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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION 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

COUNCIL DECISION (EU) 2022/...

of ...

**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**

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), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver¹ (the ‘Agreement’) was signed on and provisionally applied from 28 May 2015², in order to facilitate travel to the Union for citizens of Vanuatu and travel to Vanuatu for citizens of the Union.
- (2) The Agreement is based on the Contracting Parties’ common desire to encourage people-to-people contacts, boost tourism and invigorate business between the Union and Vanuatu.
- (3) Under Article 8(4) of the Agreement, either party may suspend in whole or in part the Agreement, in particular for reasons of public policy and the protection of national security. The decision on suspension is to be notified to the other party no later than two months before its planned entry into force. Should the reasons for that suspension cease to exist, the party that has suspended the Agreement is to inform the other party immediately and to lift the suspension.

¹ OJ L 173, 3.7.2015, p. 48.

² Council Decision (EU) 2015/1035 of 7 May 2015 on the signing, on behalf of the European Union, and provisional application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 173, 3.7.2015, p. 46).

- (4) Vanuatu operates investor citizenship schemes, whereby it has granted Vanuatu nationality to nationals of other countries with no previous connection to Vanuatu, issuing positive decisions on the vast majority of applications. On the basis of the information provided by Vanuatu's Passport Office on 14 June 2021, by March 2021, it issued over 10 500 passports, with an extremely low rejection rate. That situation raises doubts as to the reliability of the security and due diligence screening carried out by the Vanuatu authorities.
- (5) Furthermore, the countries of origin of successful applicants for Vanuatu nationality include several countries whose nationals are required to possess visas when crossing the external borders of the Union.
- (6) In exchanges between the Commission and Vanuatu's authorities in October 2017, November 2019, June 2020 and March 2021, the Commission expressed serious concerns regarding Vanuatu's investor citizenship schemes, in particular the granting of citizenship to persons listed in Interpol databases, the absence of physical presence or residence requirements, the schemes' short processing periods and the lack of systematic exchange of information with applicants' countries of origin or of previous main residence, and warned the Government of Vanuatu of the possibility of the visa requirement being reinstated should those concerns not be addressed. The explanations provided by Vanuatu were not sufficient to alleviate those concerns.

- (7) Consequently, the application of the Agreement was partially suspended by Council Decision (EU) 2022/366¹. The suspension is limited to ordinary passports issued by Vanuatu as from 25 May 2015, when the number of successful applicants under Vanuatu's investor citizenship schemes started to increase significantly.
- (8) Whilst Decision (EU) 2022/366 partially suspended the Agreement, it was also necessary to provide for suspension at the level of Union law. Therefore, based on Regulation (EU) 2018/1806 of the European Parliament and of the Council², on 27 April 2022 the Commission adopted Implementing Regulation (EU) 2022/693³ temporary suspending the exemption from the visa requirement for nationals of Vanuatu holding ordinary passports issued by Vanuatu as from 25 May 2015 for a period of nine months, applicable from 4 May 2022 to 3 February 2023.

¹ 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).

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).

³ 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).

- (9) Following the entry into force of the temporary suspension of the exemption from the visa requirement, in accordance with Regulation (EU) 2018/1806 the Commission has launched an enhanced dialogue with Vanuatu with a view to remedying the circumstances that gave rise to that suspension.
- (10) Although the enhanced dialogue with Vanuatu commenced on 12 May 2022, subsequently Vanuatu has not engaged in any meaningful way. During the nine-month period set down by Implementing Regulation (EU) 2022/693, it has therefore not been possible to remedy the circumstances which gave rise to the temporary suspension of the exemption from the visa requirement.
- (11) The investor citizenship schemes operated by Vanuatu continue to represent an increased risk to the internal security of the Member States and a circumvention of the Union short-stay visa procedure and of the assessment of security and migratory risks it entails. In the absence of engagement by Vanuatu as regards remedying those circumstances, Decision (EU) 2022/366 should therefore be repealed and the application of the Agreement in whole as regards all nationals of Vanuatu should be suspended.

- (12) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹. Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

¹ 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).

Article 1

The application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (the ‘Agreement’) is suspended in whole as regards nationals of Vanuatu, as from 4 February 2023.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 8(4) of the Agreement.

Article 3

Council Decision (EU) 2022/366 is hereby repealed.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President
