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NOTE

From:	General Secretariat of the Council
To:	Visa Working Party / Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)
No. prev. doc.:	15074/23, CM 1222/24
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1806 as regards holders of Serbian passports issued by the Serbian Coordination Directorate (Koordinaciona uprava) – comments from delegations

Following the meeting of the Visa Working Party on 15 January 2024 and the subsequent request for written contribution on the above-mentioned proposal (CM 1222/24), delegations will find attached the written comments submitted by delegations.

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AUSTRIA

Austria supports the original European Commission proposal as it is seen as a technical amendment concerning visa exemption for SRB in the context of entry into force of KOS visa liberalisation.

Therefore, Austria is in favor of a swift adoption of the legal act.

BULGARIA

Bulgaria has already expressed its concerns as on the COWEB WP, thus on the Visa WP. We will not oppose the proposal made by the Commission but Bulgaria would like to recommend the inclusion of a review clause in the Regulation reflecting the temporary nature of the proposed decision.

As a matter of fact, during the last meeting of the VWP the European Commission and the EEAS also mentioned during their speeches that the proposed decision has temporary nature.

In connection with the above, Bulgaria considers it would be appropriate not to make hasty decisions and we have expressed our position that we support the view that all citizens of Kosovo should have equal opportunities to benefit from visa liberalization. We believe that a careful approach is needed that takes into account the complex impact of the Commission's proposal on the process of normalizing the relations between Belgrade and Pristina, including on the process of integration of the local Serb population. In this sense, instrumentalization of the issue by both sides should not be allowed in the framework of the Dialogue process, including that the Commission's proposal provides a temporary solution to the issue, which is subsequently to be finally resolved within the process of normalization of Belgrade-Pristina relations.

CROATIA

Croatia has always strongly supported visa-free travel for citizens of all Western Balkan countries and agrees that citizens of all countries in the region should be able to travel visa-free to the EU. However, we think this goal was reached when visa-waiver for Kosovo was negotiated. The fact is that, since 1st January 2024., citizens of all Western Balkan countries can travel visa-free to the EU. This includes Serbs from Kosovo, who are dual citizens (of Serbia and Kosovo) and can obtain passports issued by Kosovo. Official data indicate a 29% increase in number of applications for Kosovo passports by Serbs in 2023 (3 363 in 2022, 4 350 u 2023), which Croatia considers a positive trend as regards normalization of relations between Kosovo and Serbia and integration of Serbs in Kosovo. This proposal might affect this positive trend in a negative way. Furthermore, it is necessary to take into account the Note Verbale of the Ministry of Foreign Affairs and Diaspora of Kosovo from 15th January 2024, announcing that Kosovo immigration officers/border guards at International Airport of Priština will not accept passports issued by Serbian Coordination Directorate, not even for transit. We see this as a first indicator of negative impact of the Proposal to normalizations of relations between Kosovo and Serbia.

On the other hand, this proposal needs to be looked at and analyzed as what it is - a proposal of visa waiver for Serbia, and in a wider context of visa policy and other Union policies. Visa policy is a leverage. During the last two years, we have been discussing intensively about the future of visa policy, about its tools and mechanisms and making them more efficient. One of our common goals is comprehensive use of the Union's policies and mechanisms, which doesn't allow us to isolate visa policy. The Commission often says, and Croatia completely agrees, that we do not go around offering visa waivers, visa waiver is not a right, it's a privilege. Therefore, we think this proposal shouldn't be an exception, we should stay committed to the principles of common visa policy of the EU. Serbia committed at the beginning of 2023. to prepare an Action Plan on visa policy alignment with clear timelines, which it hasn't delivered. Croatia thinks this visa waiver proposal should be linked to visa policy alignment. Further, if not complete, visa alignment should be a condition for entry into force of the visa waiver.

Other condition for entry into force of the visa waiver should definitely be abandoning the practice of specifying the country of birth in the passports issued by the Serbian Coordination Directorate (currently, besides municipalities of Kosovo, Serbia is named as the country of birth, thus indicating that these municipalities pertain to Serbia).

CZECHIA

The Czech Republic supports the visa-free regime for the entire Western Balkans region. In this case however, we consider this Proposal to be a politically sensitive issue and we are not inclined to support the Commission's view on the matter. From the point of view of the Kosovo government, the Serbian Coordination Directorate is an institution of parallel power, and the Czech Republic, as a country that has recognized the independence of the Republic of Kosovo, supports its sovereignty.

We are convinced that the benefits of visa-free travel can be enjoyed by all citizens of Kosovo without any major difficulties already. A significant number of Kosovo Serbs possess Kosovo documents (citizenship ID cards), and if they do not have a Kosovo passport, they can obtain one without any major problems. Under these circumstances, we see no reason why we should allow them visa-free travel in any other way.

