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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	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

Delegations will find attached document COM(2023) 642 final.

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2023/0371 (COD)

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**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Visa-free travel brings significant benefits for the EU and partners around the globe. It makes travel more convenient and is an important tool to promote people-to-people contacts, tourism, economic development and cultural exchange. The EU currently has a visa-free regime in place with 60 third countries¹. Under this regime, nationals from these countries can enter the Schengen area for short stays of up to 90 days in any 180-day period without a visa. The EU's visa-free policy is based on the principle of visa reciprocity.

Visa-free travel brings key benefits for citizens on both sides, strengthening further the EU relations with its partners. It boosts the travel and tourism sector, which, according to OECD estimates, accounted for around 7% of global exports in 2019² and contributed around 4.4% of GDP of OECD countries.³ Visa-free travel also promotes cultural and academic exchanges. It also fosters diplomatic relations and international cooperation, leading to increased political interactions in different areas ranging from trade and economic cooperation, security, innovation and technology.

The number of travellers between the EU and visa-free non-EU countries in 2019 was 364.8 million. This represents a 7% increase from 2018.⁴

At the same time, the Commission's monitoring of the EU's visa-free regimes, including its reports under the Visa Suspension Mechanism⁵, has shown that visa-free travel can also be the source of significant migration and security challenges.

Visa-free travel can result in increased irregular migration through overstays by visa-free travellers or through asylum applications lodged in high numbers by nationals from visa-free third countries with low recognition rates (unfounded asylum applications). Furthermore, in some cases insufficient visa alignment with the EU visa policy can turn a visa-free country into a transit hub for irregular entry to the EU.

¹ As listed in Annex II of Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303 28.11.2018, p. 39. In addition, nationals from two special administrative regions of China (Hong Kong and Macao) and one territorial authority that is not recognised as a state by at least one EU member state (Taiwan) and, at the latest by 1 January 2024, Kosovo*, are also visa exempted.

² The year 2019 is the last representative reference year before the travel restrictions due to Covid-19.

³ Safe-and-seamless-travel-and-improved-traveller-experience-OECDReport-for-the-G20-TWG_merged.pdf

⁴ The top 5 EU destinations for travellers from visa-free non-EU countries in 2019 were: Spain (61.1 million), France (54.7 million), Italy (51.1 million), Germany (49.2 million), Greece (25.8 million).

⁵ Article 8(4) of Regulation (EU) 2018/1806 requires the Commission to monitor the continuous compliance with the specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation, by the third countries whose nationals have been exempted from the visa requirement when travelling to the territory of Member States as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country. To this end, since 2017 the Commission has adopted five reports under the Visa Suspension Mechanism, covering the visa-free partners in the Western Balkans (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia) and in the Eastern Partnership (Georgia, Moldova, and Ukraine). Furthermore, the Commission regularly monitors visa-free regimes with other third countries, in the context of the possibility to trigger the suspension mechanism on its own initiative, as per Article 8(3) of Regulation (EU) 2018/1806.

In addition, investor citizenship schemes operated by third countries with visa-free access to the EU can result in risks or threats to the public policy or internal security of the Member States, including those related to infiltration of organised crime, money-laundering, tax evasion and corruption. Investor citizenship schemes aim to attract investment by granting investors from third countries citizenship rights of the country concerned, under less stringent conditions than under ordinary naturalisation regimes⁶. Where third-country nationals that would otherwise be visa-required for the EU acquire citizenship of a visa-free country thanks to such schemes, they can use them to bypass the regular short-stay visa procedure and the assessment of migration and security risks it entails.

The security and the external borders of the Member States have been profoundly impacted by recent geopolitical events, demonstrating that foreign interference may pose serious threats to the Member States' security. In October 2021, the European Council adopted conclusions⁷ inviting the Commission to propose changes to the EU legal framework to ensure an appropriate response to hybrid attacks. The visa suspension mechanism would be part of the EU's toolbox to respond to hybrid threats, such as the state-sponsored instrumentalisation of migrants.

The suspension mechanism, established in Regulation (EU) 2018/1806⁸, is a safeguard against the abuse of visa-free travel. This mechanism enables the temporary suspension of the visa exemption in case of a sudden and substantial increase in irregular migration or security risks. However, with increasing challenges resulting from irregular migration, and threats to the security of the EU, it became clear that this mechanism needed to be further strengthened and improved.

Therefore, on 20 March 2023, in her letter to the European Council, President von der Leyen proposed that *'the Commission will strengthen its monitoring of the visa policy alignment and will present a comprehensive report paving the way for a legislative proposal amending the visa suspension mechanism'*. Therefore, on 30 May 2023, the Commission adopted a Communication on the monitoring of the EU's visa-free travel regimes⁹ setting out a consultation process. The Communication looked at the functioning of the EU's visa-free regimes and identified the main challenges in the areas of irregular migration and security.

