Council of the European Union

Brussels, 20 June 2025
(OR. en)

10399/25

Interinstitutional File:
2023/0371 (COD)

LIMITE

VISA 93
FRONT 147
MIGR 222
COMIX 184
CODEC 819
CH
IS
LI
NO

PUBLIC

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
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 - Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 18 October 2023, the Commission submitted to the Council and the European Parliament a legislative proposal[1] aimed at strengthening and improving the suspension mechanism established in Regulation (EU) 2018/1806[2], which allows for the temporary suspension of the visa exemption in the event of abuse by a third country of its visa-free regime. The objective was in particular to adapt the suspension mechanism in order to better equip the Union to respond to the increasing challenges resulting from irregular migration and threats to the EU's security.

[1] 14008/23 + COR 1.

[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.

2. The draft Regulation is based on Article 77(2)(a) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

II. WORK IN THE COUNCIL PREPARATORY BODIES

3. In the Council, the Visa Working Party started a thorough examination of the proposal under the Spanish Presidency and continued it under the Belgian Presidency.

4. On 13 March 2024, Coreper granted the Presidency a mandate to enter interinstitutional negotiations[3].

III. WORK IN THE OTHER INSTITUTIONS AND BODIES

5. In the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) has the lead responsibility. Matjaž NEMEC (S&D, SI) was appointed rapporteur for this file.

6. The LIBE committee adopted the Parliament's position on 19 March 2025. The European Parliament confirmed the decision to enter into interinstitutional negotiations at its plenary session of 31 March-3 April 2025.

7. The European Economic and Social Committee adopted an own-initiative opinion at its plenary session on 23-24 October 2024[4].

IV. INTERINSTITUTIONAL NEGOTIATIONS

8. The interinstitutional negotiations started on 7 April 2025. Four political trilogues took place (on 7 April, 29 April, 20 May and 17 June 2025). In addition to those political trilogues, a total of seven technical meetings and three informal drafting sessions were held.

9. Delegations were kept informed throughout on the progress of negotiations, both at technical and political level, notably with trilogues prepared and debriefed in Coreper.

---

3 7687/24.

4 REX/582, Rapporteur Ionuţ SIBIAN (RO-III): https://dm-publicapi.EESC.europa.eu/v1/documents/eesc-2024-01460-00-00-ac-tra-en.docx/content

PUBLIC

10. At the fourth trilogue on 17 June 2025, the co-legislators secured an agreement on all outstanding political issues. The overall result of the negotiations is set out in the Annex [5]. The Presidency considers that the compromise reached with the European Parliament is balanced and respects the mandate it had received.

V. MAIN ELEMENTS OF THE COMPROMISE PROPOSAL

11. The compromise text provisionally agreed with the Parliament includes most of the elements of the Council mandate.

12. This is notably the case for the grounds on the basis of which the suspension mechanism can be triggered. The "deficiencies in document security" is now spelled out as one of the examples of risk to public policy and internal security: only the qualification of "systemic" was added, in order to better characterise the nature of those deficiencies. The list of those risks has been kept open, in line with the Council's wishes. The final agreement also refers to the grounds included in visa waiver agreements, as suggested by the Council, thus clarifying the interplay between the suspension of such agreements and the suspension of the visa exemption under Article 8 of the Visa Regulation.

13. As sought by the Council, a targeted suspension in the second phase of the mechanism, affecting only certain categories of nationals, is now possible in the event of non-compliance with specific requirements on external relations or fundamental rights for third countries that are visa-free as a result of the successful conclusion of a visa liberalisation dialogue or in the event of a deterioration in the Union's external relations with other countries listed in Annex II.

[5] Changes compared to the initial Commission proposal (14008/23 + COR 1) are marked as follows: text deleted appears in ~~strikethrough~~; new text appears in ***bold italics***.

PUBLIC

14. The thresholds proved to be the most contentious issue during the negotiations, but the Council managed to preserve its mandate: the threshold for the "substantial increase" (in cases of refused entry or of overstay, in the number of asylum applications and in serious criminal offences and now also, explicitly, in the refusal rate for readmission applications) is set at 30% and the "low recognition rate" of asylum applications at 20%, in line with the Pact on Migration and Asylum. The flexibility given to the Commission to apply different thresholds in specific cases – a safeguard against any automatism in the implementation of those provisions – has been kept in the text. To facilitate the agreement on the "substantial increase" threshold, a review clause has been included in the Regulation in order to assess three years after the entry into force of the Regulation how the threshold has been implemented, focusing, in particular, on whether the threshold is relevant for the purposes of the suspension mechanism.

