



EUROPEAN PARLIAMENT

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*Plenary sitting*

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**A7-0294/2010**

27.10.2010

**\*\*\*I**  
**REPORT**

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 (COM(2010)0358 – C7-0162/2010 – 2010/0192(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Agustín Díaz de Mera García Consuegra

### *Symbols for procedures*

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### *Amendments to a draft act*

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT 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 (COM(2010)0358 – C7-0162/2010 – 2010/0192(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0358),
  - having regard to Article 294(2) and Article 77(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0162/2010),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0294/2010),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation – amending act**

##### **Article 1 – paragraph 2**

Regulation (EC) No 539/2001

Annex II – part 4 (new)

*Text proposed by the Commission*

ENTITIES AND TERRITORIAL  
AUTHORITIES THAT ARE NOT  
RECOGNISED AS STATES BY AT  
LEAST ONE MEMBER STATE:

*Amendment*

ENTITIES AND TERRITORIAL  
AUTHORITIES THAT ARE NOT  
RECOGNISED AS STATES BY AT  
LEAST ONE MEMBER STATE:

Taiwan.

Taiwan (\*).

*(\*) The exemption from the visa requirement does not apply to holders of passports issued by Taiwan which do not include an identity card number.*

## **EXPLANATORY MEMORANDUM**

### **I – GENERAL ISSUES**

Regulation (EC) No 539/2001 lists the third countries whose nationals must be in possession of visas when crossing the Union's external borders and those whose nationals are exempt from that requirement.

The decision on which third countries to whose nationals this visa requirement applies is taken on the basis of a case-by-case assessment of the situation in the country concerned, taking into account illegal immigration, public order and security issues, the EU's external relations, territorial coherence and the principle of reciprocity.

Given that these criteria are likely to change over time, Community legislation provides for a review procedure so that the visa requirement can be lifted in countries in which there have been positive developments in relation to the issues mentioned above.

The assessment procedure can also work the other way around, reinstating the visa requirement for countries in which there are negative developments in relation to the aspects mentioned above, or for countries that introduce visa requirements for nationals of one or more Member States.

The Member States assist the Commission in reviewing the lists. They are also responsible for establishing which third countries should be included on the positive list and which should be included on the negative list. The Commission issues its findings on the basis of information submitted by the Member States and useful data supplied by the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI).

### **II – TRANSFERRING TAIWAN TO THE POSITIVE LIST (VISA WAIVER)**

The proposal for a regulation amending Regulation (EC) No 539/2001 does not constitute a precedent and is without prejudice to other situations within Europe as a continent.

The aim of the proposal is to develop a common immigration policy, at the same time helping to enhance trade relations between the European Union and Taiwan.

#### **Political and economic context**

Over the last few decades, Taiwan has been going through a major process of democratisation. The political changes introduced during the 1980s culminated in the first direct presidential elections being held in 1996.

Ever since, institutional reform, a dynamic civil society and respect for civil liberties and citizens' rights have combined to help shore up political stability in Taiwan.

The most senior office in Taiwan is that of its President, who is elected by the people of

Taiwan via universal suffrage. The President's term of office lasts four years. The President appoints the Premier, who then puts together Taiwan's government and appoints the ministers who will make up the Executive Yuan Council, or Cabinet.

Legislative power in Taiwan currently lies with the Legislative Yuan, which has 113 members. The members of the Legislative Yuan are elected via a single-member constituency electoral system with two votes, one for the candidate and one for the political party. Members serve four-year terms.

Economically, Taiwan has seen significant growth over the last 60 years. Its income per head of population is one of the highest in the world (USD 30 100). In July 2010, unemployment stood at 5.2%, way below the European average, which was 10.1% in the same month.

In 1950, Taiwan was poorer than Ghana, Uganda and the Democratic Republic of Congo. Until 1960, it was more reliant on commodities exports than countries like Kenya, South Africa and Lebanon. Today, products manufactured in Taiwan account for more than 97% of the country's exports.

Figures published by the IMF in 2009 placed Taiwan's economy 25th in the world, with a GNP of USD 379 billion. During the first quarter of 2010, economic growth hit 13.27%, whilst during the first half of 2010, the balance of trade surplus stood at USD 12.1 billion.

The European Union and Taiwan share an important economic and trade relationship, as well as cooperating in the fields of research, science, technology, education, culture and the environment. Taiwan is the EU's fourth largest trading partner in Asia, and the EU is the leading foreign investor in Taiwan. The volume of trade between the Member States and Taiwan stood at USD 47 billion in 2008.