In order to effectively address the multitude of challenges resulting from visa-free travel in a constantly evolving geopolitical context and taking into account the consultation with the European Parliament, Member States and other stakeholders, this proposal aims to adapt the suspension mechanism to such challenges, by amending the relevant provisions set out in Article 8 of Regulation (EU) 2018/1806.

The mechanism for suspension of visa-free travel

Regulation (EU) 2018/1806 provides for full harmonisation as regards the third countries whose nationals are subject to a requirement to be in possession of a visa for the crossing of Member States' external borders (also referred to herein as 'the visa requirement') and those

⁶ Report From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Investor Citizenship and Residence Schemes in the European Union, COM(2019) 12 final.

⁷ European Council meeting (21 and 22 October 2021) – Conclusions.

⁸ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303 28.11.2018, p. 39.

⁹ COM/2023/297 final.

whose nationals are exempt from that requirement. It also provides for the possibility of suspending temporarily the exemption from the visa requirement (hereinafter referred to as the ‘suspension mechanism’).

This suspension mechanism was first introduced in 2013¹⁰ 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 2017¹¹ 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.

At present, based on Article 8(2), (3) and (4) of Regulation (EU) 2018/1806, the suspension mechanism can be triggered in the event of:

- A substantial increase (i.e. an increase exceeding a threshold of 50 %) in the number of nationals of the third country concerned refused entry or found to be staying in the Member State’s territory without the right to do so;
- A substantial increase (i.e. an increase exceeding a threshold of 50 %) of asylum applications from the nationals of the third country concerned for which the recognition rate is low;
- A decrease of cooperation on readmission with the third country concerned;
- An increased risk or imminent threat to the public policy or internal security of the Member States, in particular a substantial increase in serious criminal offences linked to the nationals of the third country concerned;
- With regard to the third countries that obtained visa exemption as a result of a visa liberalisation dialogue, the non-compliance with the specific requirements which were used to assess the appropriateness of granting visa liberalisation.

To trigger the suspension procedure, the Commission must inform the European Parliament and the Council, either following the examination of a notification from Member States, or following its own analysis, and subsequently may decide that action is needed and trigger the mechanism. The triggering of the suspension procedure is done automatically where a simple majority of Member States notifies the Commission regarding the existence of one or more of the above circumstances.

The suspension procedure consists of three phases:

- (1) The suspension of the visa exemption has an initial duration of nine months and is decided by a Commission implementing act. During the suspension period, the Commission should establish an enhanced dialogue with the third country concerned with a view to remedying the circumstances in question.
- (2) Where the circumstances that led to the suspension persist, the suspension should be prolonged by an additional 18 months by a delegated act.

¹⁰ 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.

¹¹ 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.

- (3) Where no solution is found before the end of phase 2, the Commission can propose the permanent termination of the visa exemption and the transfer of the third country from Annex II to Annex I of Regulation (EU) 2018/1806, by ordinary legislative procedure.

• **Consistency with existing policy provisions in the policy area**

Regulation (EU) 2018/1806 lists the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States and those whose nationals are exempt from that requirement. Regulation (EU) 2018/1806 is applied by all Member States – with the exception of Ireland. It is also applied by Iceland, Liechtenstein, Norway and Switzerland. The Regulation is part of the EU’s common visa policy for short stays of up to 90 days in any 180-day period.

The amendment is consistent with the most recent major developments in the field of visa and border policy, the aim of which is to reinforce the security of the Schengen area:

- The recently revised Visa Information System (VIS) Regulation¹², which will allow more thorough background checks on visa applicants, close security information gaps through better information exchange between Member States, and better combatting abduction and trafficking of children by lowering the fingerprinting age for minors. It will also broaden the Visa Information System to include long-stay visas and residence permits.
- The European Travel Information and Authorisation System (ETIAS)¹³, which is part of the Smart Border and interoperability framework and introduces an online travel authorisation for third-country nationals who do not require a visa.
- The Entry-Exit System (EES)¹⁴, which will require every traveller visiting the Schengen area for short stays to record their entry and exit at the external border crossing points allowing for the detection of overstayers.
- The second-generation Schengen Information System (SIS II), which allows information exchanges between national border control, customs and police authorities, ensuring that the free movement of people within the EU can take place in a safe environment¹⁵.

¹² Regulation (EC) No 767/2008 concerning the visa information system and the exchange of data between Member States on short-stay visas (VIS regulation).

¹³ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226.

¹⁴ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011.

¹⁵ Regulation (EU) 2018/1860 on the use of the Schengen Information System (SIS) for the return of illegally staying third-country nationals; Regulation (EU) 2018/1861 on the establishment, operation and use of the SIS in the field of border checks, and amending the Convention implementing the Schengen Agreement; Regulation (EU) 2018/1862 on the establishment, operation and use of the SIS in the field of police cooperation and judicial cooperation in criminal matters.

- **Consistency with other Union policies**

This initiative is consistent with the EU migration, border management and security policies, as its main objective is to address security and irregular migration risks for the Schengen area.

