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From: General Secretariat of the Council

To: Visa Working Party / Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)

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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

– comments from delegations

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Following the meeting of the VISA WP on 23 October 2023 and the subsequent request for written contribution on the above-mentioned proposal (CM 5002/23), delegations will find attached the written comments submitted by delegations.

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## AUSTRIA

AT welcomes the 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, but further clarifications are needed.

### Art. 8 para 2:

The new Article 8(2) says 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. We kindly ask the Commission to confirm that in those cases only a Council Decision on the (partial) suspension of the application of the Agreement between the European Union and the respective third country on the short-stay visa waiver is needed (no additional implementing or delegated act as for Vanuatu is needed).

### Art. 8a para 1:

The new suspension grounds can be supported, but we also suggests adding shortcomings in the area of document security or where name change laws might facilitate identity concealment.

### Art. 8a para 2:

The possibility for the Commission to consider higher 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, should be limited to exceptional cases.

New wording:

“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, **in exceptional cases**, higher increase is applicable in the particular case.”

### Art. 8e+8f:

The introduction of an urgency procedure is welcomed, but in Art. 8f para 1 the references to Art. 8e para 2 should be added.

“ [...]

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) **and (2)**.”

## BULGARIA

Bulgaria supports the proposal for adopting a Regulation of the European Parliament and the Council amending Regulation (EU) 2018/1806 as regards the revision of the suspension mechanism in order to improve its efficiency and prevention against irregular migration.

We also support the broadening of the possible grounds for suspension of visa waiver including the grounds as the harmonisation of the visa policy of the third country with EU visa policy, the abuse of the existing investor citizenship schemes of the third countries as well as hybrid threats.

At the same time, we would like to draw attention to the new paragraph 2 of Article 8 that provides some exception for the third countries who have signed Visa Waiver Agreements with the EU. In cases of such agreement on the short-stay visa waiver between the Union and a third country listed in Annex II the provisions on different grounds for suspension or different procedures would have advantage over the relevant provisions of the Regulation.

We think that the suspension mechanism should be applied to all third countries which do not meet the criteria for the visa waiver, we should not apply different criteria and mechanism to the countries with Visa Waiver Agreements and the other countries which have long dialogue on visa liberalization or were included in the Annex II by special amendment. We understand that the EU should apply the international treaties with the third countries, but we have to make tough assessment of the new paragraph 2 of Article 8 as it provides special exception from the suspension grounds in the Regulation and will be an incentive for the third countries to be eager to conclude such Visa Waiver Agreements for which the suspension mechanism will not be applied or will be applied partially.

We are in favor of the position the security of the travel documents to be added as additional ground at the suspension mechanism.

Regarding the thresholds, we support the flexibility but at the same time we have some concerns about the clarity of the Article 8a (2) and particularly the subjectivity of the assessment in cases when the Commission should take into account specific circumstances and make its own analysis that would justify the application of lower or higher thresholds than those indicated in the regulation. Last 10 years we were witnessing such cases when the lack of clarity and the political approach prevented the activation of the suspension mechanism.

## CZECHIA

Since Czechia is of the opinion that the existing mechanism lacks the flexibility and effectiveness in addressing both existing and new challenges arising from illegal migration and threats to EU security, it supports the Commission's effort to improve the suspension mechanism.

Czechia particularly welcomes the expansion of grounds for suspension. Nevertheless, regarding these grounds, Czechia will strive for improved alignment with the reasons that lead the EU to exempt third countries from visa requirements, as specified in Article 1 of Regulation (EU) 2018/1806. These reasons include considering the Union's external relations with the relevant third countries, particularly the question of human rights and fundamental freedoms, as well as the implications for regional coherence and reciprocity.

Czechia believes that the threshold values in cases of a substantial increase in illegal migration, unfounded asylum requests, or serious crimes committed by nationals of a particular third country should not jeopardize the flexibility of the mechanism and, consequently, the purpose of the revision. Similarly, Czechia will make particular efforts to ensure that the efficiency of the mechanism is not compromised by the absence of a formal notification procedure, as stipulated in Article 8b, for newly proposed suspension grounds. Czechia will also strive for the proper consideration of the role of the EU Council and its Member States, especially in connection with the urgent procedure, which would allow the Commission to suspend visa exemptions through immediately applicable implementing acts. This also applies to cases where the Commission is obliged to regularly monitor the existence of suspension reasons and report on the relevant countries.

Czechia proposes the following specific changes to be made in the Commission's proposal to address the aforementioned concerns.

- (8) **For the purposes of the suspension mechanism, a substantial increase indicates an increase exceeding a threshold of 30 % while a low recognition rate refers to a recognition rate of asylum applications of around 20 %. These thresholds are indicative and** 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 **above. The Commission should, in particular, assess the thresholds in relation to other grounds for suspension, especially the existence of hybrid threats and the non-alignment of the visa policy of a third country listed in Annex II.** The Commission's assessment should **also** 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.

