EUROPEAN PARLIAMENT

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Committee on Civil Liberties, Justice and Home Affairs

28.2.2005 PE 355.478v01-00

AMENDMENTS 10-18

Draft report **(PE 349.789v01-00)**
Henrik Lax
Proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism

Proposal for a regulation (COM(2004) 0437 – C6-0097/2004 – 2004/0141(CNS))

Text proposed by the Commission	Amendments by Parliament

Amendment by Barbara Kudrycka

Amendment 10
RECITAL 2

2) ***Given the seriousness of such situations of non-reciprocity, it is essential that they 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	(2) ***In situations of non-reciprocity, it is essential that the aggrieved*** Member State(s) ***should have the option of notifying this fact.*** 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

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.	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.

Or. pl

Justification

The amendment proposed stresses the need to adopt an optional notification procedure which enables individual Member States' internal interests to be taken into consideration. Optional notification gives the Member States time for bilateral dialogue. The introduction of a visa requirement on the part of a third country always affects a specific Member State and has no impact on other Member States.

Amendment by Barbara Kudrycka

Amendment 11
ARTICLE 1
Article 1 paragraph 4 (a) (Regulation (EC) No 539/2001)

(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) ***in the event of*** such introduction, the Member State concerned ***may 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;

Or. pl

Justification

See justification for amendment 10.

Amendment by Henrik Lax

Amendment 12
ARTICLE 1
Article 1, paragraph 4, point (a), Regulation (EC) No. 539/2001

a) (a) within ***ten*** days of such introduction, or its announcement, the Member State	(a) within ***90*** 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;	concerned shall notify the Commission in writing; the notification shall be published in the C series of the Official Journal of the European Union;

Or. sv

Justification

More time is required to give the individual Member State affected by non-reciprocity a reasonable period to negotiate on a bilateral basis with the third country which has introduced a visa requirement to withdraw it.
To avoid unnecessary procedures, it should be sufficient if the Commission is notified. Transparency will then be ensured through the publication in the Official Journal.

Amendment by Barbara Kudrycka

Amendment 13
ARTICLE 1
Article 1 paragraph 4 (c) (Regulation (EC) No 539/2001)

(c) depending on the conclusions in its report, the Commission ***may present*** to the Council a proposal for a provisional measure ***on the temporary restoration*** of the visa requirement for nationals of the third country in question. The Council shall ***act on such proposal*** by a qualified majority ***within three months***;	(c) depending on the conclusions in its report, the Commission ***shall be required to submit*** to the Council ***without delay*** a proposal for ***a decision to implement*** a provisional measure ***leading to a temporary restoration*** of the visa requirement for nationals of the third country in question. ***The decision will come into effect in 30 days, unless*** the Council ***decides to reject the proposal*** by a qualified majority;

Or. pl

Justification

The above wording makes it compulsory for the Commission to submit a report with its findings, and offers the aggrieved State a guarantee that efforts to restore the reciprocity mechanism will continue and will not depend on a discretionary decision of the Commission, which could delay this process.

This amendment offers the aggrieved Member State a guarantee that concrete action will be taken if earlier steps taken by the Commission through the mechanism provided fail to meet expectations. This wording ensures that the aggrieved State has the potential right to call for decisive action, which is an essential negotiating argument in the first phase of the mechanism in conducting bilateral negotiations and also makes the principle of solidarity a reality should the occasion arise.

Amendment by Marie-Line Reynaud

Amendment 14
ARTICLE 1
Article 1, paragraph 4, point (ca) (new) (Regulation (EC) No. 539/2001)

(ca) If the European Parliament indicates, in a Resolution setting out the grounds on which it is based, that it disagrees with a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question, the Commission shall re-examine that proposal. Taking the Resolution into account and within one month after the adoption thereof, the Commission may submit a new proposal or continue the procedure. It shall give the European Parliament the reasons for its action.

Or. fr

Justification

The Commission does not simply 'give its reasons'. Parliament has to be the recipient of the exchange of information with the Commission. A useful and necessary clarification.

Amendment by Henrik Lax

Amendment 15
ARTICLE 1
Article 1, paragraph 4, point (cb) (new), Regulation (EC) No. 539/2001

(cb) Should the Commission not present a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third countries in question, it shall *make a further attempt* ***to restore visa-free travel within six months after the date of submission of the report referred to in point (b), and shall report on those procedures to the European Parliament and the Council. Within two months of that report, the***

Commission shall, if the third countries have not abolished the visa requirement, submit to the Council a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third countries in question or a proposal for another appropriate measure in the external field, which Council shall transmit to the European Parliament. The Council shall act on such proposal by a qualified majority within three months. The procedure referred to in point (ca) shall apply.

Or. sv

Justification

More time is required to give the individual Member State affected by non-reciprocity a reasonable period to negotiate on a bilateral basis with the third country which has introduced a visa requirement to withdraw it.
To avoid unnecessary procedures, it should be sufficient if the Commission is notified. Transparency will then be ensured through the publication in the Official Journal.

