Basic information

2012/0309(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Third countries whose nationals are subject to or exempt from a visa requirement Amending Regulation (EC) No 539/2001 2000/0030(CNS) **Subject** 7.10.04 External borders crossing and controls, visas	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	GABRIEL Mariya (PPE)	17/12/2012
	Shadow rapporteur FAJON Tanja (S&D) MICHEL Louis (ALDE) ŽDANOKA Tatjana (Verts/ALE) KIRKHOPE Timothy (ECR) ERNST Cornelia (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3310	2014-05-06
Justice and Home Affairs (JHA)	3298	2014-03-03

European Commission

Commission DG	Commissioner
Migration and Home Affairs	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
07/11/2012	Legislative proposal published	COM(2012)0650	Summary
19/11/2012	Committee referral announced in Parliament, 1st reading		
21/10/2013	Vote in committee, 1st reading		
08/11/2013	Committee report tabled for plenary, 1st reading	A7-0373/2013	Summary
27/02/2014	Decision by Parliament, 1st reading	T7-0169/2014	Summary
27/02/2014	Results of vote in Parliament		
06/05/2014	Act adopted by Council after Parliament's 1st reading		
15/05/2014	Final act signed		
15/05/2014	End of procedure in Parliament		
20/05/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0309(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 539/2001 2000/0030(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/11156

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE504.389	11/06/2013	
Amendments tabled in committee		PE514.815	15/07/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0373/2013	08/11/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0169/2014	27/02/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00029/2014/LEX	15/05/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0650	07/11/2012	Summary
Commission response to text adopted in plenary	SP(2014)446	20/05/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0650	11/01/2013	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2014/0509
OJ L 149 20.05.2014, p. 0067 Summary

Third countries whose nationals are subject to or exempt from a visa requirement

2012/0309(COD) - 07/11/2012 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 539/2001 to include some small Pacific islands on the positive list under the Regulation (Regulation, Annex II, list of nationals exempt from the obligation to be in possession of visas when crossing the external borders of Member States).

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

CONTEXT: Regulation (EC) No 539/2001 lists the third countries whose nationals must be in possession of visas when crossing the external borders (the so-called negative list) and those whose nationals are exempt from that requirement (the so-called positive list).

The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating *inter alia* to illegal immigration, public policy and security, and to the European Union's external relations with third countries or territories. Consideration is also given to the implications of regional coherence and reciprocity. In view of the criteria of public order and illegal immigration, particular attention should also be paid to the security of travel documents issued by the third countries or territories concerned.

As the criteria set out in Regulation (EC) No 539/2001 can evolve over time in relation to third countries, the composition of the negative and positive lists should be reviewed at regular intervals.

This review aims in particular to:

- ensure that the composition of the lists of third countries complies with the criteria set out in Recital 5 of the Regulation, in particular the illegal immigration and public policy criteria and the transfer of countries from one annex to another as appropriate;
- ensure that in accordance with Article 77 (2) (a) of the TFEU, the Regulation determines exhaustively whether a third-country national is to be subject to, or exempt from, the visa requirement.

As a result, a new amended version of Regulation (EC) No 539/2001 is proposed to add a certain number of States to the positive or negative list of the Regulation.

IMPACT ASSESSMENT: no impact assessment has been carried out.

LEGAL BASE: article 77, par. 2, point a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: in line with the approach taken within the framework of previous amendments to Regulation (EC) No 539/2001, it is proposed to:

- **transfer some countries onto the positive list**: the imposition of the visa requirement on the nationals of 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 and Vanuatu **is no longer justified**. These countries do not present any risk of illegal immigration or a threat to public policy for the Union in accordance with the criteria set out in recital 5 of Regulation (EC) N° 539/2001. Consequently, nationals of those countries should be exempt from the visa requirement for stays of no more than three months in all and references to those countries should be transferred to Annex II. Exemption from the visa requirement should not come into force until bilateral agreements on visa waiver between the Union and the countries concerned have been concluded in order to ensure **full reciprocity**.
- **transfer the groups of "British nationals" onto the positive list**: statistical data show that the groups of British nationals currently listed in point 3 of Annex I do not pose a risk in terms of irregular migration to the Schengen Area and that most of them live in islands of the Caribbean region which have strong links and similarities with neighbouring countries which are exempt from the visa obligation. These groups of British nationals should therefore be exempt from the visa requirement for stays of no more than three months in all and references to those groups should be transferred to Annex II.
- **update the negative list (Annex I) by the inclusion of South Sudan:** on 9 July 2011, South Sudan declared its independence from Sudan, which is on the negative list. On 14 July 2011, the country was granted membership of the United Nations. Annex I should therefore be amended so as to include South Sudan.

BUDGETARY IMPLICATIONS: the proposed amendment has no implications for the Union budget.

Third countries whose nationals are subject to or exempt from a visa requirement

2012/0309(COD) - 08/11/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Mariya GABRIEL (EPP, BG) the proposal for a regulation of the European Parliament and of the Council amending regulation (EC) No 539/2001 listing 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.

The committee recommended that the European Parliament's position adopted at first reading, following the ordinary legislative procedure should amend the Commission proposal as follows:

- **United Arab Emirates (UAE)**: given that the UAE fulfil the conditions laid down in the regulation for visa waiver to the same extent as the countries which are already mentioned in the text of the regulation, Members called for this country to be added to the list laid down in Annex II of the Regulation – the positive list;
- **Peru and Colombia**: to ensure regional coherence with other countries in this geographical area, Members called for the positive list to include Peru and Colombia;
- **Determining criteria for the composition of the lists**: a new Article has been added stipulating that the determination of the third countries whose nationals are subject to, or exempt from, the visa requirement shall be made on the basis of a **considered, case-by-case assessment** of a variety of criteria relating, inter alia, to irregular immigration, public policy and security, and the **Union's external relations with the relevant third countries**, including, in particular, respect of human rights and fundamental freedoms. Consideration shall also be given to the **implications of regional coherence and reciprocity**.
- **Information to the European Parliament**: Members requested the Commission to inform it on a regular basis about the situation with regard to the negotiations of bilateral agreements for visa exemptions, as well as about whether third countries whose nationals benefit from an exemption from the visa requirement continue to meet the criteria which led to that exemption. The Commission shall present, at least annually, a report to the European Parliament and to the Council summarising its activities and findings in that regard.

Third countries whose nationals are subject to or exempt from a visa requirement

2012/0309(COD) - 27/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 523 votes to 41, with 13 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending regulation (EC) No 539/2001 listing 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.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary were the result of an agreement negotiated between the European Parliament and the Council. They amended the Commission proposal as follows:

Case-by-case evaluation of third countries: the determination of the third countries whose nationals are subject to, or exempt from, the visa requirement has since 2001 been made on the basis of the criteria included in recital 5 of Council Regulation (EC) No 539/2001. The evolving nature of the EU's visa policy and the increased need to ensure more coherence between visa policy and other EU policies justify that some additional criteria be taken into account when reviewing the lists of countries in Annexes I and II to Regulation (EC) No 539/2001. The determination of the third countries whose nationals are subject to, or exempt from, the visa requirement should be governed by a considered, case-by-case assessment.

Applicable evaluation criteria: the determination of those third countries whose nationals are subject to or exempt from the visa requirement, should be based on a case-by-case assessment of a variety of criteria relating, inter alia, to **illegal immigration, public policy and security, the economic benefits**, in particular in terms of tourism and foreign trade, and the Union's external relations with the relevant third countries including, in particular, **human rights and fundamental freedoms** considerations, as well as the implications of regional coherence and reciprocity.

The United Arab Emirates: given that the UAE meet the criteria for visa exemption established by the regulation in question, this country is therefore included in the list in Annex II of the Regulation - the "positive" list.