*“Article 8a*

*Grounds for suspension*

1. The suspension mechanism may be triggered on the following grounds:
  - (h) **a significant and abrupt deterioration in the Union's external relations with a third country listed in Annex II, considering, in particular, human rights and fundamental freedoms, as well as the implications for regional coherence and reciprocity.**
- 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.

*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). **Such notification may also include the Member State's indication of the existence of circumstances that amount to the grounds for suspension as referred to in Article 8a(1), points (d)(ii) and (f).**
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), **(f)** or (d)(i) **and (ii)** exist;

*Article 8c*

*The Commission's monitoring and own analysis*

2. **The Commission shall particularly monitor third countries listed in Annex II, other than those referred to in paragraph 1 of this Article, upon the request of the European Parliament or the Council. This request should indicate that one or more circumstances, as outlined in the grounds for suspension referred to in Article 8a(1), are becoming relevant in a case involving a third country listed in Annex II.**

## DENMARK

In general, Denmark welcomes the proposal, in particular the expanded grounds for suspension and the attempt to make the activation of the mechanism more flexible.

However, Denmark has a few suggestions for modifications:

1. Denmark believes that the triggering of the mechanism based on the new proposed grounds for suspension under Articles 8a(1)(d)(ii), 8a(1)(e), and 8a(1)(f) should not be reserved for the Commission's initiative. Given that Member States are likely to be in possession of relevant information and data bearing on these grounds, we believe that the scope of the Member States' right of notification to the Commission should also cover the new proposed suspension grounds.
2. Denmark welcomes the addition of "hybrid threats" as a ground for suspension. However, we believe a reference to the definition for this term should be provided in the proposal, perhaps in a recital.
3. Denmark welcomes that the thresholds to trigger the suspension mechanism in cases of a substantial increase of more than of 50 percent in the number of irregular arrivals, of unfounded asylum applications (i.e., a recognition rate below 4 percent), or of serious criminal offences, will be subject to a case-by-case assessment and potential deviation by the Commission. However, we still think that the focus on numerical thresholds of 50 percent and 4 percent, respectively, are too rigid. We propose that the threshold of 50 percent should be lowered, and thus the definition of what constitutes a "substantial increase" changed, and that the threshold of 4 percent should be increased; or that the idea of a defined numerical threshold be dispensed with entirely, allowing for more flexibility in assessing whether there exists a "substantial increase" in the relevant categories.

In this regard, we note that under the current mechanism, the Commission is already authorized to apply a lower threshold than 50 percent in particular cases, per recital 23 of the current Visa Regulation. And yet, the mechanism has so far not been an efficient tool. This highlights the problem with focusing on a 50 percent increase. Denmark supports the similar considerations submitted by Germany in this regard.

4. Denmark believes that the assessment under Article 8a(2) of whether there is a "substantial increase" should not be reserved solely to the Commission's judgment. We believe that the Member States should play a formal role in this assessment. We would propose that the proposal establish a framework for Member States' role in this procedure.
5. As regards the proposal's extension of the temporary suspension period from 27 to 36 months, we have taken note of the Commissions' explanation that sufficient time is needed in order to engage in discussion with the third country in question. However, we find the total period of 3 years to be excessive and running counter to the proposal's goal of making the mechanism more efficient and enabling the Commission and Member States to act faster to threats and challenges. We would suggest a shorter overall period.

## ESTONIA

Estonia supports the changes introduced in the Document 14008/23, i.e.:

1. new grounds for suspending exemption from the visa requirement, and
2. establishing an expedited procedure.

Considering the constantly changing geopolitical situation, it is important that the process of adopting the decision on the suspension becomes more flexible and, if necessary, allows quick response.

Estonia does not have substantial comments on the Commission's proposal, which, in our view, reflects in a balanced way previous discussions on the matter. Considering that the end of the legislative period is approaching fast, it is important to move forward with the proposal as quickly as possible to allow its adoption before spring.

## FRANCE

Nous remercions la Commission pour sa proposition de révision du mécanisme de suspension de visas que nous accueillons favorablement. La proposition nous paraît en effet aller dans le sens d'un renforcement de l'efficacité et de la crédibilité du mécanisme.

Plus particulièrement, cette proposition appelle de la part des autorités françaises les commentaires suivants :

### **1. Article 8a, paragraphe 1 : motifs de suspension**

De manière générale, les autorités françaises se félicitent de l'ajout des motifs supplémentaires pertinents permettant l'enclenchement de la suspension mais regrettent l'absence de nouveau motif lié à la sécurité documentaire.

Au point d), ii), nous souhaiterions savoir ce que la Commission entend exactement par « menaces hybrides » dans le cadre de ce règlement. L'acception très large de ce contexte pourrait poser difficultés et n'est pas nécessairement approprié : nous préconisons de préciser dans les motifs à quelle menace nous souhaitons répondre.