### **Visa policy**

For reasons that are clear in the figures presented in the previous section, the net migration rate stands at just 0.15%. As a result, it is very unlikely that the European Union will have to deal with any illegal immigrants from Taiwan. According to data supplied by the Commission, in 2006-2008 only 45 illegal immigrants throughout the entire European Union were found to have come from Taiwan.

As far as the security of travel documents is concerned, Taiwanese electronic passports meet all the standards set by the International Civil Aviation Organization. They are also produced using other modern anti-forgery techniques. Authentication is carried out using electronic certification systems. Passport data are stored on microchips that can be read using radiofrequency equipment. The following details are stored: first name and surname (in English and Chinese), date and place of birth, document number, expiry date and an image of the holder's face.

Currently around 60 000 people living overseas and without a permanent address in Taiwan hold a passport issued by the Taiwanese authorities. People in this situation do not have any form of Taiwanese identity document, meaning that if they wish to enter Taiwan, they have to request a specific permit from the National Immigration Agency. It follows, therefore, that if

the Taiwanese authorities require these people to produce an entry permit, the European Union should maintain a similar approach.

The visa is a way of legalising people's entry into, or visit to, a country of which they are not nationals and in which they do not reside. It is an effective way to prevent people entering or staying in a country illegally. The countries of origin and transit of illegal immigrants are usually subject to visa requirements, although this is not justified for countries with very low rates of immigration.

It was on this basis that Member States such as the UK and Ireland waived the visa requirement for the Taiwanese (in March and July 2009 respectively). Other countries including Japan, South Korea, Singapore and New Zealand have also lifted the requirement.

The only Member States whose nationals currently require a visa to enter Taiwan are Cyprus, Romania and Bulgaria. The Taiwanese authorities have nevertheless undertaken to ensure that a visa waiver is in place for nationals of those countries by 11 November 2010. It is vital that this commitment be honoured.

## **Conclusion**

Taiwan poses no threat whatsoever to the Union in terms of illegal immigration or public security.

Lifting the visa requirement for Taiwan will enhance trade relations with the EU, foster closer cooperation in the areas of culture, education, the environment and research, and boost tourism on both sides.

The EU should lift the visa requirement for Taiwan for reasons of regional coherence, given that it has already waived the requirement for other countries and entities in the same part of the world and with similar economies, such as Hong Kong, Macao, Japan, South Korea and Singapore.

The need for EU action to be proportionate and based on reciprocity justifies the proposal to amend Regulation (EC) No 539/2001. It is also necessary for Taiwan to give formal notice that it has lifted the visa requirements for Bulgaria, Cyprus and Romania by the end of 2010.

The visa waiver scheme for entering the EU will not apply to people holding a Taiwanese passport that does not contain an ID card number.

Transferring Taiwan to the positive list is a reasonable course of action and chimes with the decisions the EU has recently taken on this matter.

## **III – TRANSFERRING OTHER THIRD COUNTRIES**

The Commission finds no justification for Trinidad and Tobago, Saint Lucia, Saint Vincent

and the Grenadines, Belize, Dominica, Grenada, the Marshall Islands, Micronesia and Palau to be transferred to the positive list.

The requests concerned were submitted either by just one Member State, or, in a few cases, by two Member States. The limited backing these requests received in the Council, together with the Commission's assessment on the basis of the economic and security situation, the risk of illegal immigration and the principles of regional coherence and reciprocity, would seem to advise against agreeing to these requests.

#### **IV – NORTHERN MARIANA ISLANDS**

The **Commonwealth of the Northern Mariana Islands** is a territory that is politically linked with the US. It is made up of the 14 northern Mariana Islands, located between Hawaii and the Philippines. It has 82 459 inhabitants.

In 1975, the Northern Mariana Islands formalised their political ties with the US. They have a presidential system in a representative, multi-party democracy, the most senior office being that of Governor. The President of the United States is the Head of State. The Commonwealth's federal funds are administered by the Office of Insular Affairs within the US Department of the Interior.

The citizens of the Commonwealth of the Northern Mariana Islands are therefore US citizens.

In Annex I to Regulation (EC) No 539/2001 there is a reference to the Northern Mariana Islands, waiving the visa requirement for the citizens of those islands. In the light of the above, and in the interests of political coherence within the EU, this reference should be removed.

6.10.2010

## **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 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(2010)0358 – C7-0162/2010 – 2010/0192(COD))

Rapporteur: Andrey Kovatchev

### **SHORT JUSTIFICATION**

The main purpose of this amendment of Regulation EC 539/2001 is to exempt holders of Taiwanese passports from visa requirement to enter the EU.