Peru – Colombia: exemption from the visa requirement for nationals of Colombia and Peru (as well as a number other countries laid down in the proposal) should not come into force **until bilateral agreements on visa waiver between the Union and the countries concerned have been concluded** in order to ensure full reciprocity. The Commission should further assess the situation of Colombia and Peru with regard to the criteria set out in Article X before the opening of negotiations on bilateral agreements on visa waiver between the Union and those countries.

It should be noted that the legislative resolution is accompanied by several statements:

- **European Parliament, Council and Commission statement on the further assessment of Colombia and Peru**: the European Parliament and the Council recognise the need for a further assessment of the fulfilment by Colombia and Peru of the relevant criteria before the Commission presents recommendations to the Council for decisions authorising the opening of negotiations on visa waiver agreements with those countries. **The Commission commits to proceed with those assessments without delay and to transmit them to the European Parliament** and to the Council as soon as possible after the entry into force of this Regulation.
- **Commission statement on informing the European Parliament**: in accordance with the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission, and in particular point 23 thereof, the Commission reiterates its commitment to i**nform the European Parliament regularly about the conduct of negotiations on visa waiver agreements** arising from the transfer of certain countries to Annex II to Regulation (EC) No 539/2001. The Commission will present updates to the relevant bodies in the European Parliament at least **twice a year**.

Third countries whose nationals are subject to or exempt from a visa requirement

2012/0309(COD) - 15/05/2014 - Final act

PURPOSE: to amend Regulation (EC) No 539/2001 to include some small Pacific islands on the positive list under the Regulation (Regulation, Annex II, list of nationals exempt from the obligation to be in possession of visas when crossing the external borders of Member States).

LEGISLATIVE ACT: Regulation (EU) No 509/2014 of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

CONTENT: the purpose of this Regulation is to amend Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

The main amendments concern the following issues:

Case-by-case evaluation of third countries: the determination of the third countries whose nationals are subject to, or exempt from, the visa requirement has since 2001 been made on the basis of the criteria included in recital 5 of Council Regulation (EC) No 539/2001. The evolving nature of the EU's visa policy and the increased need to ensure more coherence between visa policy and other EU policies justify that some additional criteria be taken into account when reviewing the lists of countries in Annexes I and II to Regulation (EC) No 539/2001.

The determination of the third countries whose nationals are subject to, or exempt from, the visa requirement should be governed by a considered, case-by-case assessment of a variety of criteria relating, inter alia, to **illegal immigration, public policy and security, economic benefit**, in particular in terms of tourism and foreign trade, and the Union’s external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of **regional coherence and reciprocity**.

This assessment should be made periodically and could lead to legislative proposals to amend the Annexes to Regulation (EC) No 539/2001, notwithstanding the possibility of having country-specific amendments to those Annexes in particular circumstances, for instance as a result of a visa liberalisation process or as the ultimate consequence of a temporary suspension of the visa exemption.

The United Arab Emirates and other island States: the imposition of the visa requirement on the nationals of 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 is no longer justified. Those countries do not present any risk of illegal immigration or a threat to public policy and security for the Union in accordance with the criteria set out in this Regulation. Consequently, nationals of those countries should be exempt from the visa requirement for stays of no more than 90 days in any 180-day period.

Peru – Colombia: the Commission should further assess the situation of Colombia and Peru with regard to the criteria set out in this Regulation before the opening of negotiations on bilateral agreements on visa waiver between the Union and those countries. Exemption from the visa requirement for nationals of Colombia, Dominica, Grenada, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Peru, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Solomon Islands, Timor- Leste, Tonga, Trinidad and Tobago, Tuvalu, the United Arab Emirates and Vanuatu should not come into force until bilateral agreements on visa waiver between the Union and the countries concerned have been concluded in order to ensure full reciprocity.

South Sudan: this country is included in the list of countries in Annex I of the Regulation (list of countries that nationals should be in possession of a visa).

Specific provisions have also been added for British citizens living in islands of the Caribbean region who do not pose a risk in terms of irregular migration to the Schengen Area (*British overseas*).

ENTRY INTO FORCE: 09.06.2014.