15. The urgency procedure for suspending visa exemptions is also almost identical to what was proposed by the Council. Greater Member State involvement in the decision-making process is thus ensured.

16. A few elements from the European Parliament mandate are reflected in the final agreement.

17. The Regulation spells out a number of principles to guide the Commission's action. As part of its examination pursuant to paragraph 4, the Commission will have to assess the necessity, proportionality and consequences of a suspension of the exemption from the visa requirement. In the same vein, the Commission will have to take into account the consequences of the suspension on civil society in the third country concerned, in particular where the human rights situation in that third country has deteriorated. However, these do not appear to be additional requirements that have the potential to make the mechanism more cumbersome, as they merely make explicit what is already happening.

18. The content of the Commission's information and reports throughout the suspension procedure is better spelled out, notably to keep the co-legislators fully informed of the dialogue with the third country concerned, the effectiveness of the suspension and the measures taken to remedy the circumstances that have led to the temporary suspension of the visa exemption.

PUBLIC

19. What constitutes a deterioration in the Union's external relations with a third country listed in Annex II – one of the grounds for suspension – has been expanded compared to what was proposed by the Council, to include hostile acts against the Union or Member States with the aim of destabilising or undermining society or institutions that are key for the public policy and internal security of the Union or the Member States.

20. The major novelty compared to the Council mandate is the introduction of a prohibition on Member States to exempt holders of diplomatic, service, official and special passports from the visa requirement once these types of passports are the object of a targeted suspension triggered under the circumstances referred to in paragraph 13 above, in order not to circumvent EU measures on the basis of bilateral agreements (whether these are new or pre-date the suspension).

VI. CONCLUSION

21. The Permanent Representatives Committee is therefore invited to:

- confirm agreement on the final compromise text as set out in the Annex to this note with a view to reaching an agreement at first reading with the European Parliament;

- authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs, that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the Annex to this note, subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

PUBLIC

ANNEX

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

PUBLIC

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 Council[1] 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.

(1a) Visa-free travel brings significant benefits to the Union and third countries alike. Economic, social and cultural relations with third countries create prosperity and promote internationally the open and free nature of the Union as an Area of freedom, security and justice. The Union's common visa policy, in that regard, is a cornerstone of its engagement with third countries. At the same time, the evolving geopolitical context has brought new challenges linked to visa-free travel. In order to address these new challenges and a wider range of irregular migration, public policy and security risks arising from the third countries listed in that Annex II, 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 and made more efficient.

---

[1] 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).

~~(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~~***, and might*** 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~~***Where the activation*** of the suspension mechanism ***concerns a third country with which the Union has concluded such an agreement, the mechanism should be applied without prejudice to the relevant provisions on grounds for suspension and procedures set out in that agreement. This includes the requirement that, for the suspension of the visa exemption under Union law to take effect in compliance with the Union's international obligations, the application of the relevant agreement must be suspended in parallel by means of a Council decision.***

(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 measures~~***Due to a need*** 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~~***, as referred to in Regulation (EU) 2024/1359, which aim to destabilise or undermine*** society and key institutions.

(5a) It is essential that the travel, identity and breeder documents issued by countries listed in Annex II to Regulation (EU) 2018/1806 can be fully trusted and not easily falsified or counterfeited. Deficiencies of a systemic nature in document security legislation or procedures could lead to risks or threats to public policy or internal security of Member States. It should be possible to trigger the suspension mechanism on this ground.

(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. ***In addition, a lack of comprehensive security checks, vetting procedures and due diligence by such third countries with regard to investor citizenship schemes pose several serious security risks for Union citizens, such as those stemming from money laundering and corruption.*** 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~~***such non-alignment could lead to*** 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.

(7a) Regulation (EU) 2018/1806 determines the third countries whose nationals are subject to, or exempt from, the visa requirement. Some of the criteria used for the purpose of exemption from the visa requirement are reflected in the grounds for suspension in other provisions of that regulation, thereby ensuring a link between the criteria for granting visa exemption and the grounds for suspension. The revised suspension mechanism should therefore also provide for the possibility to suspend the visa-free regime in case of a deterioration in the Union's external relations with a third country listed in Annex II caused by serious breaches of the principles set out in the Charter of the United Nations, grave violations of fundamental freedoms or of the obligations deriving from international human rights law or international humanitarian law, serious breaches of international law and international legal standards, non-compliance with international court decisions and rulings or hostile acts carried out against the Union or Member States with the aim of destabilising or undermining society or institutions which are key for the public policy and internal security of the Union or the Member States. Such hostile acts could result from foreign interference in political processes, economic coercion, cyber operations, economic espionage or the sabotage of critical infrastructure. Moreover, given that the external relations of the Union will be affected as a whole, the triggering of the suspension mechanism on that ground should be the exclusive prerogative of the Commission, after consultation of the Member States. Additionally, where the Commission considers suspending the visa exemption on that ground, its assessment should take into account the potential impact of the suspension on the nationals of the third country concerned.

