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19.2.2024

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1806 as regards the revision of the suspension mechanism

(COM(2023)0642 – C9-0392/2023 – 2023/0371(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Matjaž Nemeč

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

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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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 (EU) 2018/1806 as regards the revision of the suspension mechanism

(COM(2023)0642 – C9-0392/2023 – 2023/0371(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0642),
 - having regard to Article 294(2) and Article 77(2), point (a), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0392/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2024),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The mechanism for the temporary suspension of the exemption from the visa requirement for the nationals of a third country listed in Annex II to Regulation (EU) 2018/1806 ('the suspension mechanism') should be strengthened for the Union to have at its disposal a more

Amendment

(2) The mechanism for the temporary suspension of the exemption from the visa requirement for the nationals of a third country listed in Annex II to Regulation (EU) 2018/1806 ('the suspension mechanism') should be strengthened for the Union to have at its disposal a more

efficient safeguard aimed at preventing a wider range of irregular migration, public policy and security risks arising from the third countries listed in that Annex II, as well as the abuse of the visa exemption through the operation of investor citizenship schemes by those third countries.

efficient safeguard aimed at preventing a wider range of irregular migration, public policy and security risks arising from the third countries listed in that Annex II, as well as the abuse of the visa exemption through the operation of investor citizenship schemes by those third countries, ***and the non-compliance with the specific requirements, in particular those set out with respect to the Union's external relations with the relevant third country, including, considerations of human rights and fundamental freedoms.***

Or. en

Amendment 2

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) It should be possible to trigger the suspension mechanism in cases related to the Union's external relations with the relevant third country, including, in particular, considerations of human rights and fundamental freedoms. Such considerations should include breach of bilateral or multilateral agreements between the Union or the Union and the Member States, on the one hand, and the relevant third country, on the other; serious breaches of international law and standards, including international human rights law, by the relevant third country, including non-compliance with international court decisions and rulings; hostile acts or aggression against one or more Member States or the Union by the relevant third country; serious human rights violations, including criminalisation of abortion and LGBTQ+ persons, and the introduction or the use of death penalty by the relevant third country; and non-compliance with relevant Union sanctions in relation to the

relevant third country.

Or. en

Amendment 3

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2018/1806

Article 8a – paragraph 1 – point d – point ii

Text proposed by the Commission

Amendment

(ii) hybrid threats;

deleted

Or. en

Justification

The Rapporteur considers this ground should be part of the deliberation of the grounds under Union's external relations with the relevant third country as proposed in point (ga).

Amendment 4

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2018/1806

Article 8a – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the non-compliance with the specific requirements, which are based on Article 1, in particular the Union's external relations with the relevant third country, including, considerations of human rights and fundamental freedoms, deriving from any of the following:

(i) breach of bilateral and multilateral agreements between the Union or the Union and the Member States, on the one hand, and the relevant third country, on the other;

(ii) serious breaches of international law and standards, including international human rights law, by the relevant third country, including non-

compliance with international court decisions and rulings;

(iii) hostile acts or aggression against one or more Member States or the Union by the relevant third country;

(iv) serious human rights violations, including criminalisation of abortion and LGBTQ+ persons, and the introduction or the use of death penalty by the relevant third country;

(v) the non-compliance with relevant Union sanctions in relation to the relevant third country;

Or. en

Justification

Article 1 determines the basis for the exemption from visa requirements for the nationals of the third countries when travelling to the territory of the Member States, which are based on a case-by-case assessment of a variety of criteria, and article 8 provides grounds for the suspension of the said exemption. There is however, a gap between the conditions for visa exemption and the grounds for its suspension, in particular in relation to the Union's external relations with the relevant third country, including, in particular, considerations of human rights and fundamental freedoms. The Rapporteur wishes to close this gap by extending the grounds for suspension in Article 8 as set out.

Amendment 5

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2018/1806

Article 8c – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall monitor the continuous compliance with the specific requirements, which are based on Article 1, in particular the Union's external relations with the relevant third country, and, with regard to the third countries listed in Annex II and which benefit from visa liberalisation, the grounds for suspension as referred to in Article 8a(1), point (ga).

Amendment 6**Proposal for a regulation****Article 1 – paragraph 1 – point 2**

Regulation (EU) 2018/1806

Article 8d – paragraph 1

Text proposed by the Commission

1. The Commission shall report to the European Parliament and to the Council on the monitoring conducted in accordance with Article 8c(1) ***with regard to the third countries which have been listed in Annex II as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country, at least once a year and for a period of seven years after the date of entry into force of visa liberalisation for those third countries, and thereafter*** whenever the Commission considers it to be necessary, or upon request by the European Parliament or by the Council. The report shall focus on the third countries which the Commission considers, based on concrete and reliable information, as no longer complying with certain specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

Amendment

1. The Commission shall ***on an annual basis*** report to the European Parliament and to the Council on the monitoring conducted in accordance with Article 8c(1), ***and in particular*** whenever the Commission considers it to be necessary, or upon request by the European Parliament or by the Council. The report shall focus on the third countries which the Commission considers, based on concrete and reliable information, as no longer complying with certain specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

EXPLANATORY STATEMENT

1. Background

One of the basic pillars of the EU visa policy is the Regulation (EU) 2018/1806 of the European Parliament and of the Council listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States and those whose nationals are exempt from that requirement for stays of no more than 90 days in any 180-day period.