In particular, the proposed revision of the suspension mechanism will contribute to promoting the EU's objectives in the areas of migration and security by countering possible abuses linked to visa-free travel, which pose a number of risks for the Member States, in terms of irregular migration, public policy and security.

This initiative is consistent with the EU's external relations (including considerations of human rights and fundamental freedoms) and in particular its enlargement policy, as regards visa-free third countries with accession prospects.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal is point (a) of Article 77(2) of the Treaty on the Functioning of the European Union (TFEU), which empowers the Union to develop measures concerning the common policy on visas and other short-stay residence permits. The proposed amending regulation will constitute a development of the Schengen acquis.

- **Subsidiarity (for non-exclusive competence)**

The suspension mechanism laid down in Regulation (EU) 2018/1806 is an integral part of the EU's common visa policy. The objective of strengthening that mechanism can only be achieved by action at Union level, namely by an amendment to the Regulation. Member States cannot act individually to achieve the policy objective.

- **Proportionality**

According to the principle of proportionality laid down in Article 5(4) TEU, there is a need to match the nature and intensity of a given measure to the identified problem. All the issues addressed in this legislative initiative call for EU-level legislative action enabling Member States to tackle these problems effectively.

The main purpose of this proposal is to make the suspension mechanism better equipped to respond swiftly and decisively to emerging challenges in the area of irregular migration and security arising from visa-free third countries, and to counter any abuses of visa-free travel.

At the same time, the suspension mechanism should remain a mechanism of last resort, without any automaticity, and any decision in this regard should continue to take due account of the overall relations between the EU and the third countries concerned as well as the overall political context.

The proposed amendments would not go beyond what is necessary to achieve the objectives explained in the previous sections.

- **Choice of the instrument**

The objectives of this proposal can only be achieved by a legislative act that modifies the existing suspension mechanism. Therefore, a regulation amending Regulation (EU) 2018/1806 is needed.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The suspension mechanism established in Regulation (EU) 2018/1806 has been triggered twice: the first time in May 2019, following a notification from a Member State reporting an increase in unfounded asylum applications and serious criminal offences by the nationals of a visa-free third country; the second time in 2022, following an analysis of the Commission, which led to the temporary suspension of the visa exemption for a third country due to the operation of an investor citizenship scheme, which constituted an increased risk to the internal security and public policy of the Member States.

The notification to the Commission made by a Member State in May 2019 showed that the thresholds for triggering the suspension mechanism could not be reached despite the reported increase in unfounded asylum applications and serious criminal offences by the nationals of a visa-free country registered in that Member State. While the Commission's assessment concluded that the conditions to trigger the mechanism were not met in that circumstance, several Member States in the Council discussions considered that these thresholds should be set at a lower level.

As required by Articles 9(2) and 10(3) of Regulation (EU) 2018/1806, in 2021 the Commission presented a report on the effectiveness of the suspension mechanism and on the delegation of power under such mechanism¹⁶. The report concluded that, even though the mechanism had not resulted in the suspension of any visa exemption, its existence had prompted important reforms in visa-free third countries in the area of migration management, security, rule of law and human rights.

In 2022, the triggering of the mechanism led for the first time to the suspension of a visa exemption for a third country¹⁷. This experience highlighted in practice the difficulties of triggering the mechanism due to its cumbersome procedure and showed again that meeting the thresholds requested by the current rules can prove difficult, at the expense of the objective to provide urgent responses to prevent irregular migration and security risks stemming from visa-free travel.

- **Stakeholder consultations**

In the first months of 2023, on the initiative of the Swedish Presidency, the Justice and Home Affairs Council discussed a possible revision of Regulation (EU) 2018/1806, and in particular of the suspension mechanism, for which the Member States expressed broad support. This was prompted by the increase in numbers of detected irregular border crossings to the EU via the Western Balkans route, which was partly linked to a lack of visa policy alignment by Western Balkan partners, and which spurred a reflection on the need to revise the suspension mechanism.

Following the adoption of the Commission Communication on the monitoring of the EU's visa free regimes on 30 May 2023, the revision of the suspension mechanism was discussed in COREPER on 31 May 2023, at the Justice and Home Affairs Counsellors meeting of 1 June

¹⁶ Report from the Commission to the European Parliament and the Council on the effectiveness of the visa suspension mechanism and on the delegation of power under such mechanism, COM/2021/603 final.

¹⁷ Commission Implementing Regulation (EU) 2022/693 of 27 April 2022 on the temporary suspension of the visa exemption for nationals of Vanuatu, C/2022/2309, OJ L 129, 3.5.2022, p. 18–21.

2023 and at the Schengen Council of 8-9 June 2023. Member States expressed strong support for adapting the thresholds of the suspension mechanism as well as broadening the grounds of suspension, notably by including visa policy alignment – especially in cases where this could lead to migratory or security risks – and investor citizenship schemes as additional grounds. Member States also welcomed the revised approach to monitoring and reporting on visa-free third countries which is set out in the Communication.