(7b) ***The short-stay visa waiver agreements concluded with countries listed in Annex II to Regulation (EU) 2018/1806 might include different grounds for suspension than the ones set out in the suspension mechanism. Consequently, it should be possible to trigger the suspension mechanism also on the basis of those grounds. However, the use of the grounds for suspension set out in short-stay visa waiver agreements should be limited to the scope of application of such agreements.***

(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. ***The Commission should thoroughly assess the necessity, proportionality and consequences of such a suspension before adopting the relevant act.***

(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***, up to twelve months,*** 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***, on the basis, inter alia, of data from EU information systems, such as the EES and ETIAS, and from Union agencies***. The report should focus on those third countries which, according to the Commission's analysis, ***no longer fulfil the criteria for granting exemption from the visa requirement under that Regulation that are relevant for the grounds for suspension, or which*** present specific problems that, if not addressed, ~~may~~***could*** lead to ~~trigger~~***a triggering of*** 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.

(10a) Where the mechanism is triggered on the grounds that a third country whose nationals have been exempted from the visa requirement as a result of the successful conclusion of a visa liberalisation dialogue has not complied with specific requirements on external relations or fundamental rights which were used to assess the appropriateness of granting visa liberalisation or on the ground of a deterioration in the Union's external relations with a third country, the Commission should favour a targeted approach, applying the suspension first and foremost to individuals holding positions of responsibility, such as members of that third country's official delegations, members of local, regional and national governments, members of parliaments or high-ranking public or military officials, minimising adverse consequences to the general population of that third country. The Commission should continuously monitor whether the triggering of the suspension mechanism has achieved the intended result and regularly report thereon to the European Parliament and to the Council.

(10b) Where a decision to temporarily suspend the visa exemption has been taken on the grounds that a third country whose nationals have been exempted from the visa requirement as a result of the successful conclusion of a visa liberalisation dialogue has not complied with the specific requirements on external relations or fundamental rights which were used to assess the appropriateness of granting visa liberalisation or on the ground of a deterioration in the Union's external relations with a third country, and such decision targeted categories of nationals of that third country in the positions of responsibility, the Member States should take all necessary steps not to provide for exceptions from the temporary visa requirement for the whole duration of temporary measures.

(10c) Where the Commission considers suspending an exemption from the visa requirement based on its own analysis or following a notification by a Member State, it should take into account, in its assessment, the impact of the suspension on the civil society in the third country concerned, in particular where the human rights situation in that third country has deteriorated.

(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. ***When adopting that delegated act, it is important that the Commission explain in detail the outcome of the enhanced dialogue with the third country concerned, the measures adopted by that third country and by the Member States concerned, and the reasons for considering that the circumstances leading to the temporary suspension have not been remedied.*** 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***, but not longer than 24 months***.

(11a) Where an implementing act temporarily suspending the exemption from the visa requirement for nationals of a third country is adopted based on the grounds that a third country whose nationals have been exempted from the visa requirement as a result of the successful conclusion of a visa liberalisation dialogue has not complied with the specific requirements on external relations or fundamental rights which were used to assess the appropriateness of granting visa liberalisation or on the ground of a deterioration in the Union's external relations with a third country, and those circumstances persist, the Commission should be able to decide that a delegated act extending the suspension applies only to certain categories of nationals, taking into account the specific circumstances of the case and the principle of proportionality. Where no solution is found before the end of the period of validity of that delegated act, the Commission should reassess the situation and should be able to decide to further extend the suspension by way of a second delegated act concerning designated categories of nationals.

(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~~ ***where the*** urgency ~~require expedited action, in particular~~***of the matter requires it, for example*** 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***, the Commission should adopt implementing acts in accordance with Article 5 in conjunction with Article 3(3) and (5) of Regulation (EU) 182/2011***. ***Such provisions allow, in particular, to impose shorter time limits to the competent committee to deliver its opinion.***

(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.

(~~17~~***13a***) 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[2]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

---

[2] 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).

(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 latters' association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, ~~point B~~***points B and C***, of Council Decision 1999/437/EC[3].

(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 the Schengen acquis[4], 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[5].

(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[6], 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[7].

