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**A5-0005/2003**

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## **REPORT**

on the proposal for a Council regulation 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  
(COM(2002) 679 – C5-0609/2002 – 2002/0280(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Jorge Salvador Hernández Mollar

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 11 December 2002 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council regulation 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 (COM(2002) 679 – 2002/0280(CNS)).

At the sitting of 16 December 2002 the President of Parliament announced that he had referred the proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy for its opinion (C5-0609/2002).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Jorge Salvador Hernández Mollar rapporteur at its meeting of 21 January 2003.

It considered the Commission proposal and the draft report at its meetings of 14 January 2003, 20 January 2003 and 21 January 2003.

At the latter meeting it adopted the draft legislative resolution by 20 votes to 7, with 1 abstention.

The following were present for the vote: Jorge Salvador Hernández Mollar, chairman and rapporteur; Robert J.E. Evans and Giacomo Santini, vice-chairmen; Alima Boumediene-Thiery, Giuseppe Brienza, Marco Cappato (for Mario Borghezio), Michael Cashman, Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Gérard M.J. Deprez, Ewa Hedkvist Petersen (for Elena Ornella Paciotti), Marie-Thérèse Hermange (for Charlotte Cederschiöld), Sylvia-Yvonne Kaufmann (for Ilka Schröder), Margot Keßler, Eva Klamt, Alain Krivine (for Giuseppe Di Lello Finuoli), Jean Lambert (for Pierre Jonckheer), Baroness Sarah Ludford, Eryl Margaret McNally (for Martine Roure pursuant to Rule 153(2)), Hartmut Nassauer, Paolo Pastorelli (for Christian Ulrik von Boetticher), Hubert Pirker, Ole Sørensen (for Bill Newton Dunn), Patsy Sørensen, The Earl of Stockton (for Mary Elizabeth Banotti), Joke Swiebel, Anna Terrón i Cusí and Maurizio Turco.

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy decided on 13 January 2003 not to deliver an opinion.

The report was tabled on 22 January 2003.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the proposal for a Council regulation 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 (COM(2002) 679 – C5-0609/2002 – 2002/0280(CNS))**

**(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2002) 679<sup>1</sup>),
  - having regard to Article 62 of the EC Treaty,
  - having been consulted by the Council pursuant to Article 67 of the EC Treaty (C5-0609/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0005/2003),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Asks to be consulted again should the Council intend to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in OJ.

Amendment 1  
Article 2 a) (new)

***The Commission shall report to the Council and to the European Parliament no later than 30 June 2003 on the impact of visa requirements on travel undertaken for normal business, leisure and study reasons, in particular from countries neighbouring the European Union. The Commission shall, if it deems advisable, present appropriate proposals for simplifying the procedures, for example through increased availability of multi-trip visas.***

*Justification*

*There is concern that legitimate travel, for instance by business people and students from the countries of south-east Europe to the European Union, may be made unnecessarily bureaucratic because of the need to reapply for visas. This is to the detriment of intensifying links and cooperation between the EU and these countries, including future candidates for membership.*

## EXPLANATORY STATEMENT

Parliament has been consulted on the proposal for a Council regulation 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.

This proposal includes:

- the transfer to Annex I (visa requirement) of Ecuador, which currently appears in Annex II;
- a number of technical changes (recognition of East Timor as a fully-fledged State and the removal of Switzerland from Annex II following the agreement on the free movement of persons);
- a review of the reciprocity rule to be followed by a Commission report.

### **Inclusion of Ecuador in Annex I (visa requirement)**

The most controversial proposal is that concerning Ecuador.

The Seville European Council held on 21 and 22 June 2002 established priorities for the fight against illegal immigration.

*'In the comprehensive plan to combat illegal immigration, the European Union has equipped itself with an effective means of bringing about the proper management of migration flows and combating illegal immigration. The European Council calls on the Council and the Commission, within their respective spheres of responsibility, to attach top priority to the following measures contained in the plan:*

- *review, before the end of the year (2002), of the list of third countries whose nationals are required to have visas or are exempt from that requirement;'* (para 30)

The criteria for this review were defined in the 5th recital to Regulation No 539/2001. This consists of *'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, consideration also being given to the implications of regional coherence and reciprocity'*.

On 23 July 2002 the Commission sent the Member States a questionnaire to compile information to be used for updating, if necessary, the lists of non-member countries subject to and exempt from the visa requirement.

In reply to the questionnaire, five Member States said they were in favour of transferring Ecuador to the list of non-member countries whose nationals require a visa. No other country of Central or Latin America was mentioned in the replies received from the Member States.

In general, the replies referred to considerations of illegal immigration and trafficking in human beings, regional coherence and public order.

Two Member States subsequently submitted additional information and data to the

Commission relating to one or other of these criteria.

This additional information suggests that many nationals of Ecuador enter Europe legally under the cover of tourism but then stay on illegally for longer than three months. The Commission has also received information on refoulements, expulsions, arrests and criminal convictions. In particular, it seems that refoulements of Ecuadorian nationals at frontiers are increasingly frequent, in most cases this is due to lack of evidence that they have sufficient means of subsistence and their inability to submit valid proof of the purpose of their journey.

As far as the geographical coherence rule is concerned, visas are currently required by nationals of other Andean countries and it would appear that this factor makes Ecuadorian passports attractive and encourages their falsification and counterfeiting.

On the basis of this information, the Commission has concluded that Ecuador, which currently appears in Annex II (no visa requirement) should be transferred to Annex I.

In the proposal, the Commission takes account of the existence of bilateral visa exemption agreements between Ecuador and some Member States by setting a date for introduction of the visa requirement for Ecuadorians which will enable those Member States to comply with the deadlines for denunciation of the relevant agreements.

President Cox has, however, received a letter from the Chairman of the Foreign Affairs Committee of the National Congress of Ecuador calling on Parliament to reject this proposal because of historical links and common cultures.

### **Conclusion**

Your rapporteur supports the Commission proposal in so far as a number of Member States have shown that there is a problem of illegal immigration involving citizens of Ecuador and he believes that, as a quid pro quo for an area of free movement, such a decision should be taken at European level.