EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1806 as regards Vanuatu

REGULATION (EU) …/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Regulation (EU) 2018/1806 as regards Vanuatu

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[1],

[1] Position of the European Parliament of 27 November 2024 (not yet published in the Official Journal) and decision of the Council of …

Whereas:

(1) Regulation (EU) 2018/1806 of the European Parliament and of the Council[2] lists the third countries whose nationals are to be in possession of a visa when crossing the external borders of the Member States (the 'visa requirement') and those whose nationals are exempt from the visa requirement for stays of no more than 90 days in any 180-day period (the 'visa exemption').

(2) The Republic of Vanuatu is listed in Part 1 of Annex II to Regulation (EU) 2018/1806 as a third country whose nationals are exempt from the visa requirement. The visa exemption has applied to nationals of Vanuatu since 28 May 2015, when the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver[3] (the 'Agreement') was signed and became applicable on a provisional basis in accordance with Article 8(1) of the Agreement. The Agreement entered into force on 1 April 2017.

(3) Since 25 May 2015, Vanuatu has been operating investor citizenship schemes through which third-country nationals who would otherwise be subject to the visa requirement are able to obtain Vanuatu citizenship in exchange for an investment, therefore obtaining visa-free access to the Union.

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[2] 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, ELI: http://data.europa.eu/eli/reg/2018/1806/oj).

[3] OJ L 173, 3.7.2015, p. 48, ELI: http://data.europa.eu/eli/agree_internation/2015/1035/oj.

(4) As the granting of citizenship by Vanuatu under its investor citizenship schemes was deemed to constitute a circumvention of the Union short-stay visa procedure and the assessment of security and migratory risks it entails, as well as an increased risk to the internal security and public policy of the Member States, the Council adopted, on 3 March 2022, Decision (EU) 2022/366[4], which partially suspended the application of the Agreement pursuant to Article 8(4) of the Agreement. The suspension of the application of the Agreement was limited to ordinary passports issued by Vanuatu from 25 May 2015, when the number of successful applicants under Vanuatu's investor citizenship schemes started to increase significantly.

(5) On 27 April 2022, the Commission adopted Implementing Regulation (EU) 2022/693[5], which temporarily suspended the visa exemption for nationals of Vanuatu from 4 May 2022 to 3 February 2023 pursuant to Article 8(6), first subparagraph, point (a), of Regulation (EU) 2018/1806.

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4 Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105, ELI: http://data.europa.eu/eli/dec/2022/366/oj).

5 Commission Implementing Regulation (EU) 2022/693 of 27 April 2022 on the temporary suspension of the visa exemption for nationals of Vanuatu (OJ L 129, 3.5.2022, p. 18, ELI: http://data.europa.eu/eli/reg_impl/2022/693/oj).

(6) In the period following 4 May 2022, the date on which the temporary suspension of the visa exemption began to apply, and pursuant to Article 8(6), first subparagraph, point (a), third subparagraph, of Regulation (EU) 2018/1806, the Commission established an enhanced dialogue with Vanuatu with a view to remedying the circumstances which led to the temporary suspension of the visa exemption. However, Vanuatu did not engage in a meaningful way during that dialogue.

(7) Due to the persistence of the circumstances which led to the temporary suspension of the visa exemption and the lack of engagement on the part of Vanuatu to remedy them, by means of Council Decision (EU) 2022/2198[6], the Council repealed Decision (EU) 2022/366 and suspended the application of the Agreement in its entirety from 4 February 2023.

(8) Pursuant to Article 8(6), first subparagraph, point (b), of Regulation (EU) 2018/1806, the Commission adopted Delegated Regulation (EU) 2023/222[7] on 1 December 2022, which temporarily suspended the visa exemption for all nationals of Vanuatu from 4 February 2023 to 3 August 2024.

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[6] Council Decision (EU) 2022/2198 of 8 November 2022 on the suspension in whole of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 292, 11.11.2022, p. 47, ELI: http://data.europa.eu/eli/dec/2022/2198/oj).

[7] Commission Delegated Regulation (EU) 2023/222 of 1 December 2022 on the temporary suspension of the visa exemption for all nationals of Vanuatu (OJ L 32, 3.2.2023, p. 1, ELI: http://data.europa.eu/eli/reg_del/2023/222/oj).

(9) In the period following 4 February 2023, the date on which Delegated Regulation (EU) 2023/222 began to apply, the Commission continued the enhanced dialogue with Vanuatu. Four meetings were held between February 2023 and April 2024 and there were numerous exchanges of information in writing.

(10) Most of the concerns that relate to the investor citizenship schemes operated by Vanuatu and that were outlined by the Commission in Implementing Regulation (EU) 2022/693 persist. While Vanuatu adopted a number of legislative changes in 2023 aimed at addressing those concerns, it has failed to provide satisfactory proof that those changes are being implemented and are sufficient to mitigate the security risks posed by its investor citizenship schemes.

(11) The investor citizenship schemes operated by Vanuatu still do not contain any requirement for applicants to actually reside or be physically present in Vanuatu. The application process continues to be managed by specialised agencies located outside Vanuatu, which means that applicants do not need to have any direct contact with the authorities of Vanuatu. No interviews with applicants are held during the application process. The absence of a requirement for a physical interview reduces the opportunities for the authorities of Vanuatu to properly assess applicants and to verify the information provided in their application, including the veracity and credibility thereof.