---

3 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).

4 OJ L 53, 27.2.2008, p. 52.

5 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).

6 OJ L 160, 18.6.2011, p. 21.

7 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).

~~(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/EC[8]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.~~

(18) ***As regards Cyprus,*** 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 ***("suspension mechanism")***.

   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~~***has been concluded***~~, those provisions shall be applied instead of~~ Articles 8a, 8e and 8f of this Regulation ***shall apply without prejudice to the relevant provisions on grounds for suspension and procedures set out in the agreement***."

~~[8] 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).~~

PUBLIC

(2) the following Articles are inserted:

"Article 8a
Grounds for suspension

1. The suspension mechanism may be triggered on ***any of*** 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***, in particular*** 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;

(iii) systemic deficiencies in document security legislation or procedures;

(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 ***which***, where, in particular because of the geographic proximity of that third country to the Union, ~~there is a risk of~~***could lead to*** 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;

PUBLIC

(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.

(h) a deterioration in the Union's external relations with a third country listed in Annex II caused by:

(i) serious breaches by that third country of the principles set out in the Charter of the United Nations;

(ii) grave violations by that third country of fundamental freedoms or of the obligations deriving from international human rights law or international humanitarian law;

(iii) serious breaches of international law and international legal standards;

(iv) that third country carrying out hostile acts against the Union or Member States with the aim of destabilising or undermining society or institutions which are key for the public policy and internal security of the Union or the Member States; or

(v) non-compliance with international court decisions and rulings;

(i) any other ground for suspension set out in a short-stay visa waiver agreement between the Union and a third country listed in Annex II, limited to the scope of application of such agreement.

2. For the purposes of paragraph 1, points (a), (b) and (d)(i), ***and paragraph 4*** of this Article a substantial increase shall ***be understood to*** mean an increase exceeding a threshold of ~~50%~~***30%***, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a ~~lower or higher~~***different threshold*** increase is applicable in the particular case. ***The Commission shall duly justify any such conclusion.***

By ... [36 months after the entry into force of this amending act], the Commission shall assess how the threshold set out in the first subparagraph has been implemented and shall present the results of that assessment to the European Parliament and to the Council. The assessment shall focus, in particular, on whether the threshold is relevant for the purposes of the suspension mechanism.

PUBLIC

3. For the purposes of paragraph 1, point (b), of this Article a low recognition rate shall ***be understood to*** mean a recognition rate of asylum applications of less than ~~4%~~***20%***, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a ~~higher~~ ***different*** recognition rate is applicable in the particular case. ***The Commission shall duly justify any such conclusion.***

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;~~***a timely manner, including failing to assist in identifying third-country nationals for whom a Member State has submitted readmission applications or otherwise creating persisting practical obstacles regarding the enforcement of returns.***

   (b) failing to issue travel documents in ~~due time~~***a timely manner*** 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~~***between two and twelve*** 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).

1a. A Member State may also notify the Commission of the existence of circumstances that amount to the grounds for suspension as referred to in Article 8a(1), points (d)(ii), (d)(iii), (e), (f) and (i).

2. The notification referred to in ~~paragraph 1~~***paragraphs 1 and 1a*** of this Article shall state the reasons on which it is based***. Where applicable, that notification*** ~~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 ***without delay*** any notification made pursuant to ~~paragraph 1~~***paragraphs 1 and 1a*** 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), ***(d), (e), (f) or (i)*** ~~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 Guard ***established by Regulation (EU) 2019/1896 of the European Parliament and of the Council***[1], the European Union Agency for Asylum ***established by Regulation (EU) 2021/2303 of the European Parliament and of the Council***[2], the European Union Agency for Law Enforcement Cooperation (Europol) ***established by Regulation (EU) 2016/794 of the European Parliament and of the Council***[3] 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.

(4a) As part of its examination pursuant to paragraph 4, the Commission shall also assess the necessity, proportionality and consequences of a suspension of the exemption from the visa requirement.

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 ***also*** 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, ***including data, reports and statistics from any relevant Union institution, body, office or agency***, 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~~. ***After that period*** the Commission ***shall report whenever it*** 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.

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 ***for a period of 12 months*** the exemption from the visa requirement for the nationals of ~~the~~***a*** third country ~~concerned for a period of 12 months.~~***where:***

(a) the Commission has decided, on the basis of the examination referred to in Article 8b(4) or of the analysis referred to in Article 8c(2), that such action is necessary; or

(b) a simple majority of Member States has notified the Commission of the existence of the circumstances referred to in Article 8a(1), point (a), (b), (c), (d), (e), (f) or (i).

