entry into force: the Agreement will enter into force on the first day of the 6th month following the date on which the last Contracting Party notifies the other that the ratification procedures have been completed. To ensure legal certainty and enable travellers to comprehend the law and to comply with it, a **sufficiently long transitional period** is necessary. Once ratification of the Agreement has been completed, the six-month period will allow travellers to complete short stays that are still entirely calculated under the old definition, before entry into force of the new short-stay definition and its 180-day backward-looking reference period.

All other provisions of the existing agreement between the European Union and Brazil on short-stay visa waiver for holders of ordinary passports **remain unaffected** by the Agreement, including the territorial scope.

Territorial application: the provisions of the Agreement do not apply to the United Kingdom or to Ireland.

The Union has no power to amend visa waiver agreements that would bind the four countries that are associated with the implementation of the Schengen acquis, including the common visa policy. In order to ensure a harmonised approach and implementation of the provisions on the duration of authorised stay in the Schengen area, a joint declaration is included in the Agreement, stating the desirability for Brazil, on the one hand, and Iceland, Liechtenstein, Norway and Switzerland, on the other, to accordingly modify their existing bilateral visa waiver agreements.