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*Committee on Foreign Affairs*

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**2011/0138(COD)**

24.11.2011

## **OPINION**

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation 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 (COM(2011)0290 – C7-0135/2011 – 2011/0138(COD))

Rapporteur: Andrey Kovatchev

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## **SHORT JUSTIFICATION**

The Committee on Foreign Affairs welcomes the Commission proposal for amending Regulation EC 539/2001.

As precisely detailed in the Commission proposal, the reciprocity mechanism needs to be updated in order to fully comply with the provisions of the Treaty on the Functioning of the European Union (TFEU).

The Committee on Foreign Affairs agrees that the current reciprocity mechanism has proved efficient and need not be modified beyond the necessary codification exercise. It also believes that the deliberations in the Council and the European Parliament are necessary before the Commission presents its proposal on temporary restoration of the visa requirement for the third country in question.

Concerning the proposal for introduction of a safeguard clause, the Committee recognises that the very existence of this clause, which provides a general framework for the future, may help overcome the reluctance of certain Member States to pave the way for further visa liberalisation processes and increase the transparency of EU's policies and decision-making mechanisms towards its partners.

While understanding the necessity of relative indicators proposed in the new Article 1a, it considers that substantial increase in real numbers shall be necessary to trigger the safeguard clause. It welcomes the commitment of the Commission to non-automatism and assessment of the appropriateness of suppressing the visa waiver for a third country by taking into account the number of Member States affected and the overall impact of the "emergency situation" in question on the migratory situation in the EU.

It furthermore insists that any assessment of an 'emergency situation' by the European Commission should take into account the broader EU foreign policy context and in particular the impact of the suspension of a visa waiver on the EU policies and standing towards the third country concerned and its neighbouring region. The granting of a visa-free regime is always one element in broader relations between the EU and a third country or a region. Thus, the reintroduction of a visa requirement can not be disconnected from this broader process and should in particular not jeopardise the consistency of EU's external policies.

The Committee therefore proposes that the Commission should examine the notification by a Member State by not only considering data provided by the Member States and reports prepared by FRONTEX and/or the European Asylum Support office, but also on the basis of an assessment prepared by the European External Action Service (EEAS). The relevant services of the Commission, as well as FRONTEX and the European Asylum Support office should therefore involve the EEAS in the process as early as possible.

## **AMENDMENTS**

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and

Home Affairs, as the committee responsible, to incorporate the following amendment in its report:

## Amendment 1

### Proposal for a regulation

#### Recital 1

##### *Text proposed by the Commission*

(1) This Regulation establishes a visa safeguard clause allowing the rapid, temporary suspension of the visa waiver for a third country on the positive list in case of an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by one or more Member States, and taking account of the overall impact of the emergency situation on the European Union as a whole.

##### *Amendment*

(1) This Regulation establishes a visa safeguard clause allowing the rapid, temporary suspension of the visa waiver for a third country on the positive list in case of an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by one or more Member States, and taking account of the overall impact of the emergency situation on the European Union as a whole ***and the impact on its foreign relations policies with third countries in cases of suspension of the visa waiver.***

##### *Justification*

*It is important to underline that also attention needs to be given to the impact of the reintroduction of the visa requirement on EU foreign policy and the relations with third countries.*

## Amendment 2

### Proposal for a regulation

#### Article 1 - point 2

Regulation EC No 539/2001

Article 1a - paragraph 1

##### *Text proposed by the Commission*

1. Paragraphs 2 to 5 of this Article shall apply in the event of one or more Member States being confronted by an emergency situation characterised by the occurrence of any of the following:

(a) a sudden increase ***of at least 50%***, over

##### *Amendment*

1. Paragraphs 2 to 5 of this Article shall apply in the event of one or more Member States being confronted by an emergency situation characterised by the occurrence of any of the following:

(a) a sudden ***and substantial*** increase,

a six month period, in the number of nationals of a third country listed in Annex II found to be illegally staying in the Member State's territory, in comparison with the *previous six month* period;

(b) a sudden increase *of at least 50%*, over a six month period, in comparison with the *previous six month* period, in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate of asylum applications was less than 3% over that previous six month period;

(c) a sudden increase *of at least 50%*, over a six month period, in the number of rejected readmission applications submitted by a Member State to a third country listed in Annex II for its own nationals, in comparison with the *previous six month* period.

*which has a serious impact on the overall migratory situation in the Member States concerned*, over a six month period, in the number of nationals of a third country listed in Annex II found to be illegally staying in the Member State's territory, in comparison with the *same period in the previous year*;

(b) a sudden *and substantial* increase, *which has a serious impact on the overall migratory situation in the Member States concerned*, over a six month period, in comparison with the *same period in the previous year*, in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate of asylum applications was less than 3% over that previous six month period;

(c) a sudden *and substantial* increase, *which has a serious impact on the overall migratory situation in the Member States concerned*, in the number of rejected readmission applications submitted by a Member State to a third country listed in Annex II for its own nationals, in comparison with the *same period in the previous year*.