The Communication was also presented to the European Parliament (LIBE Committee) on 28 June 2023. During the discussion, Members of the LIBE Committee welcomed the Commission initiative to revise the suspension mechanism, in particular with regard to the proposed inclusion of an explicit suspension ground on investor citizenship schemes operated by visa-free third countries, as a response to the call made by the European Parliament in its resolution of 9 March 2022 with proposals to the Commission on citizenship and residence by investment schemes¹⁸. Among other requests, the resolution called on the Commission to exert as much pressure as possible to ensure that third countries that have investor citizenship schemes in place and that benefit from visa-free travel under Annex II to Regulation (EU) 2018/1806 abolish those schemes, and to submit a proposal to amend Article 8 of Regulation (EU) 2018/1806 to include the operation of investor citizenship schemes as a ground for suspension of visa exemptions.

The Commission has sought to take into account the main suggestions made by Member States and the Members of the LIBE Committee on how to revise the suspension mechanism and strengthen the monitoring and reporting obligations in the drafting of this proposal.

Finally, in August 2023 the Commission published a call for evidence¹⁹ to consult the wider public and other interested stakeholders on possible ways of improving the suspension mechanism, to inform the preparation of the Commission's proposal. The call received 15 feedbacks from travel and transport associations, NGOs and citizens. Most of those feedbacks stressed the need for the suspension mechanism to remain a mechanism of last resort without any automaticity and for the travelling public and the industry to be well in advance and clearly informed in case of activation of the suspension.

- **Impact assessment**

The revision of the suspension mechanism as such does not have any direct economic, social or environmental impacts. The impacts of the possible suspension of the visa exemption for nationals of a certain third country will have to be assessed in detail by the Commission in each individual case when it examines a notification by a Member State and before it decides whether action is needed. Therefore, no impact assessment is necessary for this proposal.

- **Fundamental rights**

This proposal has no negative consequences for the protection of fundamental rights in the European Union.

¹⁸ European Parliament resolution of 9 March 2022 with proposals to the Commission on citizenship and residence by investment schemes (2021/2026(INL)).

¹⁹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13910-EU-visa-policy-revision-of-the-visa-suspension-mechanism_en

4. BUDGETARY IMPLICATIONS

This proposal has no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

As already required by the current Article 8(4) of Regulation (EU) 2018/1806, for those third countries which have been listed in Annex II as a result of the successful conclusion of a visa liberalisation dialogue, the Commission will continue to fully assess and report on the continuous compliance with the visa liberalisation requirements for a period of seven years after the entry into force of visa liberalisation for that third country.

Following this seven-year period, the reporting on those countries will be continued but targeted to specific challenges and priorities. The Commission may also decide to report on visa-free countries in other geographical areas beyond the EU neighbourhood, focusing on countries where issues may arise and where further cooperation may be needed to address specific migration and/or security challenges that could be assessed under the suspension mechanism.

- **Detailed explanation of the specific provisions of the proposal**

This proposal strengthens and improves several elements of the suspension mechanism currently governed by Article 8 of Regulation (EU) 2018/1806. The proposed amendment replaces Article 8 by a set of new Articles (8 to 8f). The revision includes several substantive amendments.

First, the new **Article 8(1) defines the temporary suspension mechanism**. It provides that the suspension mechanism may be triggered by a notification by a Member State to the Commission or by the Commission based on its own analysis. The procedure for the Member States' notification is laid down in Article 8b (replacing the provisions currently set out in Article 8(2)), while the procedure for the Commission to trigger the suspension mechanism is laid down in Article 8c, (replacing the provisions currently set out in Articles 8(3) and 8(4)).

The new Article 8(2) clarifies that, in cases where an agreement on the short-stay visa waiver between the Union and a third country listed in Annex II includes provisions on different grounds for suspension or different procedures, those provisions should be applied instead of the relevant provisions of the Regulation.

Second, the proposal establishes **the conditions and procedure for suspension in Articles 8a to 8f**. Article 8a sets out and amends all the grounds and thresholds for the suspension of the exemption from the visa requirement. The grounds for suspension of the visa exemption include the ones concerning an increase in irregular migration, an increase in the number of unfounded asylum applications, a decrease in cooperation on readmission and other cases of non-cooperation on readmission, currently listed separately under Article 8(2) and 8(3), and the lack of fulfilment of the visa liberalisation benchmarks, currently under Article 8(4).

In addition to existing grounds, with this proposal, the public policy and security ground for suspension in Article 8a(1)(d) is expanded to cover explicitly **threats to the public policy and security of the Member States arising from hybrid threats**, such as situations of state-

sponsored instrumentalisation of migrants aimed at destabilising or undermining society and key institutions²⁰.