In the event that the proposal does not gain support, we suggest that the Commission takes advantage of the Kosovo government's offer and monitor the process of transparently issuing passports to Kosovo Serbs.

ESTONIA

In general terms, internal discussions regarding the proposal in Estonia are ongoing and we are still analysing the proposal and its potential impact.

In our opinion, the proposal has high political sensitivity, especially as regards its potential impact on the dialogue, and we should be vigilant as not to undermine the positive developments in this regard. Therefore, the proposal should be an interim solution and we propose adding a deadline, review clause or sunset clause to it.

Secondly, we should also take into account the fact that the passports issued by the Serbian Coordination Directorate will not be accepted by immigration officers at the International Pristina Airport, including for transit travelling from or to a third country. This would potentially put into question the actual practicability of using these passports for travelling out of and into Kosovo. Against this background, we would kindly like to ask for an overview which countries neighbouring to Kosovo accept the passports in question.

FINLAND

- The proposed solution is not ideal, but as a temporary solution it is the most effective of the possible alternatives.
- It is not good that some group (in this case Kosovo Serbs with passports issued by Serbia) is excluded from the visa exemption; the goal is equal treatment of all groups.
- In the longer term, we support Kosovo's effort to issue passports to this group as well.

FRANCE

- Les autorités françaises continuent de considérer comme pertinent l'objectif de la proposition de la Commission, à savoir faire en sorte que les détenteurs de passeports délivrés par la direction de coordination serbe puissent bénéficier de la libéralisation des visas au même titre que le reste des citoyens kosovars et des Balkans occidentaux. Une exclusion des détenteurs de passeports délivrés par cette entité serait perçue comme une discrimination et risquerait d'être instrumentalisée, notamment par la Russie.
- Les autorités françaises peuvent soutenir la proposition de la Commission, l'enjeu prioritaire étant d'éviter de ne plus reconnaître aux Serbes du Kosovo le droit à la double nationalité, ce qui aurait des conséquences dans de nombreux domaines (élections par exemple) et ne correspondrait pas aux standards européens.
- Les autorités françaises rappellent que le directeur de coordination serbe n'est pas une institution parallèle mais avait été créé en 2009 à la demande de l'UE pour traiter des enjeux liés au Kosovo. La délivrance des passeports pour les Serbes du Kosovo afin de les exclure de la libéralisation des visas pour les Serbes avait constitué une solution approuvée par l'UE pour des questions migratoires.

GERMANY

Germany considers freedom of travels for all people in the Western Balkan crucial. We fully share the objective of the Commission to complete visa liberalisation for all people of the Western Balkans. Germany can therefore both support the original COM proposal as well as the proposal put forward by the French delegation to delete the addition in brackets "excluding/including holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava)".

International standards require that the place of birth is mentioned on travel documents, but do not require an additional reference to the country of birth. In the context of the current proposal, we suggest that Serbia should be requested to include a status-neutral designation of the place of birth alone, without a country reference to Serbia, in the Serbian passports issued by the Serbian Coordination Directorate in order to avoid contradiction with the position of several Member States under international law.

HUNGARY

- Hungary repeatedly advocated for visa-free entry for all citizens of the Western Balkans as soon as possible and therefore supports the Commission's proposal.
- We believe that this proposal on visa waiver for a minority of people living in the territory of Kosovo is a technical one, since based on the decisions of the Member States the nationals of Serbia are already visa-free just like the nationals of Kosovo are.
- We consider it contradictory to lengthen the procedure at a time when most Member States have recognized and do recognize the passports in question issued by the Serbian Coordination Directorate. And this procedure is not something new, it is in place for 15 years now.
- We believe that making it a political issue sends a wrong message and would not contribute to maintaining stability and peace, but it might “add another shovel to the fire” given the tension between the two third countries concerned. The EU can stay status neutral if it ensure equal treatment by granting visa waiver to this last group of people as well in the Western Balkan region. (This solution also provides the (real) choice for Serbians living in the territory of Kosovo to apply for either of the passports.)
- Concerning the French proposal, in case of support by the majority of Member States, given that it would not change the intended final result, and in order to achieve visa waiver for all citizens of the Western-Balkans as soon as possible, Hungary can consider to support the FR proposal - which proposal would remove the reference to the Serbian coordination passport from the text, so that the visa waiver would apply uniformly to all Serbian passport. However, we agree with the COM that this solution could cause misunderstandings (could be incentive for Serbia to terminate the SCD and Kosovar Serbs to apply for ordinary Serbian passport) and so negatively affect the dialogue between the two countries concerned.

ITALY

Italy agrees on the need to reach the objective of a complete a uniform visa exemption policy vis a vis all the Western Balkans.

