Council of the European Union

Brussels, 11 March 2024
(OR. en)

7526/24

Interinstitutional File: 2023/0371(COD)

LIMITE

VISA 36
MIGR 113
FRONT 83
COMIX 137
CODEC 725

PUBLIC

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. prev. doc.:	16126/3/23 REV 3
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 - Mandate for negotiations with the European Parliament

I. INTRODUCTION

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

[1] 14008/23 + COR 1.

[2] Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 303 28.11.2018, p. 39.

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

II. WORK IN THE COUNCIL PREPARATORY BODIES

3. In the Council, the Visa Working Party started a thorough examination of the proposal under the Spanish Presidency and continued it under the Belgian Presidency. A number of discussion papers[3] and compromise proposals[4] were submitted to delegations during that examination.

4. In March 2024 the discussion moved to the level of JHA Counsellors with a view to fine-tuning the compromise text. The JHA Counsellors (Visa) discussed it at their meeting on 8 March 2024 and agreed on the text as set out in the Annex to this note.

III. WORK IN THE OTHER INSTITUTIONS AND BODIES

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

6. Works are ongoing in the LIBE committee with a view to the adoption of the Parliament's negotiating position before the end of this parliamentary term.

IV. THE MAIN ELEMENTS OF THE COMPROMISE PROPOSAL

7. On the basis of the thorough examination of the Commission proposal carried out under the Spanish and Belgian Presidencies and the oral and written comments submitted by delegations, the proposal was amended with regard to a number of elements.

[3] 16909/23, 5113/24 and 5858/24.
[4] 16126/23, 16126/1/23 REV 1, 16126/2/23 REV 2 and 16126/3/23 REV 3.

PUBLIC

8. One of the main features of the Commission proposal was the addition of new grounds on the basis of which the suspension mechanism can be triggered, so as to allow the Union to better respond to a number of new challenges. While fully supporting such additions, a majority of Member States wished to go even further. First, it was made explicit that deficiencies in document security legislation or procedures constituted a significant risk or imminent threat to Member States' public policy or internal security. Secondly, in order to strengthen the symmetry between the criteria for granting visa exemption (Article 1 of the Visa Regulation) and the grounds on which to suspend it (Article 8), a new ground was added to cover situations involving a significant and abrupt deterioration in the Union's external relations with a third country, in particular with regard to human rights and fundamental freedoms. Given the very political nature of that ground, certain procedural and substantive safeguards were added as well. Finally, it was made clear that the suspension mechanism could also be triggered on the basis of any other ground set out in a visa waiver agreement (of course, only within the scope of application of such an agreement).

9. As far as visa waiver agreements are concerned, Member States considered that the Commission proposal offered an opportunity to clarify the interplay between the suspension of such agreements and the suspension of the visa exemption under Article 8 of the Visa Regulation. In accordance with the principle of the hierarchy of norms (i.e. the primacy of international law over EU secondary legislation), it was therefore made clear that, where the EU had concluded a visa waiver agreement with a third country listed in Annex II to the Visa Regulation, the latter would apply without prejudice to the procedures set out in the agreement. The same goes for the grounds for triggering the suspension (see *supra*, paragraph 8).

PUBLIC

10. A broad majority of Member States felt that, while the Commission proposal would certainly contribute to making the suspension mechanism more effective, the fact that the thresholds laid down to qualify the 'substantial increase'[5] and the 'recognition rate'[6] were left untouched, combined with the fact that they were now spelled out in the operative part of the Regulation, seriously affected the added value of the proposal. If the suspension mechanism were to be triggered more easily and its deterrent effect increased as a consequence, then those thresholds had to be respectively decreased (from 50 to 30%) and increased (from 4 to 20%). The flexibility left to the Commission to apply different thresholds in specific cases constituted a safeguard against any automatism in the implementation of those provisions.