Au point f), les autorités françaises saluent l'intégration du motif de non-alignement de la politique des visas lorsqu'il existe un risque d'accroissement substantiel d'entrée irrégulières par d'autres nationalités que les ressortissants du pays-tiers exempté, et remercient la Commission pour ses explications fournies en séance selon lesquelles ce motif pouvait concerner « un pays géographiquement proche comme un pays plus éloigné à partir du moment où ce manque d'alignement favorise un canal d'immigration irrégulier » - point que les autorités françaises soutiennent.

Par ailleurs, les autorités françaises estiment que ces nouveaux motifs doivent pouvoir également faire l'objet d'une notification par les Etats membres (tel que prévu par l'article 8b, paragraphe 1). En effet, il est indispensable que les Etats membres soient en capacité de notifier la Commission et actionner le mécanisme en tant que de besoin.

A cet égard, les autorités françaises ont bien noté la précision de la Commission qu'elle ne déclencherait pas le mécanisme de suspension sans dialogue préalable avec les Etats membres, mais l'inverse vaudrait également si les Etats membres pouvaient notifier à la Commission des circonstances constituant les motifs de suspension visés aux points d), ii) à f). En tout état de cause, la Commission devrait examiner la notification (article 8b, paragraphe 4), informer le Parlement européen et le Conseil des résultats de son examen (article 8b, paragraphe 5) et aurait le pouvoir de décision en vue du déclenchement du mécanisme (article 8e, paragraphe 1). L'exception relative à la majorité simple d'Etats membres (article 8e, paragraphe 1) devrait en outre constituer une garantie suffisante contre un déclenchement « trop fréquent » du mécanisme ou ne tenant pas suffisamment compte des intérêts en jeu, comme l'a exprimé la Commission en groupe.

## **2. Article 8a, paragraphes 2 et 3 : seuils de déclenchement**

Les autorités françaises saluent l'intégration des seuils dans le corps de l'article 8. Cependant, elles demandent activement l'introduction de seuils plus souples, sur le plan quantitatif, pour davantage d'efficacité et envoyer un message clair aux Etats tiers sur la possibilité de l'Union d'utiliser ce mécanisme. Il conviendrait à cet effet d'augmenter le taux de « faible reconnaissance » et d'assouplir celui de « hausse substantielle ». Un travail collectif doit permettre de déterminer les seuils les plus efficaces, nous nous y attelons déjà en interne.

Par ailleurs, les autorités françaises considèrent que la proposition de règlement donne à la Commission un trop large pouvoir discrétionnaire pour relever ou abaisser lesdits seuils en fonction du cas d'espèce ; il conviendra de supprimer ou à tout le moins d'encadrer plus strictement cette novation.

Par ailleurs, la prise en compte de critères qualitatifs, comme le contexte politique ou les enjeux économiques, pourrait être prévue dans un considérant (par exemple au même titre que la prise en compte des conséquences de la suspension de l'exemption de visa sur les relations extérieures globales entre l'UE et ses Etats membres avec le pays tiers concerné : « 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 as well as the political context or economic matters at stake »).

## **3. Article 8b, paragraphe 1 : Élargissement des périodes de référence**

Les autorités françaises saluent l'élargissement des périodes de référence pour l'identification des motifs de suspension par les Etats membres (« au moins deux mois » contre seulement deux mois).

S'agissant des deux périodes qui pourraient être utilisées à titre de comparaison, néanmoins, elles s'interrogent sur les comparaisons (« soit la même période de l'année précédente, soit [les] deux derniers mois ayant précédé l'application de l'exemption de l'obligation de visa à l'égard des ressortissants d'un pays tiers figurant sur la liste de l'annexe II ») qu'il serait possible d'établir en l'état du texte concernant les pays qui étaient déjà exemptés avant l'entrée en vigueur du règlement.

## **4. Article 8b, paragraphes 4 et 5 : Examen de la notification par la Commission**

Les autorités françaises souhaiteraient s'assurer de la mise en place d'un examen diligent des notifications émises par un État membre à la Commission. Pour cela, il pourrait être précisé, au paragraphe 4, que la Commission examine sans délai ou immédiatement la notification. De plus, au paragraphe 5, il pourrait être précisé un délai pour lequel la Commission doit informer le Parlement et le Conseil des résultats de son examen, en lien avec le délai d'un mois prévu à l'article 8 e).

5. **Article 8c : Suivi continu et ciblé du respect des critères de libéralisation et de l'émergence de motifs de suspension, et article 8d : Rapports**

Les autorités françaises remercient la Commission pour ses propositions (aux articles 8c(1) et 8d(2)) permettant d'établir un suivi plus régulier de tous les pays exemptés, avec une attention particulière pour les critères spécifiques prévus dans le cadre des libéralisations issues d'un dialogue préalable à l'exemption (article 8c(1), alinéa 2).