At the same time, although the objective of a complete standardization of the visa policy towards the Western Balkans finds the complete consensus of all the Member States, the last Visa Working Party has shown divisions among the Member States about the means by which this objective has to be achieved.

While the Commission underlined the importance of keeping the reference "... holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava)", the alternative solution proposed by France, namely to remove from the Regulation any reference to the Serbian Coordination Directorate, seems to be supported by several Member States.

Italy supports every measure that could bring a more effective solution in order to protect the relationship between the State of Kosovo and the Serbian minority.

Finally, as highlighted by several Member States, it is of crucial importance to decide between one of these measures as a matter of urgency in order to avoid possible malaise and discrimination between the peoples of the Western Balkans.

LITHUANIA

- Lithuania supports the free movement of citizens of the Western Balkan countries to the EU. We are glad that citizens of Kosovo are finally able to enjoy visa-free travels to the Schengen area.
- Lithuania recognizes the independence and territorial integrity of Kosovo, as well as the sovereign institutions of Kosovo. In this context, we would like the official authorities in Prishtina to issue passports to its citizens, regardless of their ethnicity or place of residence.
- We believe that the practice of issuing passports of another country (Serbia) on the territory of a sovereign state (Kosovo) is wrong and unreasonable per se, even considering the Belgrade-Prishtina Dialogue.
- Commission's proposal to exempt holders of passports issued by a parallel structure of Serbia in Kosovo from the visa regime increases security risks (security checks, technical and legal capacity to verify the data of the bearers by Kosovo authorities).
- Lawful application for Kosovo passport provides possibility for local Serbs to travel freely to the Schengen area.

THE NETHERLANDS

- The Netherlands supports the objective of the Commission proposal, which is aimed at preventing a group from being excluded from the visa exemption for Kosovo.
- Now that visa free travel for Kosovo has come into effect from January 1st, it is of importance that all Kosovar residents will be able to enjoy their right to visa free travel as soon as possible.
- In light of the discussions held during the COWEB and Visa Working Party, the preferred option for the Netherlands in this case is the original proposal by the Commission. For the Netherlands, although not perfect, this option seems the most swiftly implementable and most neutral.
- However, if a majority of MS leans towards the proposal as presented by the French delegation (deleting the reference to SCD passports in Annex II of Regulation 2018/1806), the Netherlands would also be able to support this option.
- Lastly, the Netherlands requests the Commission to formulate common EU lines to take vis à vis the Kosovar authorities. We notice that Kosovo is undertaking significant outreach towards the EU as well as individual MS. Therefore, it would be desirable to formulate a harmonized response.

NORWAY

Norway welcomes the Presidency's proposal of a compromise urgency procedure. Our preliminary assessment is that we can support the Presidency's proposal, but as mentioned in the meeting of the Visa Working Party on Monday 15 January, Norway welcomes a clarification on the differences between the Commission's proposal, The former Spanish Presidency's proposal and the Belgian Presidency's proposal before we can confirm our position. Furthermore, we take note of the previous assurance by the Commission that the procedures will be discussed with Schengen MS in relevant groups and networks.

Norway was not present in the discussions in COWEB and hence appreciates the brief summary of the main issues raised in the Visa WP 15 January. As the discussion revolved around a proposal which has Schengen relevance, we would like to kindly remind you of the procedural requirements related to our participation when drafting instruments that are envisaged to become part of the Schengen acquis. We appreciate the Presidency's efforts in this matter.

On the substance of the Commission's proposal for a regulation of the European parliament and of the Council amending Regulation (EU) 2018/1806 as regards holders of Serbian passports issued by the Serbian Coordination Directorate (Koordinaciona uprava), Norway accept the inclusion of the relevant passports in the visa exemption list.

PORTUGAL

Portugal recognizes the urgency in guaranteeing visa free travel to all citizens from Western Balkan countries, now that Kosovo has also been included in Annex II of Regulation 1806/2018.

To this end, recognizing the need to include the holders of Serbian passports issued by the Serbian Coordination Directorate in the visa free regime, we are flexible as regards the two solutions put forward to resolve the issue, both the original Commission proposal as well as the French proposal, being able, as such, to support the will of the majority.

We agree with the presidency that in order to deal with the issue at the Visa Working Party, political considerations already approached in other fora should not be reopened.

SWEDEN

Sweden, like other MS, considers that all citizens of Kosovo and Serbia should be able to enjoy visa-free travel to the EU. Sweden welcomes the discussions that have taken place in COWEB on this politically sensitive issue. Sweden attaches great importance to the Belgrade-Pristina dialogue and the avoidance of parallel structures in Kosovo.

Among the two main alternatives discussed at the Visa Working Party on 15 January, Sweden prefers the proposal by the Commission but can also accept the proposal by France.