Amendment by Marie-Line Reynaud

Amendment 16
ARTICLE 1
Article 1, paragraph 4, point c (cb) (new) (Regulation (EC) No. 539/2001)

(cb) Should the Commission not present a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question, it shall take the necessary steps to restore visa-free travel within six months after the date of submission of the report referred to in point (b), l and shall report on those procedures to the European Parliament and the Council. Within two months of that report, the Commission shall, if the third country has not abolished the visa requirement, submit to the Council a proposal for a provisional measure on the temporary restoration of the visa requirement for

nationals of the third country in question or a proposal for another appropriate measure in the external field. Once informed, the Council shall transmit the Commission's new decision to the European Parliament without delay. The procedure referred to in point (ca) shall apply.

Or. fr

Justification

The Commission is required to take steps rather than simply 'make a further attempt', which is insufficient.
The Council must inform Parliament without delay of the new decision taken by the Commission.

Amendment by Henrik Lax

Amendment 17
ARTICLE 1, PARAGRAPH 1 A (new)
Article 7 a (new), Regulation (EC) No. 539/2001

1a. The following Article 7a shall be inserted:

"Article 7a

1. Where a third country introduces conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the following provisions shall apply:

(a) within 90 days of such introduction, or its announcement, the Member State concerned shall notify the Commission in writing; the notification shall be published in the C series of the Official Journal of the European Union;

(b) the Commission shall immediately take steps with the authorities of the third country in order to secure the non-application of those conditions or procedures and, at the latest within six months of publication of the notification, shall report on those procedures to the

European Parliament and the Council;

(c) depending on the conclusions in its report, the Commission may present to the Council, at the latest within two months after the date of submission of the report referred to in point (b), a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, which Council shall transmit to the European Parliament. The Council shall act on such proposal by a qualified majority within three months;

(d) if the European Parliament indicates, in a Resolution setting out the grounds on which it is based, that it disagrees with a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, the Commission shall re-examine that proposal. Taking the Resolution into account and within one month after the adoption thereof, the Commission may submit a new proposal or continue the procedure. It shall give the reasons for its action.

(e) should the Commission not present a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, it shall make a further attempt to secure the non-application of those conditions or procedures within six months after the date of submission of the report referred to in point (b) and shall report on those procedures to the European Parliament and the Council. Within two months of that report, the Commission shall, if the third country continues to apply those conditions or procedures, submit to the Council a proposal for an appropriate measure based on the principle of reciprocity, which Council shall transmit to the European Parliament. The Council

shall act on such proposal by a qualified majority within three months. The procedure referred to in point (d) shall apply.

(f) if it considers it necessary, the Commission may present the proposal as referred to in points (c) and (e) without a prior report. The procedure referred to in points (c) and (d) shall apply to that proposal;

(g) where the third country withdraws the conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the Member State concerned shall notify the Commission thereof. The notification shall be published in the C series of the Official Journal of the European Union. Any provisional measure decided under point (c) and any appropriate measure decided under point (e) shall terminate automatically on the date of entry into force of the withdrawal of the conditions or procedures the effect of which is to limit the movement of nationals of a Member State."

Or. sv

Justification

Reciprocity should not be limited to the visa requirement alone but should be extended to comprise also conditions and procedures because both have the same effect: making it more difficult for EU citizens to travel. The rapporteur therefore proposes a second reciprocity mechanism dealing with conditions and procedures.

Amendment by Marie-Line Reynaud

Amendment 18
ARTICLE 1, POINT 1 A (new)
Article 7a (new) (Regulation (EC) No. 539/2001)

1a. The following Article 7a shall be inserted:

"Article 7a

1. Where a third country introduces conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the following provisions shall apply:

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

(b) the Commission shall immediately take steps with the authorities of the third country in order to secure the non-application of those conditions or procedures and, at the latest within six months of publication of the notification, shall report on the outcome of those procedures to the European Parliament and the Council;

(c) depending on the conclusions in its report, the Commission may present to the Council, at the latest within two months after the date of submission of the report referred to in point (b), a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, which Council shall transmit to the European Parliament. The Council shall act on such proposal by a qualified majority within three months;

(d) if the European Parliament indicates, in a Resolution setting out the grounds on which it is based, that it disagrees with a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, the Commission shall re-examine that proposal. Taking the Resolution into account and within one month after the adoption thereof, the Commission may submit a new proposal or continue the procedure. It shall notify all

parties of the reasons for its choice.

(e) should the Commission not present a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, it shall take the necessary measures to secure again the non-application of those conditions or procedures within six months after the date of submission of the report referred to in point (b) and shall report on the outcome of its initiatives simultaneously to the European Parliament and the Council. Within two months of that report, the Commission shall, if the third country continues to apply those conditions or procedures, submit to the Council a proposal for an appropriate measure based on the principle of reciprocity, which Council shall transmit to the European Parliament. The procedure referred to in point (d) shall apply.

(f) if it considers it necessary, the Commission may present the proposal as referred to in points (c) and (e) without a prior report. The procedure referred to in points (c) and (d) shall apply to that proposal;

(g) where the third country withdraws the conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the Member State concerned shall notify the Commission thereof. The notification shall be published in the C series of the Official Journal of the European Union. Any provisional measure decided under point (c) and any appropriate measure decided under point (e) shall terminate automatically on the date of entry into force of the withdrawal of the conditions or procedures the effect of which is to limit the movement of nationals of a Member State."

Or. fr

Justification

As regards point (b): The Member State acts vis-à-vis the European Parliament in identical fashion.
As regards point (d): This amendment is justified by its own content, 'all parties' being the European Parliament and the Council.