Les autorités françaises saluent l'extension du suivi aux pays tiers exemptés hors dialogue sur la libéralisation, et au-delà des 7 ans pour les pays ayant mené à bien un tel dialogue (article 8d, paragraphe 1). Néanmoins, elles considèrent que le suivi devrait se poursuivre sans condition particulière. Nous pourrions toutefois concéder qu'il s'agirait certes de mettre en place un suivi systématique mais ciblé sur des défis spécifiques.

En outre, il serait opportun de prévoir dans le texte que des recommandations précises pour pallier les défaillances identifiées soient systématiquement élaborées.

6. **Article 8e, paragraphes 1, 3 et 4 : Allongement de la durée de suspension et levée en cas de remédiation**

Les autorités françaises sont favorables à l'allongement de la durée de suspension de 12 puis 24 mois tout en permettant de lever cette suspension en cas de remédiation dans l'intervalle.

7. **Article 8e, paragraphe 2 : Introduction d'une procédure d'urgence**

Les autorités françaises sont, en principe, favorable à l'introduction d'une procédure d'urgence répondant au besoin de disposer d'un mécanisme réactif, à condition de préserver le rôle du Conseil dans cette procédure.

A cet égard, elles souhaiteraient interroger la Commission sur le fait de savoir si la formulation qu'elle propose au nouvel article 11(4), concernant la mise en œuvre de la procédure d'urgence prévue à l'article 8e(2) de la révision du mécanisme de suspension, recouvre la même signification que celle de la procédure d'urgence prévue à l'article 22(3) du règlement (UE) 2022/922 en application de l'article 30(3) dudit règlement, à savoir que l'acte d'exécution adopté par la Commission et immédiatement applicable sera néanmoins soumis au comité compétent dans un délai de 14 jours afin d'obtenir son avis, et qu'en cas d'avis défavorable, la Commission sera obligée d'abroger immédiatement l'acte d'exécution.

C'est donc en vertu de l'article 8(3) du règlement (UE) n° 182/2011 que la procédure d'examen prévue à son article 5 s'appliquera et que l'avis des représentants des Etats membres sera pris en compte ?

8. **Considérant 4 : Application des dispositions pertinentes des accords d'exemption conclus par l'UE plutôt que le mécanisme de suspension prévu dans le règlement 2018/1806**

La France s'interroge sur le considérant 4 et les moyens de mieux articuler les mécanismes de suspensions prévus à la fois par le règlement 2018/1806 et éventuellement par les accords UE-pays-tiers. Pour cette raison, elle pose une réserve d'examen sur ce considérant.

En conclusion, nous souhaiterions savoir si les Etats membres réfléchissent à des instruments dans ce texte-ci qui permettraient à un Etat membre confronté à une urgence due à un afflux massif de ressortissants en situation irrégulière d'un pays tiers exempté d'y faire face ?

# GERMANY

## General remark

DE welcomes the proposal for a revision of the suspension mechanisms tabled by COM. The suggested changes will help to strengthen and improve the suspension mechanism as a safeguard against the abuse of visa-free travel.

## Explanatory Memorandum

*“In October 2021, the European Council adopted conclusions<sup>1</sup> 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.”*

Scrutiny reservation. The Conclusions this proposal is referring to, do not invite the Commission to respond to “hybrid attacks”, They were referring to a specific individual case, the “instrumentalisation of migration by Belarus”, which was identified as a hybrid threat. Countering hybrid threats is a question of national security. It therefore remains the sole responsibility of each Member State. (Art. 4 TEU)

*“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 institutions<sup>2</sup>.”*

Scrutiny reservation regarding the two Joint Communications referred to in the footnote and the term hybrid threats.

## Recitals

**Recital 5:** Scrutiny reservation.

## Articles

### **Article 8(2):**

- During the Visa Working Party meeting on October 23<sup>rd</sup> COM stated that grounds for suspension provided for in short-stay visa waiver agreements should apply **in addition**, not **instead**. Please clarify. Different grounds for suspension provided for in short-stay visa waiver agreements should apply in addition to the grounds for suspension in Art. 8a and not instead of them. During the Visa Working Party meeting on October 23<sup>rd</sup> COM commented accordingly. It needs to be ensured that the grounds for suspension provided for in Art. 8 can not be circumvented.

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<sup>1</sup> European Council meeting (21 and 22 October 2021) – Conclusions.

<sup>2</sup> 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.

**Article 8a (1) (d) (ii):** Scrutiny reservation.

**Article 8a (1) (e):** DE supports the inclusion of this new ground for suspension.

**Article 8a (1) (f):** DE supports the inclusion of this new ground for suspension.

**Article 8a (2):**

- DE supports that the definition of the threshold is now included in Article 8a (instead of just a recital) and that the threshold will be subject to a case-by-case- assessment by COM.
- In the past, the thresholds to trigger the suspension mechanism were deemed to high even though COM could also conclude that a lower increase is applicable in the particular case (recital 23 of REGULATION (EU) 2018/1806). It is hence unclear to us how the proposal (which does not change the 50% threshold) addresses this problem.

