Visas: listing of the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement

2006/0022(CNS) - 13/07/2006 - Legislative proposal

PURPOSE: i) to amend the list of third country nationals who must be in possession of a visa when crossing the external borders of Member States and ii) to amend the list of those nationals who are exempt from this requirement.

PROPOSED ACT: Council Regulation

CONTENT: the European Commission is required to periodically and systematically examine the provisions spelt out in Regulation 539/2001/EC on third country nationals in need of a visa when entering the EU. Regulation 539/2001 sets up two lists of nationals: nationals listed under Annex I who must be in possession of visas when crossing the external borders of Member States and those listed under Annex II who are exempt from this requirement. The Regulation is based on the principle of reciprocity and takes account of illegal immigration and public policy criteria. It applies to short stay visas only (no longer than three months). For a summary of the Regulation see CNS/2000/0030.

The purpose of this proposal is to:

- make Annex I and Annex II compatible with the requirements on illegal immigration and public policy concerns by transferring countries from one annex to another;

- determine exhaustively whether a third-country national is to be subject to, or exempt from, the visa requirement;

- make refugees and stateless persons eligible for a visa exemption if they reside in a third country listed in Annex II

- add new exemptions for holders of local border traffic cards;

- offer visa exemption for members of the armed forces travelling on NATO or Partnership for Peace business;

- clarify certain categories of passports other than ordinary passports.

Transferring a third country from one annex to another

The Commission is proposing a revision of the Annexes based on information received from the Member States; information which has been cross-checked against other information and statistics supplied through CIREFI. On the basis of this information the Commission proposes that:

- Bolivia be transferred from Annex II to Annex I (visa requirement).

- Antigua and Barbuda, the Bahamas, Barbados, Mauritius, Saint Kitts and Nevis, and the Seychelles be transferred from Annex I to Annex II (visa exemption). The visa exemption will be applied to nationals of those countries in parallel with, and at the same time as, the entry into force of a visa exemption agreement with them.

- British National (Overseas) persons be listed in Annex II (visa exemption). There is no evidence to suggest that they will constitute a migratory risk or a risk in terms of public policy. They will be placed under a special heading as they do not have the nationality of a third country and can not be regarded as nationals of the territory of Hong Kong from the point of view of the travel documents that they hold.

- British Overseas Territories Citizens (BOTC); British Overseas Citizens (BOC); and British Subjects and British Protected Persons (BPP) be listed under Annex I (visa requirement). These categories of people have tenuous links with the United Kingdom as they either must try and seek British citizenship (BOTC) or else have no right of abode and are subject to immigration controls (BOC and BPP). There is also considerable uncertainty as to the possible links to other States and the exact nature of such links. They too will be subject to a specific heading as they do not have the nationality of a third country.

Provisions on diplomatic, service and special passports

In a bid to avoid ambiguities regarding exemptions for persons holding either a diplomatic, service or special passport, the Commission is proposing that a more precise distinction be made between these three categories of passports. The distinction will apply to Annex 2 of the Common Consular Instructions and the Table of travel documents. At the same time the Commission is planning to clarify provisions applied to the passport holder of these special passports.

Harmonised exemption cases: Recognised refugees/stateless persons and pupils on school excursions

For the sake of harmonisation, the Commission is proposing an automatic visa exemption for two categories of people namely refugees/stateless persons and pupils on school excursions. The Commission proposes amending Article 1 of Regulation 539/2001 by stating that:

- recognised refugees and stateless persons residing in a Member State and who are holders of a travel document issued by that Member State; and

- school pupils who are nationals of a third country listed in Annex I but who reside in a Member State and are travelling on a school trip will be exempted from the visa requirement.

Local border traffic

Residents who will be holders of a “local border traffic card” but who are listed under Annex I will be exempted from the visa requirement. This proposed provision relates to a 2005 Commission proposal on this matter, which is yet to be finalised (See COD/2005/0006).

NATO armed forces and Partnership for Peace business

For reasons of legal certainty, the Commission is proposing that all arrangements governing exception to the visa requirement for nationals of third countries listed in Annex I but who are members of the armed forces travelling either on NATO or Partnership for Peace business, must be referred to in Regulation 539 /2001.

The United Kingdom and Ireland are not bound by Regulation 539/2001 and so will not be participating in the adoption of this proposal. Iceland, Norway and Switzerland will.