



Council of the
European Union

Brussels, 5 April 2019
(OR. en)

Interinstitutional File:
2018/0390(COD)

7192/1/19
REV 1 ADD 1

CODEC 627
VISA 55
PREP-BXT 104
COMIX 144

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1806 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, as regards the withdrawal of the United Kingdom from the Union (**first reading**)

- Adoption of the legislative act
- Statement

Statement by the United Kingdom

The United Kingdom (UK):

- welcomes the fact that this measure provides certainty for British nationals, including those in Gibraltar.
- rejects the way it has been presented and any characterisation of Gibraltar as a colony.
- is clear the Constitution of Gibraltar provides for a modern and mature relationship between the UK and Gibraltar. This is a political status which has been freely determined by the people of Gibraltar, and as such the referendum on that Constitution in 2006 represented an exercise of the right of self-determination.

- reiterates its certainty of its sovereignty over the whole of Gibraltar and rejects this instrument’s characterisation of there being a ‘controversy’ over the 'sovereignty of Gibraltar' which is not its position and is inconsistent with statements made in any previous EU instrument.
- disagrees that the language should reference UN decisions in relation to Gibraltar which have nothing to do with the important issue of visa-free travel, while setting an unhelpful precedent for inappropriately ‘importing’ disagreements that belong in the UN space.
- notes furthermore that the language does not actually properly reflect the annual decisions of the UN General Assembly which are agreed with the consensus of the UK and Spain, the most recent of which is included below for reference*.
- believes it would have been more appropriate to use language adapted from the draft Withdrawal Agreement’s Gibraltar Protocol, which both the UK and EU (including Spain) have agreed to: “This is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to sovereignty and jurisdiction”
- regrets that its approaches to Spain to develop more appropriate wording were not reciprocated.

* Annual decision of the UN General Assembly (2018):

"The General Assembly, recalling its decision 72/520 of 7 December 2017:

- (a) Urges the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland, while listening to the interests and aspirations of Gibraltar that are legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of the relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;

- (b) Takes note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue;
 - (c) Takes note of the position of Spain that the trilateral Forum for Dialogue does not exist any longer and should be replaced with a new mechanism for local cooperation in which the people of the Campo de Gibraltar and Gibraltar are represented;
 - (d) Welcomes the efforts made by all to resolve problems and advance in a spirit of trust and solidarity, in order to find common solutions and move forward in areas of mutual interest towards a relationship based on dialogue and cooperation."
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