**Article 8a (3):**

- DE supports that the definition of “low recognition rate” is now included in Article 8a (instead of just in a recital) and that the threshold will be subject to a case-by-case- assessment by COM.
- It remains unclear to us on what basis COM decided to stick with the 4 % threshold. Other legal instruments provide for much higher thresholds, e.g. in the context of the Asylum Procedures Regulation a recognition rate of 20% is foreseen as a threshold for border procedures. We would like to ask COM for further explanation.

**Article 8b (1):**

- DE supports that reference periods longer than two months shall be taken into account. Member States should also be able to notify COM with regard to the suspension grounds Article 8a (d) (ii) (e), (f) and (g).
- We ask COM to explain why notification by Member States shall be limited to Article 8a(1), points (a), (b), (c), and (d)(i). only.

**Article 8b (5):** We would be grateful to COM for an explanation as to why no deadline has been set for the submission of the audit results.

**Article 8d:** Approval.

**Article 8e (2):** Scrutiny reservation.

## HUNGARY

- Hungary welcomes the proposal in general, although we have a few initial remarks. We consider it important to stress that activation of the suspension mechanism should remain a last resort, without automatism. Furthermore, any such decision should take into account the overall external relations of the EU and the third country and the overall political context.
- In our view, the primary purpose of the mechanism should be to exert pressure. As it has already been demonstrated repeatedly in the context of solving visa policy issues, it is always more effective and expedient to resolve problems through diplomatic dialogue. We believe it is important that the focus is on prevention and effective monitoring of the continued fulfilment of the criteria in order to avoid activation of the mechanism.
- Concerning the current text of the proposal, we would like to see the involvement of the Member States (somehow) in the decision in case of an *urgency procedure*, which is reserved exclusively for the Commission in the current text. The suspension of a visa waiver has serious consequences (reinstallation of the visa issuance), that Member States will have to implement.
- With regard to the extension of the evaluation and reporting mechanism to other third countries, we would also like to see the proposal to take into account the views of Member States in the Commission's decision.
- Regarding the enhanced monitoring of visa waiver regimes, Hungary believes that a follow-up procedure would be useful to remedy the identified shortcomings, but there are no provisions for this in the current proposal.

## MALTA

While the proposal includes several amendments that will strengthen the Visa Suspension Mechanism as a tool to counter abuses of visa-free travel to the EU, Malta would like to express its position on Article 8a, paragraph 1, point (e).

The grounds for triggering the visa suspension mechanism should always be linked with the interests of the EU and the Member States. In particular, we need to keep in mind the sovereignty of the State and hence the prerogative to establish criteria for the granting of citizenship and related matters as long as such criteria are legally sound and respectful of fundamental rights. Moreover, while the Commission's proposal makes a reference to 'genuine link', it is recalled that there is no defined relationship of such notion in the process of the granting of citizenship in EU law and public international law.

More specifically, Malta expresses its opposition to this provision, including the reference being made to the proposal that the Commission would categorically introduce a suspension in the case of a third country operating a citizenship-by-investment scheme [“whereby citizenship is granted without any genuine link to the third country concerned, in exchange for pre-determined payments or investments”]. Malta strongly denounces the claim that the mere existence of such a legislative framework in and of itself would imply the existence of a threat to the European Union and therefore cannot in any way support the proposal for an automatic suspension. It is how these schemes are operated and the subsequent consequences thereof, such as threats to public policy and internal security, that should be considered as a potential trigger for the visa suspension mechanism.

As in the case of Vanuatu, the current legislation already caters for situations whereby the citizenship-by-investment framework poses serious threats to the internal security and public policy of the Member States. Therefore, the emphasis was and should remain focused on tangible 'risks' to Member States, such as unsatisfactory due diligence processes. Additionally, as stipulated in the Commission's Explanatory Memorandum, the suspension mechanism should remain a mechanism of last resort, thereby without automaticity. The Commission's proposal calling for an almost automatic prohibition on the basis of a citizenship-by-investment legislative framework in place in a third country is inconsistent with the spirit of the mechanism. This is more so when taking into consideration that the rest of Article 8a explicitly associates the grounds for suspension directly with the interests of the Member States.

