Revision of the Visa Suspension Mechanism

2023/0371(COD) - 18/10/2023 - Legislative proposal

PURPOSE: to amend the visa suspension mechanism.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: visa-free travel brings key benefits for citizens on both sides, strengthening further the EU relations with its partners. It also promotes cultural and academic exchanges.

The number of travellers between the EU and visa-free non-EU countries in 2019 was 364.8 million. This represents a 7% increase from 2018.

At the same time, the Commission's monitoring of the EU's visa-free regimes, including its reports under the Visa Suspension Mechanism, has shown that visa-free travel can also be the **source of significant migration and security challenges**.

The suspension mechanism, established in Regulation (EU) 2018/1806, is a safeguard against the abuse of visa-free travel. This mechanism enables the temporary suspension of the visa exemption in case of a sudden and substantial increase in irregular migration or security risks. However, with increasing challenges resulting from irregular migration, and threats to the security of the EU, it became clear that this mechanism needed to be further strengthened and improved.

CONTENT: in order to effectively address the multitude of challenges resulting from visa-free travel in a constantly evolving geopolitical context and taking into account the consultation with the European Parliament, Member States and other stakeholders, this proposal aims to **adapt the suspension mechanism to such challenges**, by amending the relevant provisions set out in Article 8 of Regulation (EU) 2018/1806.

The revision includes several substantive amendments. In particular, the proposal:

- defines the temporary suspension mechanism. It provides that the suspension mechanism may be triggered by a notification by a Member State to the Commission or by the Commission based on its own analysis;

- clarifies that, in cases where an agreement on the short-stay visa waiver between the Union and a third country listed in Annex II includes provisions on different grounds for suspension or different procedures, those provisions should be applied instead of the relevant provisions of the Regulation;

- establishes the conditions and procedure for suspension: the proposal sets out and amends all the **grounds and thresholds** for the suspension of the exemption from the visa requirement. The grounds for suspension of the visa exemption include the ones concerning an increase in irregular migration, an increase in the number of unfounded asylum applications, a decrease in cooperation on readmission and other cases of non-cooperation on readmission and the lack of fulfilment of the visa liberalisation benchmarks;

- expands the **public policy and security ground** for suspension to cover explicitly threats to the public policy and security of the Member States arising from hybrid threats, such as situations of state-sponsored instrumentalisation of migrants aimed at destabilising or undermining society and key institutions;

- introduces a new suspension ground specifically addressing **investor citizenship schemes**, which are currently operated by a number of third countries (golden passports). To address this issue, the EU should have the possibility, based on a Commission's analysis, to suspend the visa exemption for a third country that chooses to operate an investor citizenship scheme whereby citizenship is granted without any genuine link to the third country concerned, in exchange for pre-determined payments or investments;

- adds a new suspension ground to cover those cases where the **lack of visa policy alignment** of a third country listed in Annex II with the visa policy of the Union, could lead to situations where third-country nationals, other than nationals of that third country, arrive legally in the territory of that third country and then enter irregularly the territory of the Member States;;

- introduces the possibility of the Commission to consider **different thresholds** when deciding whether to suspend a visa exemption in cases of a substantial increase in irregular migration, unfounded asylum applications or serious criminal offences linked to the nationals of that third country, following a case-by-case assessment;

- lays down the procedure and conditions for a Member State's notification to the Commission when it is confronted by one or more circumstances amounting to a ground for suspension, and the procedure for the Commission's examination of such a notification;

- modifies the **reference period** for identifying the existence of the circumstances which may lead to the suspension. The reference period is amended to cover at least a two-month period;

- sets out the Commission's obligation to **monitor on a regular basis the existence of the grounds for suspension** with regard to all third countries listed in Annex II, and the procedure to trigger the suspension mechanism based on the Commission's own analysis of the existence of such grounds;

- introduces the possibility for the Commission to report on any of the visa-free countries listed in Annex II, either on its own initiative or at the request of the European Parliament or the Council;

- amends the suspension procedure by means of implementing and delegated acts, by increasing the duration of the temporary suspension of the visa exemption from nine months to 12 months (for the first phase) and from 18 months to 24 months (for the second phase);

- introduces an **urgency procedure**, which would allow the Commission to suspend a visa exemption through an immediately applicable implementing act, when it considers that imperative grounds of urgency exist, which require expedited action that could not be ensured under the ordinary procedure.