(12) Applications continue to be processed within very short deadlines. For example, the screening and due diligence process for applications takes a maximum of 14 days, extendable to 30 days. The rejection rate continues to be extremely low, thus corroborating the Commission's assessment that the screening process is unreliable. According to information provided by Vanuatu, in 2022 and 2023, Vanuatu received 1 988 applications for citizenship in exchange for an investment, of which only 27 have been rejected.

(13) In March 2023, Vanuatu amended its Citizenship Act by replacing the institutions responsible for screening and carrying out due diligence checks on applications and the procedures therefor. In particular, the previous Internal Screening Committee appointed by the Prime Minister has been replaced by three institutions: the Vanuatu Police Force, the Financial Intelligence Unit and the Vanuatu Immigration Services. Those institutions screen and carry out due diligence checks on applications, including by searching Interpol databases, and report to the Secretary General of the Citizenship Commission. While on the one hand the new procedure appears to mitigate the risk of granting citizenship to persons who are listed on Interpol databases, on the other hand it does not include other elements that are necessary to properly assess whether applicants constitute a security risk. In particular, there is no adequate means for the authorities of Vanuatu to verify the veracity of the documents issued by applicants' country of origin or residence, such as identity documents and criminal records, since those authorities do not exchange information with applicants' countries of origin or residence.

(14) The countries of origin of successful applicants in 2022 and 2023 include mostly countries whose nationals are subject to the visa requirement. In 2023, most applications were from nationals of China (519) and Russia (237). Contrary to other third countries that operate investor citizenship schemes, Vanuatu has continued to accept and process applications from Russian nationals since the start of Russia's war of aggression against Ukraine.

(15) Before 2021, persons who acquired Vanuatu citizenship through an investor citizenship scheme could also subsequently apply for a name change in Vanuatu. During the enhanced dialogue, Vanuatu informed the Commission that in 2021 the relevant legislation was amended in order to provide that persons holding dual citizenship could not register a name change in Vanuatu. However, Vanuatu also informed the Commission that it does not hold any records of name changes registered prior to 2019. Therefore, it could not provide any information on the number of persons who acquired citizenship in exchange for an investment and subsequently changed their name or on any follow-up checks on those persons.

(16) While Vanuatu informed the Commission that, based on its case law, it is possible to revoke citizenship where it was obtained fraudulently or illegally, it has not provided information on actual cases in which citizenship acquired through its investor citizenship schemes was revoked. Furthermore, Vanuatu has not implemented any structural *ex-post* monitoring mechanism to address the potential security loopholes of the more than 10 000 passports issued before the amendment of its Citizenship Act and the introduction of the allegedly more robust screening procedure. In February 2023, Vanuatu established a commission of inquiry tasked with investigating any alleged wrongdoings committed during the operation of the investor citizenship schemes since their establishment. In April 2024, Vanuatu informed the Commission that that investigation was still ongoing and that it could not provide a certain date by which the Commission of Inquiry will deliver its findings.

(17) Pursuant to Article 8(7) of Regulation (EU) 2018/1806, before Delegated Regulation (EU) 2023/222 ceased to apply, the Commission submitted a report to the European Parliament and to the Council on the suspension of the visa exemption for nationals of Vanuatu in which it described in detail the enhanced dialogue with Vanuatu and concluded that Vanuatu had not remedied the circumstances that led to the suspension of the visa exemption.

(18) Regulation (EU) 2018/1806 should therefore be amended by transferring the reference to Vanuatu from Part 1 of Annex II to Part 1 of Annex I in order to reintroduce the visa requirement for nationals of Vanuatu.

(19) 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 latters' association with the implementation, application and development of the Schengen *acquis*[8] which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC[9].

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[8] OJ L 176, 10.7.1999, p. 36, ELI: http://data.europa.eu/eli/agree_internation/1999/439(1)/oj.

[9] 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, ELI: http://data.europa.eu/eli/dec/1999/437/oj).

(20) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*[10] 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/EC[11].

[10] OJ L 53, 27.2.2008, p. 52, ELI: http://data.europa.eu/eli/agree_internation/2008/178(1)/oj.

[11] 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, ELI: http://data.europa.eu/eli/dec/2008/146/oj).

(21) 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*[12] 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/EU[13].

(22) 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/EC[14]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

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12 OJ L 160, 18.6.2011, p. 21, ELI: http://data.europa.eu/eli/prot/2011/350/oj.

13 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, ELI: http://data.europa.eu/eli/dec/2011/350/oj).

14 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, ELI: http://data.europa.eu/eli/dec/2002/192/oj).

(23) As regards Cyprus, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 3(1) of the 2003 Act of Accession,

HAVE ADOPTED THIS REGULATION:

Article 1

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

(1) in Part 1 of Annex I, the following entry is inserted after the entry ‘Uzbekistan’:

‘Vanuatu’;

(2) in Part 1 of Annex II, the following entry is deleted:

‘Vanuatu*

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* The exemption from the visa requirement for all nationals of Vanuatu is suspended from 4 February 2023 to 3 February 2025.’.

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 …, …

For the European Parliament	*For the Council*
The President	*The President*