In view of the above, it is being proposed that Article 8a, paragraph 1, point (e) is reworded as follows:

- (e) *the operation, by a third country listed in Annex II, of an investor citizenship scheme, whereby citizenship is granted without appropriate due diligence processes or any genuine link to the third country concerned, in exchange for pre-determined payments or investments, that result in a significant risk or imminent threat to the public policy or internal security of Member States.*

## THE NETHERLANDS

### In relation to the mechanism:

- 1) In the proposal, the new grounds for suspension in Article 8a(1), paragraph (d)(ii), (e), (f) and (g) can only be triggered by the Commission, MS can provide information but cannot formally notify. The Netherlands would like to propose that the MS can notify the Commission in the event of a substantial increase in irregular migration due to the lack of visa alignment and in the case of hybrid threats.
- 2) Based on the wording in the proposal of Article 8b(1) there is no opportunity for MS to act in the event of structurally high asylum figures or irregular migration which may not be reflected when only a relative increase is examined. In the proposal, only the COM is authorized to deviate from the established threshold values. The Netherlands would therefore be in favor of including an option under 1b to be able to act in the event of structurally high asylum numbers. A recital could be used to establish a basic framework. Furthermore, datasets/analysis from the relevant EU agencies, in particular the EUAA, could be used to substantiate possible cases and to provide a benchmark.
- 3) The Netherlands would like to propose a more explicit link to the EES/ETIAS systems. In view of the future implementation of EES, it is important to also pay attention to data related to overstay which will become available after its implementation. This variable could explicitly be added to article 8a under 1(a) ‘found to be staying in a Member State’s territory without a right to do so’, e.g. ‘based on information derived from EES and/or ETIAS’.
- 4) Relevant data stemming from systems such as EES and ETIAS could also be included under 8b(4). The implementation of both systems will provide the Commission with new sources of information which are valuable in substantiating possible cases under the suspension mechanism.
- 5) Regarding the urgency procedure by the Commission: the Netherlands would like to receive more details on how the MS are included in this procedure. In many cases, preparations need to be made for reintroducing visa applications. Furthermore, the Netherlands sees added value in a signaling role for the MS, e.g. when they are confronted with/notice a sudden trend of high irregular migration. Therefore, the Netherlands would like to receive more elaboration on this procedure.
- 6) The Netherlands supports the comments made by some other MS when it comes to including document security in the revised suspension mechanism. We suggest this could be added under 8a (1)(d).

### In relation to monitoring:

- 1) 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. The Netherlands would like to receive more information on how the Commission defines “on a regular basis” when it comes to monitoring all visa-free countries.

- 2) The Netherlands would prefer a mechanism in which trends from member states, as well as from the agencies (EUAA, EUROPOL, EU-Lisa and Frontex) can be given a more prominent place in the monitoring mechanism under Article 8c.
- 3) The Netherlands would suggest to include trends/developments identified by the EU agencies to be included under reporting (Article 8d (2)). This could be included in the sentence; **(The report shall focus on ...)**.
- 4) The Netherlands would like to receive more information elaborating under what conditions an investor citizenship scheme can lead to suspension. It is desirable that dialogues are first held with the countries concerned, however, currently it remains unclear how it will be determined when (in)sufficient progress is being made.

## NORWAY

In general, Norway supports the proposal, including the new grounds.

We only have a few suggestions for further modifications, that also takes into account the future functioning of EES and ETIAS:

### **Art. 8a, grounds and thresholds for suspension**

- 1) We propose a new ground for suspension connected to information exchange for law enforcement purposes with Schengen/EU agencies and MS.

Reasoning: In the near future, travellers for short-stay visits from visa-free countries must pre-register in the ETIAS before arriving at the external Schengen borders. Before arrival (and in the EES), the travellers will be checked in the interoperable systems, and in the ETIAS watch list, and an assessment will be made whether the traveller may be seen as a risk to the public order or internal security of the MS. Information regarding criminal offenders and similar from visa-free third country will be important for the Schengen authorities who will make this assessment, and for maintaining the ETIAS watchlist. Information-sharing from the visa-free countries in relevant international established channels can be an important means to mitigate the risks associated with the lower level of control for visa-free travellers compared with for those who needs a visa.

The suggestion can for example be added as art. 8a(1)(h): “*where the contribution of a country listed in Annex II to international law enforcement information exchange is deemed insufficient*”.

- 2) In article 8a we also would prefer that is clearly stated that deficiencies in document security and/ or naturalisation processes is a ground for suspension. This could be added as an extra ground in art. 8a(1)iii. Reasoning: In order to mitigate the risks associated with a lower level of control for visa-free travellers, we need a high level of confidence in the travel documents of these travellers, also since passports and biometrics will not be scanned into the ETIAS before arrival (unlike in the VIS for visa applicants).
- 3) In art. 8a(2) the 50% threshold should be removed, since a focus on percentages may lead to a wrong focus. The required “significant increase” may be documented several ways.
- 4) In art. 8a(3) the 4% threshold should be increased to 20 %, or instead the groundless asylum seekers can be identified by looking at the list of safe 3<sup>rd</sup> countries that EUAA will establish, according to the proposal for the Asylum Procedures Regulation (APR).

### **Article 8b, notification**

The specification of what constitutes a relevant time period for the increase could simply be replaced with “over a relevant time period”.

Furthermore, MS should be able to notify regarding all the grounds for suspension, since they may be the first to discover that grounds may be fulfilled.