A new suspension ground is introduced in Article 8a(1)(e) specifically addressing **investor citizenship schemes**, which are currently operated by a number of third countries listed in Annex II. The third countries concerned often advertise those schemes as ‘golden passports’ with the express purpose of allowing visa-free travel to the Union to third-country nationals that would otherwise be visa required. Such schemes can allow their beneficiaries to bypass the regular Schengen visa procedure and the in-depth assessment of individual migratory and security risks it entails, including a possible evasion of measures to prevent money laundering and financing of terrorism²¹. While the Union respects the right of sovereign countries to decide on their own naturalisation procedures, visa-free access to the Union should not be used as a tool for leveraging individual investment in return for citizenship. To address this issue, the EU should have the possibility, based on a Commission’s analysis, to suspend the visa exemption for a third country that chooses to operate an investor citizenship scheme whereby citizenship is granted without any genuine link to the third country concerned, in exchange for pre-determined payments or investments.

A new suspension ground is added in Article 8a(1)(f) to cover those 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. It should be possible to trigger the suspension mechanism to prevent such risks of irregular migration, in particular where the concerned third country is in close geographic proximity to the EU.

New with this proposal is the possibility, introduced in Article 8a(2) 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. In particular, the Commission should assess whether there are specific circumstances, in the cases notified by Member States or under its own analysis, that would justify the application of lower or higher thresholds than those indicated in the regulation. In its assessment, the Commission should take into account the actual numbers of irregular crossing of the external borders of a Member State, unfounded asylum applications or criminal offences, the number and size of the Member State(s) affected, and the impact on their overall migratory situation, functioning of their asylum systems, or internal security, as well as actions taken by the third country in question to remedy the situation.

Article 8b lays down **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**

²⁰ As defined in the Joint Communication to the European Parliament and the Council: Joint Framework on countering hybrid threats a European Union response, JOIN(2016) 18 final; and Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Responding to state-sponsored instrumentalisation of migrants at the EU external border, JOIN(2021) 32 final.

²¹ Report From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Investor Citizenship and Residence Schemes in the European Union, COM (2019) 12 final, page 23.

notification. This is currently regulated in Article 8(2) and 8(5) of Regulation (EU) 2018/1806, respectively. The scope of the Member States' notification is not amended, as it continues to cover the existing suspension grounds on increases in irregular migration, unfounded asylum applications, decreases in cooperation on readmission, and increases in serious criminal offences. While the new proposed grounds for suspension are reserved to the analysis of the Commission regulated in Article 8c, the Member States will be able to provide relevant information to the Commission also on these additional grounds, though outside the formal notification procedure set out in Article 8b.

Article 8b also **modifies the reference period for identifying the existence of the circumstances** which may lead to the suspension (currently included in Article 8(2)). The reference period is amended to cover *at least* a two-month period. This would allow to take into consideration also longer reference periods (e.g., annual trends) and not only sudden changes in the relevant circumstances.

Article 8c sets out the **Commission's 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.

Article 8d outlines the **Commission's reporting obligations** with regard to countries that have completed a visa liberalisation dialogue (currently in Article 8(4)) and introduces the possibility for the Commission to report on any of the visa-free countries listed in Annex II, either on its own initiative or at the request of the European Parliament or the Council.

Article 8e and 8f concern the suspension procedure by means of implementing and delegated acts, respectively, currently laid down in Article 8(6). This procedure is 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). This aims to make the suspension procedure more efficient and allow appropriate time for dialogue with the third country in question and for it to take steps to remedy the circumstances that led to the suspension.

Article 8e also introduces **an urgency procedure**, which would allow the Commission to suspend a visa exemption through an immediately applicable implementing act, when it considers that imperative grounds of urgency exist, which require expedited action that could not be ensured under the ordinary procedure, in particular to prevent a mass influx of third-country nationals arriving irregularly in a Member State from the territory of a third country that is visa-free for the EU or a serious damage to the public policy or internal security of Member States.

In either phase, the **suspension may be lifted as soon as the circumstances that led to the suspension are remedied.** The procedure for lifting the suspension of the visa exemption in case the circumstances which led to the suspension cease to exist before the end of the temporary suspension phase in question is laid down in Articles 8e(4) and 8f(5).

Given that Article 8e provides for an urgency procedure, Article 11 is also amended to reference the corresponding procedure in Article 8 of Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), point (a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2018/1806 of the European Parliament and of the Council²² lists the third countries whose nationals are to 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.
- (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.
- (3) In particular, the use of the suspension mechanism should be facilitated by broadening the possible grounds for suspension, adapting the relevant thresholds and procedures, and strengthening the Commission's monitoring and reporting obligations.
- (4) The Union has concluded a number of agreements on the short-stay visa waiver with countries listed in Annex II to Regulation (EU) 2018/1806 which may include different grounds for suspension or different procedures than the ones set out in the suspension mechanism, and may conclude further of those agreements in the future. As the Union respects international agreements and, thus, is bound by these agreements, the relevant different provisions set out in those agreements should be applied instead of the relevant provisions of the suspension mechanism.
- (5) In its conclusions of 22 October 2021, the European Council invited the Commission to propose any necessary changes to the Union's legal framework and concrete

²² Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303 28.11.2018, p. 39).

measures to ensure an immediate and appropriate response to hybrid threats in line with Union law and international obligations. Therefore, it should be possible to trigger the suspension mechanism in case of risks or threats to the public policy or internal security of the Member States arising from hybrid threats such as situations of state-sponsored instrumentalisation of migrants aimed at destabilising or undermining society and key institutions.