It determines the basic principles for granting visa liberalisation, sets the so-called “positive” or visa exempt third countries and “negative” or visa required third countries lists, and it provides for safeguards when visa free regime could be suspended via two basic mechanisms, namely the reciprocity mechanism and the suspension mechanism, as well as the procedures for their triggering.

Following the calls from both co-legislators on the need to revise the suspension mechanism in order to be more adapt to the emerging challenges, the European Commission presented in October 2023 targeted proposal for the revision of the suspension mechanism with the aim to strengthen and improve several elements of it. The proposed revision concerns the revision of Article 8 and includes several substantive amendments related to the possible grounds for suspension as well as to the procedures.

This suspension mechanism was first introduced in 2013¹ with the main purpose to enable a temporary suspension of the visa exemption in case of a sudden and substantial increase in irregular migration. The mechanism was subsequently revised in 2017² by making it easier for Member States to notify circumstances leading to a possible suspension and by enabling the Commission to trigger the suspension mechanism on its own initiative.

2. The proposed amendments to the suspension mechanism

In its latest proposal, the Commission makes several changes to the current mechanism. New suspension ground are proposed related to hybrid threats such as situations of state-sponsored instrumentalisation of migrants aimed at destabilising or undermining society and key institutions, as well as new grounds specifically addressing investor citizenship schemes, which are currently operated by number of visa exempt third countries.

A new suspension ground is also added to cover cases where the lack of visa policy alignment of a third country listed in Annex II with the visa policy of the Union, could lead to situations where third-country nationals, other than nationals of that third country, arrive legally in the territory of that third country and then enter irregularly the territory of the Member States.

¹ Regulation (EU) No 1289/2013 of the European Parliament and of the Council of 11 December 2013 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, OJ L 347, 20.12.2013, p. 74–80.

² Regulation (EU) 2017/371 of the European Parliament and of the Council of 1 March 2017 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 (revision of the suspension mechanism), OJ L 61, 8.3.2017, p. 1–6.

Also new with this proposal is the possibility for the Commission to consider different thresholds when deciding whether to suspend a visa exemption in cases of a substantial increase in irregular migration, unfounded asylum applications or serious criminal offences linked to the nationals of that third country, following a case-by-case assessment.

The proposal also makes changes to the procedure and conditions for a Member State's notification to the Commission when it is confronted by one or more circumstances amounting to a ground for suspension, and the procedure for the Commission's examination of such a notification. It also modifies the reference period for identifying the existence of the circumstances which may lead to the suspension.

The Commission will also have the obligation to monitor on a regular basis the existence of the grounds for suspension with regard to all third countries listed in Annex II, and the procedure to trigger the suspension mechanism based on the Commission's own analysis of the existence of such grounds.

This procedure is further amended by increasing the duration of the temporary suspension of the visa exemption from nine months to 12 months (for the first phase) and from 18 months to 24 months (for the second phase), as well as a new urgency procedure is introduced when the situation requires immediate action by the Commission.

3. Position of the Rapporteur

The expansion of the visa-free travel to several new third countries in recent years, as well as constantly new emerging challenges and crisis occurring around the world, the Rapporteur considers that the European Union needs effective and sufficient tools to respond to such challenges, including in the area of visa policy.

The Rapporteur in that respect therefore largely supports the aim of the Commission and the need to strengthen and improve the visa suspension mechanism. It is worth noting that since its introduction in 2013, the suspension mechanism has only been triggered once. Namely in the case of Vanuatu due to EU's concerns of its operation of investor citizenship schemes, for which a partial suspension has been adopted by the Council in March 2022, following by a full suspension in October of 2022, which is still in place.

Due to ever changing world and evolution of the EU policies as well as the visa free regime, the Rapporteur believes that the revision of the suspension mechanism ought to look at the EU visa policy holistically considering all aspects.

The Rapporteur therefore believes that there is an inherent gap between the conditions for the exemption from EU visa requirements, which are based on a case-by-case assessment of a variety of criteria, and the grounds allowing for the suspension from the said exemption. The Rapporteur considers as well that a discrepancy exists particular in relation to the Union's external relations with the relevant third countries, including considerations of human rights and fundamental freedoms.

In that regard, the Rapporteur is of the opinion that grounds for suspension of visa free regime with a third country must include considerations relating to Union's or in certain cases Member States' external relations with the relevant third country.

Those grounds for suspension should include, among others: **a)** breaches or suspension of bilateral and multilateral agreements between the European Union or the European Union and its Member States, on the one hand, and the relevant third countries, on the other; **b)** serious breaches of international law and standards, including international humanitarian law, by the relevant third country, including non-compliance with the international court decisions and rulings; **c)** hostile acts or aggression against one or more Member States or the Union by the relevant third country; **d)** serious human rights violations, including criminalisation of abortion, LGBTQ+ persons, as well as the introduction or the use of death penalty by the relevant third country; and **e)** the non-compliance with the relevant EU sanctions.

The Rapporteur also believes that the regular evaluation is needed of the continue fulfilment of the basic grounds for third countries benefiting from visa liberalisation which was not a result of the successful conclusion of a visa liberalisation dialogue. In that respect, the Rapporteur supports the Commission's proposal as regards the monitoring the existence of the grounds for suspension for all third countries, however their consideration must undoubtedly include considerations relating to Union's or in certain cases Member States' external relations with the relevant third country.

Since the current parliamentary term is quickly coming to an end, the Rapporteur wishes to quickly proceed with the adoption of the European Parliament's negotiating mandate in order to secure a progressive text which should be reflected also in the EU visa policy going forward.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
College Green Group Ltd

The list above is drawn up under the exclusive responsibility of the rapporteur.