In coming to a decision as referred to in point (a) of the first subparagraph, the Commission shall work together in close cooperation with the third country concerned to find alternative long-term solutions in respect of the relevant ground or grounds referred to in Article 8a(1) and take into account the political context, the economic matters at stake and the consequences of a suspension of the exemption from the visa requirement for the overall external relations of the Union and the Member States with that third country. The Commission shall also take into account the consequences of such suspension on the civil society in the third country concerned, in particular where the human rights situation in that third country has deteriorated.

Where the Commission has adopted an implementing act under this paragraph on the grounds referred to in Article 8a(1) point (g) as regards non-compliance with specific requirements on external relations or fundamental rights, or point (h) which temporarily suspends the exemption from the visa requirement for nationals of the third country concerned who hold diplomatic passports, service/official passports or special passports, the Member States shall not provide for new exceptions under Article 6(1)(a). Member States that have bilateral agreements with the third country concerned, shall take the necessary steps not to apply the exceptions based on Article 6(1)(a).

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~~ ***submit the draft*** implementing act referred to in the first subparagraph ~~within one month of:~~***to the Committee referred to in Article 11(1)***

(a) within one month of:

(a) receiving the notification referred to in Article 8b***(1)***;

(b) informing the European Parliament and the Council of its analysis referred to in Article 8c(2); ***or***

(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)***, (d),(e), (f) or (i);*** ~~or (d)(i).~~

(b) within two months of receiving the notification by a Member State referred to in Article 8b(1a).

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~~ ***By derogation to paragraph 1, Article 8b and Article 8c(2), the following provision applies in*** duly justified ~~imperative grounds of~~***cases where the*** 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~~***matter requires it***.

Where the Commission has concrete and reliable information on the existence of any of the grounds referred to in Article 8a(1) and decides that swift action is needed, the Commission shall adopt an implementing act temporarily suspending the exemption from the visa requirement for all or certain categories of nationals of the third country concerned for a period of 12 months. That implementing act shall fix the date on which the suspension of the exemption from the visa requirement is to take effect.

The implementing acts referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 11(2). The chair of the committee provided for in Article 11(1) shall consider shortening the time period for convening a meeting of the committee, as referred to in Article 3(3), second subparagraph of Regulation 182/2011 and making use of the written procedure referred to in Article 3(5) of that Regulation.

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

2b. Without prejudice to the application of Article 8e(1) subparagraph 3, a Member State which, in accordance with Article 6, provides for new exceptions from the visa requirement for a category of nationals of the third country covered by the implementing act suspending the exemption from the visa requirement shall communicate those measures in accordance with Article 12.

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. ***The Commission shall inform the European Parliament and the Council on the progress and outcome of the dialogue and on the effectiveness of the suspension.***

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) ***and (2)***, 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).~~

1a. Where the implementing act referred to in Article 8e(1) and (2) temporarily suspending the exemption from the visa requirement was based on the circumstances referred to in Article 8a(1) point (g) as regards non-compliance with specific requirements on external relations or fundamental rights, or point (h), the delegated act may apply to certain categories of nationals, designated in accordance with the principles laid out in Article 8e(1) subparagraph 2.

The amendment referred to in the first subparagraph 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 and, where applicable, the designated categories of nationals of that third country. The delegated act shall take effect from the date of expiry of the relevant implementing act referred to in Article 8e(1) and (2).

Article 8e(1) subparagraph 3 shall apply accordingly.

2. Without prejudice to the application of Article 6 ***and the third subparagraph of paragraph 1a of this Article***, 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. ***Without prejudice to Article 8e(1) subparagraph 3,*** a Member State which, in accordance with Article 6~~,~~ provides for new ~~exemptions~~***exceptions*** 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 ***on the temporary application of the visa suspension, on the dialogue between the Commission and the third country concerned and on the measures taken to remedy the circumstances having led to the temporary suspension of the visa exemption***.

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~~***set by*** 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***, for a maximum period of 24 months***. The footnote shall be amended accordingly.

Where the delegated act adopted pursuant to paragraph 1 of this Article applied to nationals of the third country concerned who hold diplomatic passports, service/official passports or special passports, based on persistence of the circumstances referred to in Article 8a(1) point (g) as regards non-compliance with specific requirements on external relations or fundamental rights, or point (h), the report may indicate the need to further extend the regime by another period of 24 months by means of another delegated act. Subparagraph 1 and 2 of this paragraph shall apply 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.

---

1 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).

2 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).

3 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).”

(3) 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’.

~~(4) 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

PUBLIC