- (6) Investor citizenship schemes operated by third countries listed in Annex II to Regulation (EU) 2018/1806 allow visa-free travel to the Union to third-country nationals that would otherwise be visa required. Under an investor citizenship scheme, citizenship is granted in return for pre-determined payments or investments without any genuine link to the third country concerned. While the Union respects the right of sovereign countries to decide on their own naturalisation procedures, visa-free third countries should be deterred from using visa-free access to the Union as a tool for leveraging individual investment in return for their citizenship. To prevent visa-free access to the Union being used for this purpose, it should be possible to suspend the visa exemption for a third country which chooses to operate such investor citizenship schemes, whereby citizenship is granted without any genuine link to the third country concerned.
- (7) Where the visa policy of a third country listed in Annex II to Regulation (EU) 2018/1806 is not aligned with the visa policy of the Union as regards the list of third countries whose nationals are required to be in possession of a visa when crossing the external borders of the Member States, this could result in irregular migration to the Union, in particular where the concerned third country is in close geographic proximity to the Union. Therefore, it should be possible to trigger the suspension mechanism where, following an assessment, the Commission concludes that there is a risk of a substantial increase in the number of third-country nationals, other than nationals of that third country, who arrive legally in the territory of that third country and then irregularly enter the territory of the Member States.
- (8) The thresholds to trigger the suspension mechanism in case of a substantial increase in the number of nationals of a third country refused entry or found to be staying in the Member State's territory without a right to do so, or in the number of asylum applications from the nationals of that third country for which the recognition rate is low, or in the number of serious criminal offences linked to the nationals of that third country, should be subject to a case-by-case assessment by the Commission. In particular, the Commission should be able to assess whether there are specific circumstances, in the cases notified by Member States or under its own analysis, which would justify the application of lower or higher thresholds than those indicated in relevant provisions of Regulation (EU) 2018/1806. The Commission's assessment should take into account, for example, the number of unauthorised crossings of the external borders of the Member States, unfounded asylum applications or criminal offences in proportion to the number and size of Member States affected and the impact of those numbers on the overall migratory situation, functioning of the asylum systems or internal security of the Member States affected, as well as actions taken by the third country concerned to remedy the situation.
- (9) For the purpose of notifying to the Commission the circumstances that may amount to a ground for suspension, Member States should be able to take into account reference periods longer than two months in order to identify not only sudden changes in the relevant situation, but also longer-term trends that may justify the use of the visa suspension mechanism.

- (10) Whenever it considers it necessary, or upon request by the European Parliament or by the Council, the Commission should report on the outcome of its systematic monitoring of the visa-free regimes with all the third countries listed in Annex II to Regulation (EU) 2018/1806. The report should focus on those third countries which, according to the Commission's analysis, present specific problems that, if not addressed, may lead to trigger the suspension mechanism. In particular, the Commission should consider reporting on countries which have been newly listed in Annex II without undergoing a visa liberalisation dialogue, where it considers it necessary and in particular in the first years following the entry into force of the visa exemption for those countries.
- (11) Where a decision to temporarily suspend the visa exemption for a third country has been taken, there should be an adequate timeframe for the enhanced dialogue between the Commission and the concerned third country aimed at remedying the circumstances that led to the suspension. For this purpose, the duration of the temporary suspension decided by a Commission implementing act should be 12 months in a first phase, with a possibility to extend it by a further 24 months with a delegated act in a second phase. Where no solution is found before the end of the period of validity of the delegated act and the Commission presents a legislative proposal to transfer the concerned third country from Annex II to Annex I of Regulation (EU) 2018/1806, the Commission should adopt a delegated act extending the temporary suspension until the entry into force of the adopted proposal.
- (12) The Commission should adopt immediately applicable implementing acts where, in duly justified cases related to the triggering of the suspension mechanism, imperative grounds of urgency require expedited action, in particular to prevent any abuse of visa-free travel causing a mass influx of third-country nationals arriving irregularly in the territory of the Member States or a serious damage to the public policy or internal security of Member States.
- (13) The temporary suspension should be lifted at any time where the circumstances that led to the suspension are remedied before the end of the period of the suspension. To this end, the Commission should adopt, respectively, an implementing act before the end of the period of suspension set out in the relevant implementing act, and a delegated act before the end of the period of suspension set out in the relevant delegated act.
- (14) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC²³.
- (15) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of

²³ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

the Schengen *acquis*²⁴, which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC²⁵.

- (16) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*²⁶, which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU²⁷.
- (17) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC²⁸; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (18) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2018/1806 is amended as follows:

(1) Article 8 is replaced by the following:

“Article 8

Suspension mechanism

1. By way of derogation from Article 4, the exemption from the visa requirement for nationals of a third country listed in Annex II shall be temporarily suspended, based on relevant and objective data, in accordance with the conditions and procedure set out in Articles 8a to 8f.