As detailed very precisely in the Commission proposal, the principle of the visa exemption is certainly to be supported, given that the level of economic development, education and democratic governance of Taiwan is comparable to OECD countries of the region South Korea and Japan.

It should be reminded that the EU and its Member States adhere to the "One China policy" and do not recognise Taiwan as an independent sovereign state, but trade (Taiwan is a member of the WTO) cultural and personal links are active. The European Parliament continues to encourage Taiwan's participation in international organisations. The visa regimes as well as any consular or private law regimes do not prejudice of any position on the status of territories under Public International Law.

After decades of tension, the political climate between the present Taiwanese Government and the People's Republic of China is currently very positive, as the establishment of direct flights and the unprecedented level of cross-Straits business and personal exchanges show, thus providing a window of opportunity for a trouble-free implementation of the measure.

At present, citizens of all EU Member States except Bulgaria, Cyprus and Romania, as well as citizens from non-EU countries in the Schengen area enjoy the reciprocal visa-free access to

Taiwan.

The Taiwanese Government has committed itself to lifting the visa requirement for the remaining three EU countries before the end of 2010 and while we welcome the intention of the Taiwanese Government to grant visa-free access for all 27 Member States we expect this to happen before the adoption of this EU measure.

The inclusion in the proposal of another territory, the tiny archipelago of U.S. Northern Mariannes, with a population of less than 90 000 inhabitants holding U.S. passports, is intended to correct an inaccuracy in the current text of the Regulation, which already covers nearby Guam that has the same political status and similar demographics.

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The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to propose approval of the Commission proposal.

## PROCEDURE

<b>Title</b>	Amendment of 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
<b>References</b>	COM(2010)0358 – C7-0162/2010 – 2010/0192(COD)
<b>Committee responsible</b>	LIBE
<b>Opinion by</b> Date announced in plenary	AFET 9.9.2010
<b>Rapporteur</b> Date appointed	Andrey Kovatchev 15.9.2010
<b>Discussed in committee</b>	20.9.2010
<b>Date adopted</b>	5.10.2010
<b>Result of final vote</b>	+: 30 -: 3 0: 0
<b>Members present for the final vote</b>	Gabriele Albertini, Frieda Brepoels, Andrzej Grzyb, Heidi Hautala, Anneli Jäätteenmäki, Ioannis Kasoulides, Tunne Kelam, Nicole Kiil-Nielsen, Andrey Kovatchev, Wolfgang Kreissl-Dörfler, Vytautas Landsbergis, Krzysztof Lisek, Mario Mauro, Kyriakos Mavronikolas, Francisco José Millán Mon, María Muñoz De Urquiza, Norica Nicolai, Raimon Obiols, Kristiina Ojuland, Pier Antonio Panzeri, Ioan Mircea Pașcu, Alojz Peterle, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Adrian Severin, Ernst Strasser, Boris Zala
<b>Substitute(s) present for the final vote</b>	Nikolaos Chountis, Evgeni Kirilov, Marietje Schaake, Helmut Scholz, Dominique Vlasto
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Marie-Christine Vergiat

## PROCEDURE

<b>Title</b>	Amendment of 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
<b>References</b>	COM(2010)0358 – C7-0162/2010 – 2010/0192(COD)
<b>Date submitted to Parliament</b>	5.7.2010
<b>Committee responsible</b> Date announced in plenary	LIBE 8.7.2010
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 9.9.2010
<b>Rapporteur(s)</b> Date appointed	Agustín Díaz de Mera García Consuegra 2.9.2010
<b>Date adopted</b>	26.10.2010
<b>Result of final vote</b>	+: 47 –: 1 0: 0
<b>Members present for the final vote</b>	Sonia Alfano, Rita Borsellino, Emine Bozkurt, Simon Busuttil, Carlos Coelho, Cornelis de Jong, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Hélène Flautre, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Ágnes Hankiss, Salvatore Iacolino, Teresa Jiménez-Becerril Barrio, Juan Fernando López Aguilar, Clemente Mastella, Véronique Mathieu, Nuno Melo, Louis Michel, Claude Moraes, Jan Mulder, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Rui Tavares, Valdemar Tomaševski, Wim van de Camp, Axel Voss, Renate Weber, Tatjana Ždanoka
<b>Substitute(s) present for the final vote</b>	Alexander Alvaro, Edit Bauer, Andrew Henry William Brons, Anna Maria Corazza Bildt, Nadja Hirsch, Monika Hohlmeier, Franziska Keller, Ádám Kósa, Wolfgang Kreissl-Dörfler, Petru Constantin Luhan, Mariya Nedelcheva, Joanna Senyszyn, Cecilia Wikström
<b>Date tabled</b>	28.10.2010