### Amendment 3

#### Proposal for a regulation

##### Article 1 – point 2

Regulation (EC) No 539/2001

Article 1a – paragraph 3

#### *Text proposed by the Commission*

3. The Commission shall examine the notification taking into account the number of Member States affected by any of the situations described in paragraph 1 and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as from reports prepared by FRONTEX and/or the

#### *Amendment*

3. The Commission shall examine the notification taking into account the number of Member States affected by any of the situations described in paragraph 1 and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as from reports prepared by FRONTEX and/or the

European Asylum Support Office, and, within three months following receipt **thereof**, the Commission may adopt an implementing decision suspending the exemption of visa requirement for the nationals of the third country concerned for a period of six months. The implementing decision shall be adopted in accordance with the procedure referred to in Article 4a (2). The implementing decision shall determine the date on which the suspension of the exemption of visa requirement is to take effect.

European Asylum Support Office. ***The Commission shall also take into account the impact of a possible reintroduction of the visa requirement on the Union policies and standing towards the third country concerned and its neighbouring region, on the basis of a report by the European External Action Service.*** Within three months following receipt **of the notification**, the Commission may adopt an implementing decision suspending the exemption of visa requirement for the nationals of the third country concerned for a period of six months. The implementing decision shall be adopted in accordance with the procedure referred to in Article 4a (2). The implementing decision shall determine the date on which the suspension of the exemption of visa requirement is to take effect.

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Article 1 - point 2**

Regulation EC No 539/2001

Article 1a - paragraph 3

##### *Text proposed by the Commission*

3. The Commission shall examine the notification taking into account the number of Member States affected by any of the situations described in paragraph 1 and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as from reports prepared by FRONTEX and/or the European Asylum Support Office, and, within three months following receipt thereof, the Commission may adopt an implementing decision suspending the exemption of visa requirement for the nationals of the third country concerned for a period of six months. The implementing decision shall be adopted in accordance with the procedure referred to in Article 4a

##### *Amendment*

3. The Commission shall ***inform the European Parliament and the Council without delay of the notification received by the Member States concerned and*** examine the notification taking into account the number of Member States affected by any of the situations described in paragraph 1 and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as from reports prepared by FRONTEX and/or the European Asylum Support Office and, within three months following receipt thereof, the Commission ***shall send the results of its examination to the European Parliament and the Council, which shall give their opinion in***

(2). The implementing decision shall determine the date on which the suspension of the exemption of visa requirement is to take effect.

*a timely manner, after which the*  
**Commission** may adopt an implementing decision suspending the exemption of visa requirement for the nationals of the third country concerned for a period of six months. The implementing decision shall be adopted in accordance with the procedure referred to in Article 4a (2). The implementing decision shall determine the date on which the suspension of the exemption of visa requirement is to take effect.

## PROCEDURE

<b>Title</b>	Amendment of 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
<b>References</b>	COM(2011)0290 – C7-0135/2011 – 2011/0138(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 9.6.2011
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 9.6.2011
<b>Rapporteur(s)</b> Date appointed	Andrey Kovatchev 21.6.2011
<b>Date adopted</b>	22.11.2011
<b>Result of final vote</b>	+: 40 -: 1 0: 2
<b>Members present for the final vote</b>	Frieda Brepoels, Elmar Brok, Marietta Giannakou, Andrzej Grzyb, Takis Hadjigeorgiou, Anna Ibrisagic, Othmar Karas, Ioannis Kasoulides, Evgeni Kirilov, Andrey Kovatchev, Eduard Kukan, Krzysztof Lisek, Sabine Lösing, Ulrike Lunacek, Barry Madlener, Francisco José Millán Mon, Annemie Neyts-Uyttebroeck, Raimon Obiols, Justas Vincas Paleckis, Ioan Mircea Pașcu, Cristian Dan Preda, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Saryusz-Wolski, Werner Schulz, Marek Siwiec, Charles Tannock, Inese Vaidere, Kristian Vigenin
<b>Substitute(s) present for the final vote</b>	Laima Liucija Andrikiienė, Elena Băsescu, Tanja Fajon, Diogo Feio, Monica Luisa Macovei, Emilio Menéndez del Valle, György Schöpflin, Traian Ungureanu, Ivo Vajgl, Renate Weber, Janusz Władysław Zemke
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Luís Paulo Alves, Sylvie Guillaume, Vladimir Urutchev