### **Article 8c and d, monitoring and reporting**

Relevant EU agencies and networks (such as the EUAA, Frontex, Europol, EU missions in 3<sup>rd</sup> countries, ILO-networks and Local Schengen Cooperation) should be given a formal role in the monitoring and reporting. One reason is to reduce the administrative burden of the EU COM, another is to make the monitoring and reporting less political. For some of the grounds, the monitoring may be made based on clear statistics (For example, figures for overstay and refusal of entry per nationality may in the future be collected directly from the EES statistical module). For other grounds, more information and analysis is required, and Frontex and Europol are already tasked to have relevant roles in ETIAS (watchlist etc).

### **Article 8e(2), implementing acts in urgent cases**

We would like the COM to explain the possible role of Schengen MS in this procedure.

\* \* \*

## *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 **information**~~data~~, in accordance with the conditions and procedure set out in Articles 8a to 8f.

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 **in addition to** ~~instead of~~ Articles 8a, 8e and 8f of this Regulation.”

## *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, **or activities of organised crime groups** 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) concerns regarding the naturalisation process, the issuance of passports and the document security in a country listed in Annex II;**
- (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) **when specific conditions set out in bilateral visa-free agreements between the EU and a third country are breached, in particular where these are based on Article 1 and were used to assess the appropriateness of granting visa liberalisation;** ~~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) where the contribution of a country listed in Annex II to international law enforcement information exchange is deemed insufficient.**<sup>3</sup>

2. For the purposes of paragraph 1, points (a), (b) and (d)(i), of this Article a substantial increase shall mean an increase **of a considerable amount** ~~exceeding a threshold of 50%~~<sup>4</sup>, 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.

<sup>3</sup> Comment: Such information sharing is important for the profiling to be performed for visa- free travellers in ETIAS, for example in the ETIAS watchlist, and also in SIS and relevant Interpol databases, and may also be useful for Frontex (ETIAS central unit) in their establishment of risk profiles for ETIAS. Such information sharing is also of use for example in the passenger profiling in the API and PNR systems. The evaluation can be based on information regarding information sharing from relevant agencies.

<sup>4</sup> Comment: A fixed percentage may give a wrong focus. An increase from 2 to 3, and from 200.000 to 300.000 would be considered equal.

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 204%<sup>5</sup>, **or asylum seekers from countries considered as safe by EUAA**, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a **lower or** 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 **information**~~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.

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<sup>5</sup> Comment: This threshold is used in the proposal for an asylum procedures regulation, and the EUAA will get a role in setting up a list of safe 3rd countries.

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 Guard, the European Union Agency for Asylum, the European Union Agency for Law Enforcement Cooperation (Europol) 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 **and relevant EU agencies such as Frontex, EUAA, Europol and EEAS**<sup>6</sup> 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, **supported by relevant EU agencies**, 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 **or the relevant agencies**, taking into account the relevant **information**~~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.

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<sup>6</sup> Comment: The agencies will have relevant information and analysis available, and should produce this based on their mandates, for example as Frontex will be responsible for C-VIS and ECU, and risk profiling and etias watchlist, along with their existing responsibility of monitoring of irregular migration to the Schengen area. When the agencies are tasked to take part in the monitoring and reporting, this will reduce the administrative burden of the COM, and will also make the monitoring and reporting less political.

## *Article 8d*

### *Reporting*

1. The Commission **and relevant EU agencies**, 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.

## *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.

## POLAND

Thank you for the introductory discussion on visa suspension mechanism. Former discussions in the Council have already confirmed that there is a genuine need to strengthen the mechanism and make it more future-proof. Emphasis was also put on the conditions for suspending visa-free movement to better reflect the conditions of visa liberalization.

In this context we share the Commission's honest assessment that the visa tools at our disposal sometimes fall short and do not allow the Union to exhibit greater coherence between the external relations and home affairs area. The external relations of the UE with a third country is one of the conditions taken into consideration for visa liberalization - we feel that this should equally be a ground for suspension of visa-free movement. It is to be underlined that visa liberalization is a privilege that the UE extends to countries deemed to fulfil certain conditions, abide by the international law and respect the rules-based order. It might be questionable to retain visa-free movement side-by-side with deep sanctions as a result of war of aggression, for example.

Poland is aware that such a procedure would not entirely fall into the mechanics of the current mechanism. As much as the need to ever use it seems improbable now, we think that the current geopolitical situation should make us more sensitive to the unexpected and therefore should stimulate work on novel solutions and safeguards. Swift, efficient response requires tools – we should have the tools ready if and when we need them.

## PORTUGAL

1. Portugal globally agrees and welcomes the Commission's proposal, which, we believe, goes in the right direction;
2. Portugal agrees with the new proposed qualitative criteria proposed by the Commission as consisting possible motives for suspension in article 8a. However, Portugal would prefer that Member States also be able to notify the Commission on the basis of said new criteria;
3. Portugal would also like the urgency procedure envisaged in article 8e of the Commission's proposal to include a previous consultation with Member-States before the Commission issues an implementing act suspending an agreement.