²⁴ OJ L 53, 27.2.2008, p. 52.

²⁵ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

²⁶ OJ L 160, 18.6.2011, p. 21.

²⁷ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

²⁸ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p.20).

The suspension mechanism may be triggered by a notification of a Member State to the Commission in accordance with Article 8b, or on the basis of the Commission's own analysis in accordance with Article 8c.

2. In cases where an agreement on the short-stay visa waiver between the Union and a third country listed in Annex II includes provisions on different grounds or procedures for suspension, those provisions shall be applied instead of Articles 8a, 8e and 8f of this Regulation.”

(2) the following Articles are inserted:

“Article 8a

Grounds for suspension

1. The suspension mechanism may be triggered on the following grounds:

(a) a substantial increase in the number of nationals of a third country listed in Annex II refused entry or found to be staying in a Member State's territory without a right to do so;

(b) a substantial increase in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate is low;

(c) a decrease in cooperation on readmission with a third country listed in Annex II, or other cases of non-cooperation on readmission;

(d) a significant risk or imminent threat to the public policy or internal security of Member States related to a third country listed in Annex II deriving from any of the following:

(i) a substantial increase in serious criminal offences, linked to the nationals of that third country, substantiated by objective, concrete and relevant information and data provided by the competent authorities;

(ii) hybrid threats;

(e) the operation, by a third country listed in Annex II, of an investor citizenship scheme, whereby citizenship is granted without any genuine link to the third country concerned, in exchange for pre-determined payments or investments;

(f) the non-alignment of the visa policy of a third country listed in Annex II, where, in particular because of the geographic proximity of that third country to the Union, there is a risk of a substantial increase in the number of third-country nationals, other than nationals of that third country, who enter irregularly the territory of the Member States after having stayed on, or transited through, the territory of that third country;

(g) with regard to the third countries whose nationals have been exempted from the visa requirement when travelling to the territory of the Member States as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country, the non-compliance with the specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

2. For the purposes of paragraph 1, points (a), (b) and (d)(i), of this Article a substantial increase shall mean an increase exceeding a threshold of 50%, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a lower or higher increase is applicable in the particular case.

3. For the purposes of paragraph 1, point (b), of this Article a low recognition rate shall mean a recognition rate of asylum applications of less than 4%, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a higher recognition rate is applicable in the particular case.

4. For the purposes of paragraph 1, point (c), a decrease in cooperation on readmission with a third country listed in Annex II shall mean a substantial increase, substantiated by adequate data, in the refusal rate of readmission applications submitted by a Member State to that third country for its own nationals or, where a readmission agreement concluded between the Union or that Member State and that third country so provides, for third-country nationals having transited through that third country.

5. For the purposes of paragraph 1, point (c), the following may be considered as other cases of non-cooperation on readmission:

- (a) refusing or failing to process readmission applications in due time;
- (b) failing to issue travel documents in due time for the purposes of returning within the deadlines set out in the readmission agreement or refusing to accept European travel documents issued following the expiry of the deadlines set out in the readmission agreement;
- (c) terminating or suspending the readmission agreement concluded between a third country listed in Annex II and the Union.

Article 8b

Notification by Member States and examination of the notification

1. A Member State may notify the Commission if it is confronted, over a period of at least two months, compared with either the same period in the preceding year or the last two months prior to the implementation of the exemption from the visa requirement for nationals of a third country listed in Annex II, with one or more of the circumstances amounting to the grounds for suspension referred to in Article 8a(1), points (a), (b), (c), and (d)(i).

2. The notification referred to in paragraph 1 of this Article shall state the reasons on which it is based and shall include relevant data and statistics as well as a detailed explanation of the preliminary measures that the Member State concerned has taken with a view to remedying the situation. In its notification, the Member State concerned may specify the categories of nationals of the third country concerned which are to be covered by an implementing act under Article 8e(1), specifying the detailed reasons for doing so.

3. The Commission shall inform the European Parliament and the Council immediately of such notification.

4. The Commission shall examine any notification made pursuant to paragraph 1 of this Article, taking into account:

- (a) whether any of the circumstances amounting to the grounds referred to in Article 8a(1), points (a), (b), (c), or (d)(i) exist;
- (b) the number of Member States affected by any of those circumstances;
- (c) the overall impact of those circumstances on the migratory situation in the Union as it appears from the data provided by the Member States or available to the Commission;
- (d) the reports prepared by the European Border and Coast Guard²⁹, the European Union Agency for Asylum³⁰, the European Union Agency for Law Enforcement Cooperation

²⁹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

(Europol)³¹ or any other relevant institution, body, office or agency of the Union or international organisation, if the circumstances so require in the specific case;

(e) the information which the Member State concerned may have given in its notification in relation to possible measures under Article 8e(1);

(f) the overall question of public policy and internal security, in consultation with the Member State concerned.

