

EUROPEAN PARLIAMENT

2004



2009

Committee on Foreign Affairs

2004/0141(CNS)

15.3.2005

OPINION

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism
(COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS))

Draftswoman: Marielle De Sarnez

PA_Leg

SHORT JUSTIFICATION

The Committee on Civil Liberties, Justice and Home Affairs was appointed committee responsible for amending the proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism.

The mechanism has never in fact been used since its introduction in 2001, mainly because Member States subject to a visa requirement from third countries have been unwilling to request initiating it. Its excessive rigidity and virtually automatic nature have discouraged Member States from using it for fear of sparking off a major crisis in the field of foreign relations. The current mechanism needed revising to make it more operational and flexible, so as to take account of the political and diplomatic dimension that is an inherent aspect of its use.

Accordingly there needs to be provision for ensuring that notification to the Commission is also passed on to the Council, and that the Member State may as part of the notifying process request a period of notice from the Commission before triggering the mechanism. It must also be possible to deliver an opinion on a range of measures that could be taken in place of or in addition to reintroduction of the visa requirement with the third country concerned.

Further, the Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs to look into the desirability of the European Union devising a series of additional and proportionate mechanisms to respond to any situation of non-reciprocity. Such sanctions could include any of the political, commercial and diplomatic measures available to the European Union.

The Committee therefore asks the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report.

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 amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 RECITAL 2

(2) Given the seriousness of such situations of non-reciprocity, it is essential that they

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¹ Not yet published in OJ.

should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the Council and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I.

should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the Council **and Parliament** and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I.

Justification

Parliament needs to be fully informed on the non-reciprocity situation so that it can take any action it sees fit, particularly in the area of foreign relations with the country concerned.

Amendment 2 ARTICLE 1, POINT (a)

(a) within ten days of such introduction, or its announcement, the Member State concerned shall notify the *Council and the Commission* in writing; the notification shall be published in the C series of the Official Journal of the European Union;

(a) within ten days of such introduction, or its announcement, the Member State concerned shall notify the Commission **and Council** in writing; the **notification may be accompanied by a request for a reasonable time limit, and/or an opinion on measures that could be taken against the third country.** The notification shall be published in the C series of the Official Journal of the European Union;

Justification

It is important for the Council to be informed at the same time as the Commission of a third country's introduction of the visa requirement for nationals of a Member State. This will

enable the other Member States to act jointly in their diplomatic relations with the third country concerned.

The revised mechanism needs to be more flexible. It should enable the Member State to request a period of notice enabling it to try to settle the situation itself, if it so wishes, for instance through political and diplomatic negotiation. It is also important for the Member State to be able to deliver an opinion on any measures against the third country that the Commission might see fit to take.

Amendment 3
ARTICLE 1, POINT (b)

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the Council;

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the Council **and Parliament**;

Justification

Parliament needs to be fully informed on the non-reciprocity situation so that it can take any action it sees fit, particularly in the area of foreign relations with the country concerned.

Amendment 4
ARTICLE 2, PARAGRAPH 1

Member States whose nationals, at the date of entry into force of this Regulation, are subject to a visa requirement by a third country listed in Annex II to Regulation (EC) No 539/2001 shall notify the Commission in writing within ten days of that entry into force. The notification shall be published in the C series of the Official Journal of the European Union.

Member States whose nationals, at the date of entry into force of this Regulation, are subject to a visa requirement by a third country listed in Annex II to Regulation (EC) No 539/2001 shall notify the Commission **and Council** in writing within ten days of that entry into force. ***The notification may be accompanied by a request for a reasonable time limit, and/or an opinion on measures that could be taken against the third country.*** The notification shall be published in the C series of the Official Journal of the European Union.

Justification

It is important for the Council to be informed at the same time as the Commission of a third country's introduction of the visa requirement for nationals of a Member State. This will

enable the other Member States to act jointly in their diplomatic relations with the third country concerned.

The revised mechanism needs to be more flexible. It should enable the Member State to request a period of notice enabling it to try to settle the situation itself, if it so wishes, for instance through political and diplomatic negotiation. It is also important for the Member State to be able to deliver an opinion on any measures against the third country that the Commission might see fit to take.

PROCEDURE

Title	Proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism
References	COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS)
Committee responsible	LIBE
Committee asked for its opinion Date announced in plenary	AFET 15.9.2004
Enhanced cooperation	
Draftsman Date appointed	Marielle De Sarnez 29.9.2004
Discussed in committee	1.2.2005 15.3.2005
Date amendments adopted	15.3.2005
Result of final vote	for: 28 against: 5 abstentions: 2
Members present for the final vote	Vittorio Emanuele Agnoletto, Monika Beňová, André Brie, Elmar Brok, Paul Marie Couteaux, Simon Coveney, Ryszard Czarnecki, Giorgos Dimitrakopoulos, Anna Elzbieta Fotyga, Maciej Marian Giertych, Ana Maria Gomes, Jelko Kacin, Bogdan Klich, Cecilia Malmström, Willy Meyer Pleite, Annemie Neyts-Uyttebroeck, Justas Vincas Paleckis, Tobias Pflüger, José Ignacio Salafranca Sánchez-Neyra, György Schöpflin, Ursula Stenzel, István Szent-Iványi, Konrad Szymański, Charles Tannock, Jan Marinus Wiersma, Josef Zieleniec
Substitutes present for the final vote	Irena Belohorská, Marielle De Sarnez, Árpád Duka-Zólyomi, Anneli Jäätteenmäki, Tunne Kelam, Athanasios Pafilis, József Piniór, Aloyzas Sakalas, Inger Segelström
Substitutes under Rule 178(2) present for the final vote	