11. While, under the Commission proposal, Member States were able to notify the Commission of any circumstances potentially justifying the visa suspension only on the 'old' grounds, delegations considered that, for the new grounds (hybrid threats, deficiency in document security, investor citizenship schemes, non-alignment of visa policy), Member States' vigilance could also be useful in identifying any possible abuse of the visa exemption by a third country. For those new grounds, however a longer period (two months rather than just one) for the Commission to submit a proposal to enact the suspension was justified, because the time needed to assess the situation would indeed be longer. Therefore, in the final compromise text, only the triggering of the visa suspension mechanism because of non-compliance with the specific requirements as set out in visa liberalisation dialogues or because of a significant and abrupt deterioration in the Union's external relations with a third country are left to the sole initiative of the Commission (the preamble makes nonetheless clear that in the latter case, the Commission acts in consultation with the Member States).

---

5 In the number of nationals of a third country listed in Annex II who are refused entry or who are found to be staying in a Member State's territory without the right to do so, or in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate is low.

6 Of asylum applications.

PUBLIC

12. The urgency procedure was modified to ensure greater participation of Member States in the decision-making process. Instead of relying on Article 8 of Regulation (EU) No 182/2011 (Comitology Regulation), the compromise text refers to the common provisions of that Regulation, taking advantage of the existing provisions already applicable 'in duly justified cases' to shorten the deadlines for the adoption of a regular implementing act suspending the visa exemption.

V. CONCLUSION

13. The Permanent Representatives Committee is therefore invited to confirm agreement on the text of the mandate for negotiations with the European Parliament, as set out in the Annex to this note[7], to enable the Presidency to conduct those negotiations.

14. In accordance with the approach to legislative transparency endorsed by Coreper on 14 July 2020[8], and in full consistency with Regulation (EC) 1049/2001 and the Council's Rules of Procedure, the text of the mandate thus agreed will be made public unless the Permanent Representatives Committee objects.

---

[7] Changes compared to the Commission's proposal are marked in **bold** for additions and ~~strikethrough~~ for deletions. New changes compared to doc. 16126/3/23 REV 3 are marked in **bold underline** for additions and ~~**bold strikethrough**~~ for deletion.

[8] 9493/20.

ANNEX

PUBLIC

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), point (a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) 2018/1806 of the European Parliament and of the Council[1] lists the third countries whose nationals are to be in possession of visas when crossing the external borders of the Member States and those whose nationals are exempt from that requirement for stays of no more than 90 days in any 180-day period.

(2) The mechanism for the temporary suspension of the exemption from the visa requirement for the nationals of a third country listed in Annex II to Regulation (EU) 2018/1806 ('the suspension mechanism') should be strengthened for the Union to have at its disposal a more efficient safeguard aimed at preventing a wider range of irregular migration, public policy and security risks arising from the third countries listed in that Annex II, as well as the abuse of the visa exemption through the operation of investor citizenship schemes by those third countries.

[1] Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303 28.11.2018, p. 39).

(3) In particular, the use of the suspension mechanism should be facilitated by broadening the possible grounds for suspension, adapting the relevant thresholds and procedures, and strengthening the Commission's monitoring and reporting obligations.

(4) The Union has concluded a number of agreements on the short-stay visa waiver with countries listed in Annex II to Regulation (EU) 2018/1806 ~~which may include different grounds for suspension or different procedures than the ones set out in the suspension mechanism, and may conclude further of those agreements in the future. As the Union respects international agreements and, thus, is bound by these agreements, the relevant different provisions set out in those agreements should be applied instead of the relevant provisions of the suspension mechanism.~~ **In case such an agreement has been concluded and where the Union deems necessary to suspend the visa-free regime for the third country concerned, the agreement should be suspended through the adoption of a Council decision. Additionally, it will be necessary to provide for the suspension of the exemption at the level of Union law, by means of the suspension mechanism.**

(4a) The suspension mechanism may be triggered in case of a significant risk or imminent threat to the public policy or internal security of Member states. When assessing said risk or imminent threat, terrorist offences and activities of organised criminal groups should be taken into account.