5. The Commission shall inform the European Parliament and the Council of the results of its examination.

Article 8c

The Commission's monitoring and own analysis

1. The Commission shall monitor the existence of the grounds for suspension referred to in Article 8a(1) on a regular basis.

With particular 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, the Commission shall monitor the continuous compliance with the specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

2. Where the Commission, taking into account the relevant data, reports and statistics, has concrete and reliable information on the existence of any of the grounds referred to in Article 8a(1) it shall inform the European Parliament and the Council of its analysis, and Article 8e and Article 8f shall apply.

Article 8d

Reporting

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.

2. The Commission shall also report, whenever it considers it to be necessary, or upon request by the European Parliament or by the Council, on third countries listed in Annex II other than the ones referred to in paragraph 1 of this Article.

³⁰ Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).

³¹ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

Article 8e

Implementing acts

1. Where, on the basis of the examination referred to in Article 8b(4), or the analysis referred to in Article 8c(2), and taking into account the consequences of a suspension of the exemption from the visa requirement for the overall external relations of the Union and its Member States with the third country concerned, while working in close cooperation with that third country to find alternative long-term solutions, the Commission decides that action is needed, or where a simple majority of Member States have notified the Commission of the existence of circumstances referred to in Article 8a(1), points (a), (b), (c) or (d)(i), the Commission 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 12 months.

The suspension shall apply to certain categories of nationals of the third country concerned, by reference to the relevant types of travel documents and, where appropriate, to additional criteria. When deciding to which categories the suspension is to apply, the Commission shall, based on the information available, include categories that are broad enough in order to efficiently contribute to remedying the circumstances that led to the suspension, while respecting the principle of proportionality and non-discrimination in line with Article 21 of the Charter of Fundamental Rights of the European Union. That implementing act shall fix the date on which the suspension of the exemption from the visa requirement is to take effect.

The Commission shall adopt the implementing act referred to in the first subparagraph within one month of:

- (a) receiving the notification referred to in Article 8b;
- (b) informing the European Parliament and the Council of its analysis referred to in Article 8c(2);
- (c) receiving the notification from a simple majority of Member States of the existence of grounds referred to in Article 8a(1), points (a), (b), (c) or (d)(i).

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 11(2).

2. On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 11(4), temporarily suspending the exemption from the visa requirement for the nationals of the third country concerned for a period of 12 months.

3. During the period of suspension, the Commission shall establish an enhanced dialogue with the third country concerned with a view to remedying the circumstances in question.

4. Where the circumstances that led to the temporary suspension of the exemption from the visa requirement are remedied before the end of the period of validity of the implementing acts adopted pursuant to paragraphs 1 and 2, the Commission shall adopt an implementing act to lift the temporary suspension in accordance with the examination procedure referred to in Article 11(2).

Article 8f

Delegated acts

1. Where the grounds referred to in Article 8a persist, the Commission shall adopt, at the latest two months before the expiry of the 12-month period referred to in Article 8e(1), a

delegated act in accordance with Article 10, amending Annex II to temporarily suspend the application of that Annex for a period of 24 months for all nationals of the third country concerned. That amendment shall be made by inserting a footnote next to the name of the third country in question, indicating that the exemption from the visa requirement is suspended with regard to that third country and specifying the period of that suspension. The delegated act shall take effect from the date of expiry of the implementing act referred to in Article 8e(1).

2. Without prejudice to the application of Article 6, during the period of suspension, the nationals of the third country concerned shall be required to be in possession of a visa when crossing the external borders of the Member States.

3. A Member State which, in accordance with Article 6, provides for new exemptions from the visa requirement for a category of nationals of the third country covered by the act suspending the exemption from the visa requirement shall communicate those measures in accordance with Article 12.

4. Before the end of the period of validity of the delegated act adopted pursuant to paragraph 1 of this Article, the Commission shall submit a report to the European Parliament and to the Council.

The report may be accompanied by a legislative proposal to amend this Regulation in order to transfer the reference to the third country concerned from Annex II to Annex I. In that case, the Commission shall adopt a further delegated act in accordance with Article 10, amending Annex II to extend the period of suspension of the exemption from the visa requirement from the end of the period of validity of the delegated act adopted pursuant to paragraph 1 of this Article until the entry into force of the amendment transferring the third country concerned to Annex I. The footnote shall be amended accordingly.

5. Where the circumstances that led to the temporary suspension of the exemption from the visa requirement are remedied before the end of the period of validity of the delegated acts adopted pursuant to paragraphs 1 and 4 of this Article, the Commission shall adopt a delegated act in accordance with Article 10 amending Annex II to lift the temporary suspension.”

(4) Article 10 is amended as follows:

- (a) in paragraph 3, ‘point (b) of Article 8(6)’ is replaced by ‘Article 8f’;
- (b) in paragraph 4, ‘point (b) of Article 8(6)’ is replaced by ‘Article 8f’;
- (c) in paragraph 8, ‘point (b) of Article 8(6)’ is replaced by ‘Article 8f’.

(5) in Article 11, the following paragraph 4 is added:

“4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.”

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*