## SWEDEN

*The visa suspension mechanism is an essential tool to ensure a sustainable and efficient visa policy. Sweden welcomes the proposal of the Commission, presented on 17<sup>th</sup> October, which is important to strengthen the credibility of the mechanism while maintaining its deterrent effect. During the negotiations, focus needs to be both on adapting the mechanism to current migratory challenges but especially on making the procedure more efficient. Sweden emphasizes the need to have a strengthened visa suspension mechanism in place as soon as possible and before any new decision on visa liberalisation is taken.*

*Sweden suggests that the following elements be taken into account in the Council mandate.*

### **1. Article 8(2): agreements on short-stay visa waivers**

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 (8a, 8e and 8f).

While we believe it is a positive development, we wonder whether the sole provision of Article 8(2) is sufficient to ensure that the exemption is also suspended in EU law, especially at the second stage of the procedure, when full suspension is being considered. Indeed, article 8f of the proposal specifically provides for the amendment of Annex II when a delegated act is being adopted, while article 8(2) says nothing about this.

Consequently, we are concerned that if article 8(2) does not provide for the amendment of Annex II, we could end up in a situation where the visa waiver agreement is effectively suspended, but the visa exemption could still be in force in accordance with Annex II of regulation 2018/1806, which would not have been amended.

Moreover, we noticed that in the case of Vanuatu, an amendment of Annex II was not needed in the first phase of the suspension of the visa exemption (adoption of an implementing act for the partial suspension of the exemption - which is the equivalent of article 8e in the proposal). We wonder whether if, for legal certainty purposes, it might not be better to also provide for the amendment of Annex II at this stage of the procedure.

### **2. Article 8a p.1: Grounds for suspension**

Sweden welcomes the three new grounds for suspension included in the proposal, as they will better equip the mechanism against new migratory challenges that have surfaced in the past years. Other than grounds proposed by the Commission, Sweden can support a clarification in a recital that problems related to the issuance of travel documents, including document security, can be interpreted under article 8a (1) (d). An explicit reference to the definition of hybrid threats could also be considered in a recital. Furthermore, Sweden can support that a reference to data from EES and ETIAS regarding overstays be added, also in a recital, when assessing if a person is staying in a Member State's territory without the right to do so.

Sweden can also support that MS should be able to notify the Commission on the basis of all grounds for suspension, including also lack of visa alignment and hybrid threats.

While the grounds need to be clear and concrete, they must also be flexible and future-proof in order to avoid the need for a new revision of the Visa Regulation in the near future. Sweden would caution extensive discussions on possible additional grounds, also considering the risk of delaying the negotiation as a whole.

### **3. Article 8a p.2: Thresholds**

Regarding the thresholds already defined in the Visa Regulation, Sweden can support amendments to the effect of lowering the established definition of “substantial increase” in the number of asylum applications, as well as an increase of the “low recognition rate” under article 8a p.1 (b).

As for the possibility introduced in the proposal, whereby assessments of the thresholds can be adapted on a case-by-case basis, Sweden welcomes the aim to make them more flexible. However we do see a need for clarifications on how these assessments would be made in practice.

### **4. Article 8e p.1–2 och 8f p.1: Procedure**

Visa liberalisation is an important instrument to drive reforms in third countries. Just as a decision to waive the visa requirement can incentivize countries to take different measures, so can the signal of a possible suspension. While we understand the need for dialogue with the country concerned, and time for them to adopt necessary measures, it is important that momentum is not lost. An extension of the timeframes needs to be clearly balanced by the newly proposed urgent procedure. Sweden would like more clarifications from the Commission in this regard, e.g. the requirements, procedure including the role of the Council and timeframe.

### **5. Article 8c and 8d: Monitoring and reporting**

Monitoring and reporting of visa free countries are essential parts of the mechanism, and Sweden welcomes the proposals aim to widen and extend these parts. Monitoring of visa free regimes should be discussed on a regular basis in the Visa Working Party (VWP). As has been emphasized by MS, and as demonstrated e.g. by EUAA during the meeting of the VWP in March, EU-agencies hold significant information which is valuable for MS in analysing trends from visa required and visa free countries to the Schengen area. Sweden therefore suggests that this be reflected in a new paragraph under article 8c, e.g. according to the following:

*“Relevant EU-agencies and networks shall on a regular basis provide Member States with data, reports and statistics relevant for the fulfilment of the criteria under article 1 as well as for this provision.”*

The « relevant networks » could be interpreted as including both immigration liaison officers and LSC-cooperations.

Sweden can also support that recommendations in the report on the Visa Suspension Mechanism be expanded, in order to include operational points for each country to follow- up.

### ***Final remarks***

Sweden wishes to encourage the Commission to make use of MS and their experiences with certain third countries before presenting new proposals on visa liberalisation in the future. Sweden would also welcome further reflection under incoming Presidencies on a possible alignment of the criteria for visa liberalisation as defined in article 1, and the grounds for suspension in article 8 incl. during the next legislature.