(5) In its conclusions of 22 October 2021, the European Council **rejected any attempts by third countries to instrumentalise migrants for political purposes and** invited the Commission to propose any necessary changes to the Union's legal framework and concrete measures to ensure an immediate and appropriate response to hybrid threats in line with Union law and international obligations. Therefore, it should be possible to trigger the suspension mechanism in case of risks or threats to the public policy or internal security of the Member States arising from hybrid threats such as situations of state-sponsored instrumentalisation of migrants aimed at destabilising or undermining society and key institutions.

(5a) Special consideration should also be paid to deficiencies in document security, as it is essential that the travel and (breeder) identity documents issued by countries listed in Annex II for travel purposes to the territory of Member States can be fully trusted and not easily falsified or counterfeited.

(6) Investor citizenship schemes operated by third countries listed in Annex II to Regulation (EU) 2018/1806 allow visa-free travel to the Union to third-country nationals that would otherwise be visa required. Under an investor citizenship scheme, citizenship is granted in return for pre-determined payments or investments without any genuine link to the third country concerned. While the Union respects the right of sovereign countries to decide on their own naturalisation procedures, visa-free third countries should be deterred from using visa-free access to the Union as a tool for leveraging individual investment in return for their citizenship. To prevent visa-free access to the Union being used for this purpose, it should be possible to suspend the visa exemption for a third country which chooses to operate such investor citizenship schemes, whereby citizenship is granted without any genuine link to the third country concerned.

(7) Where the visa policy of a third country listed in Annex II to Regulation (EU) 2018/1806 is not aligned with the visa policy of the Union as regards the list of third countries whose nationals are required to be in possession of a visa when crossing the external borders of the Member States, this could result in irregular migration to the Union, in particular where the concerned third country is in close geographic proximity to the Union. Therefore, it should be possible to trigger the suspension mechanism where, following an assessment, the Commission concludes that there is a risk of a substantial increase in the number of third-country nationals, other than nationals of that third country, who arrive legally in the territory of that third country and then irregularly enter the territory of the Member States.

(7a) Regulation (EU) 2018/1806 determines the third countries whose nationals are subject to, or exempt from, the visa requirement. Some of the criteria used for the purpose of exemption from the visa requirement are reflected in the grounds for suspension in other provisions of that regulation, thereby ensuring a link between the criteria for granting visa exemption and the grounds for suspension. The revised suspension mechanism should therefore also provide for the possibility to suspend the visa-free regime in case of a significant and abrupt deterioration in the Union's external relations with a third country listed in Annex II, in particular when it relates to human rights and fundamental freedoms. These circumstances could derive from serious human rights violations and abuses, or serious breaches of international law and standards, including human rights law and non-compliance with international court decisions and rulings. Moreover, given that these cicumstances will affect the external relations of the Union as a whole, the triggering of the suspension mechanism on this ground should be the exclusive prerogative of the Commission, after consultation of the Member States. Additionally, where the Commission considers suspending the visa exemption on this ground, its assessment should take into account the potential impact of the suspension on the nationals of the third country concerned.

(7b) The short-stay visa waiver agreements concluded with countries listed in Annex II to Regulation (EU) 2018/1806 may include different grounds for suspension than the ones set out in the suspension mechanism. Consequently, the Union should be able to use these grounds to suspend the visa-free regime, also at the level of Union law. However, the use of the grounds for suspension set out in short-stay visa waiver agreements should be limited to the scope of application of such agreements.

(8) The thresholds to trigger the suspension mechanism in case of a substantial increase in the number of nationals of a third country refused entry or found to be staying in the Member State's territory without a right to do so, or in the number of asylum applications from the nationals of that third country for which the recognition rate is low, or in the number of serious criminal offences linked to the nationals of that third country, should be subject to a case-by-case assessment by the Commission. In particular, the Commission should be able to assess whether there are specific circumstances, in the cases notified by Member States or under its own analysis, which would justify the application of lower or higher thresholds than those indicated in relevant provisions of Regulation (EU) 2018/1806. The Commission's assessment should take into account, for example, the number of unauthorised crossings of the external borders of the Member States, unfounded asylum applications or criminal offences in proportion to the number and size of Member States affected and the impact of those numbers on the overall migratory situation, functioning of the asylum systems or internal security of the Member States affected, as well as actions taken by the third country concerned to remedy the situation.

