

## Visas: Council adopts a revision of the visa waiver suspension mechanism

On 27 February 2017, the Council adopted a regulation to revise the suspension mechanism which can be applied to all existing visa liberalisation agreements.

"Visa liberalisation brings great advantages to the EU and third countries. At the same time, the EU must be able to respond effectively in cases where the rules are not being respected. The revision of the suspension mechanism adopted today makes it easier to tackle abuse of the system."

*Carmelo Abela, Maltese Minister for Home Affairs and National Security*

The objective of the revised regulation is to strengthen the suspension mechanism. It does this by making it easier for member states to notify circumstances which might lead to a suspension, by enabling the Commission to trigger the mechanism on its own initiative, and by tasking the Commission to send annual reports to the European Parliament and Council on the extent to which visa-exempt third countries continue to meet the necessary criteria.

The possible **grounds for suspension have been extended**, and include a decrease in cooperation on readmission, a substantial increase in the refusal rate of readmission applications, including for third-country nationals in transit, and a substantial increase in the risk to public policy or the internal security of the member states.

The use of the mechanism will also be facilitated by shortening reference periods and deadlines in order to allow for a **faster procedure**. In particular, the reference period for comparing the circumstances leading to the suspension with the situation during the previous year or before visa liberalisation is shortened from six to two months.

The **suspension can be triggered by a notification of a member state or by the Commission**. If a simple majority of member states notify, the Commission will have to adopt an implementing decision temporarily suspending the exemption from the visa requirement for certain categories of nationals of the third country concerned for a period of 9 months. During this period, the Commission shall establish an enhanced dialogue with the third country concerned to remedy the circumstances in question.

If the circumstances persist, the Commission shall adopt (at the latest two months prior to the expiry of the 9 months) a delegated act temporarily suspending the visa waiver for a further period of 18 months, for all the nationals of the third country concerned. Before the end of the period of validity of the delegated act, the Commission shall submit a report to the European Parliament and the Council. This report may be accompanied by a legislative proposal to transfer the reference to the third country concerned from Annex II (visa free countries) to Annex I (countries whose nationals need a visa to enter the Schengen area).

A **monitoring mechanism has been introduced** with the purpose of ensuring that third countries which have been granted visa exemption following a visa liberalisation dialogue continue to fulfil the criteria which were the basis for granting visa free status.

Ireland and the United Kingdom will not be subject to the application of these measures, in accordance with the protocols annexed to the EU treaties. The visa regime of these member states remains subject to their national legislation.

### Next steps

The Council and the European Parliament now need to sign the adopted regulation. The signed text will be published in the EU Official Journal and will enter into force 20 days later.

### Background

On 11 December 2013, the European Parliament and the Council adopted Regulation 1289/2013, which amended Regulation 539/2001 by introducing the so-called "suspension mechanism" and modifying the reciprocity mechanism.

According to the existing mechanism, when a member state is confronted, over a six-month period, with one or more well defined circumstances related to nationals of a third country leading to an emergency situation which it is unable to remedy on its own, the member state may request that the Commission suspend for a short period of time the visa waiver for the nationals of that country. The suspension can only be applied temporarily and as a last resort. The specific circumstances cover a substantial and sudden increase in the number of irregular migrants, unfounded asylum requests or rejected readmissions applications.

Even if the conditions for triggering the safeguard clause are clearly defined, the Commission has to assess the situation and there is no automaticity emanating from the notifications by member states. If the Commission decides that action is needed on the basis of its examination, and taking into account the consequences of a suspension for the external relations of the EU and its member states with the third country concerned, it shall adopt an implementing act temporarily suspending the exemption from the visa requirement for the nationals of the third country concerned for a period of six months.

In the context of the current migratory and security situation in the European Union, and taking into account its proposals on visa liberalisation for Georgia, Ukraine, Turkey and Kosovo, the Commission decided in May 2016 to present a proposal for a regulation revising the current suspension mechanism. The Council, the Parliament and the Commission reached an agreement on the proposal on 7 December 2016.

[Regulation amending regulation 539/2001 \(revision of the suspension mechanism\)](#)

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