(9) For the purpose of notifying to the Commission the circumstances that may amount to a ground for suspension, Member States should be able to take into account reference periods longer than two months in order to identify not only sudden changes in the relevant situation, but also longer-term trends that may justify the use of the visa suspension mechanism.

(10) Whenever it considers it necessary, or upon request by the European Parliament or by the Council, the Commission should report on the outcome of its systematic monitoring of the visa-free regimes with all the third countries listed in Annex II to Regulation (EU) 2018/1806**, on the basis, *inter alia*, of data from EU IT systems, such as the EES and ETIAS, and agencies**. The report should focus on those third countries which, according to the Commission's analysis, present specific problems that, if not addressed, may lead to trigger the suspension mechanism. In particular, the Commission should consider reporting on countries which have been newly listed in Annex II without undergoing a visa liberalisation dialogue, where it considers it necessary and in particular in the first years following the entry into force of the visa exemption for those countries.

(11) Where a decision to temporarily suspend the visa exemption for a third country has been taken, there should be an adequate timeframe for the enhanced dialogue between the Commission and the concerned third country aimed at remedying the circumstances that led to the suspension. For this purpose, the duration of the temporary suspension decided by a Commission implementing act should be 12 months in a first phase, with a possibility to extend it by a further 24 months with a delegated act in a second phase. Where no solution is found before the end of the period of validity of the delegated act and the Commission presents a legislative proposal to transfer the concerned third country from Annex II to Annex I of Regulation (EU) 2018/1806, the Commission should adopt a delegated act extending the temporary suspension until the entry into force of the adopted proposal.

(12) ~~The Commission should adopt immediately applicable implementing acts where,i~~**I**n duly justified cases ~~related to the triggering of the suspension mechanism, imperative grounds of urgency require expedited action, in particular~~ **where the urgency of the matter requires it, for example** to prevent ~~any abuse of visa-free travel causing~~ a mass influx of third-country nationals arriving irregularly in the territory of the Member States or a serious damage to the public policy or internal security of Member States**, the Commission should adopt implementing acts in accordance with Article 5 in conjunction with Article 3(3) and (5) of Regulation (EU) 182/2011. Such provisions allow, in particular, to impose shorter time limits to the competent committee to deliver its opinion**.

(13) The temporary suspension should be lifted at any time where the circumstances that led to the suspension are remedied before the end of the period of the suspension. To this end, the Commission should adopt, respectively, an implementing act before the end of the period of suspension set out in the relevant implementing act, and a delegated act before the end of the period of suspension set out in the relevant delegated act.

(13a) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[2]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(14) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC[3].

---

2 **Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p.20).**

3 Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

(15) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[4], which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC[5].

(16) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[6], which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU[7].

~~(17) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[8]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.~~

(18) **As regards Cyprus, and Bulgaria and Romania, t**~~T~~This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

HAVE ADOPTED THIS REGULATION:

---

4 OJ L 53, 27.2.2008, p. 52.

5 Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

6 OJ L 160, 18.6.2011, p. 21.

7 Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

8 ~~Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p.20).~~

Article 1

Regulation (EU) 2018/1806 is amended as follows:

(1) Article 8 is replaced by the following:

"*Article 8*
Suspension mechanism

1. By way of derogation from Article 4, the exemption from the visa requirement for nationals of a third country listed in Annex II shall be temporarily suspended, based on relevant and objective data, in accordance with the conditions and procedure **("suspension mechanism")** 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 **has been concluded,** ~~includes provisions on different grounds or procedures for suspension, those provisions shall be applied instead of~~ Articles 8a, 8e and 8f of this Regulation **shall apply without prejudice to the relevant provisions on grounds for suspension and procedures set out in the agreement**."

(2) the following Articles are inserted:

"*Article 8a*
Grounds for suspension

1. The suspension mechanism may be triggered on **any of** the following grounds:

   (a) a substantial increase in the number of nationals of a third country listed in Annex II refused entry or found to be staying in a Member State's territory without a right to do so;

   (b) a substantial increase in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate is low;

   (c) a decrease in cooperation on readmission with a third country listed in Annex II, or other cases of non-cooperation on readmission;

PUBLIC

(d) a significant risk or imminent threat to the public policy or internal security of Member States related to a third country listed in Annex II, in particular deriving from any of the following:

(i) a substantial increase in serious criminal offences, linked to the nationals of that third country, substantiated by objective, concrete and relevant information and data provided by the competent authorities;

(ii) hybrid threats;

(iii) deficiencies in document security legislation or procedures;

(e) the operation, by a third country listed in Annex II, of an investor citizenship scheme, whereby citizenship is granted without any genuine link to the third country concerned, in exchange for pre-determined payments or investments;

(f) the non-alignment of the visa policy of a third country listed in Annex II, 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) with regard to the third countries whose nationals have been exempted from the visa requirement when travelling to the territory of the Member States as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country, the non-compliance with the specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation~~.~~**;**

(h) a significant and abrupt deterioration in the Union's external relations with a third country listed in Annex II, in particular when it relates to human rights and fundamental freedoms~~,~~ and is deriving from any of the following:

(i) serious human rights violations and abuses;

(ii) serious breaches of international law and standards, including human rights law and non-compliance with international court decisions and rulings;

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

PUBLIC

2. For the purposes of paragraph 1, points (a), (b) and (d)(i), of this Article a substantial increase shall ~~mean~~ **be regarded as** an increase exceeding a threshold of ~~50~~ **30**%, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a **different threshold** ~~lower or higher increase~~ is applicable in the particular case**, by providing duly justified reasons for this decision**.

3. For the purposes of paragraph 1, point (b), of this Article a low recognition rate shall ~~mean~~ **be regarded as** a recognition rate of asylum applications of less than 4 **20**%, unless the Commission in accordance with Article 8b(4) or Article 8c(2) concludes that a **different** ~~higher~~ recognition rate is applicable in the particular case**, by providing duly justified reasons for this decision**.

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).

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

2. The notification referred to in paragraph 1 **and 1a** of this Article shall state the reasons on which it is based and shall include relevant data and statistics as well as a detailed explanation of the preliminary measures that the Member State concerned has taken with a view to remedying the situation. In its notification, the Member State concerned may specify the categories of nationals of the third country concerned which are to be covered by an implementing act under Article 8e(1), specifying the detailed reasons for doing so.

3. The Commission shall inform the European Parliament and the Council immediately of such notification.

4. The Commission shall examine **without delay** any notification made pursuant to paragraph 1 **and 1a** of this Article, taking into account:

   (a) whether any of the circumstances amounting to the grounds referred to in Article 8a(1), points (a), (b), (c), ~~or~~ (d)~~(i)~~**, (e), (f) or (i)** exist;

   (b) the number of Member States affected by any of those circumstances;

   (c) the overall impact of those circumstances on the migratory situation in the Union as it appears from the data provided by the Member States or available to the Commission;

   (d) the reports prepared by the European Border and Coast Guard **established by Regulation (EU) 2019/1896 of the European Parliament and of the Council**[9], the European Union Agency for Asylum **established by Regulation (EU) 2021/2303 of the European Parliament and of the Council**[10], the European Union Agency for Law Enforcement Cooperation (Europol) **established by Regulation (EU) 2016/794 of the European Parliament and of the Council**[11] or any other relevant institution, body, office or agency of the Union or international organisation, if the circumstances so require in the specific case;

---

9 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

10 Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).

11 Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

(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 shall monitor the existence of the grounds for suspension referred to in Article 8a(1)on a regular basis.

With particular regard to the third countries which have been listed in Annex II as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country, the Commission shall **also** monitor the continuous compliance with the specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

2. Where the Commission, taking into account the relevant data, reports and statistics, has concrete and reliable information on the existence of any of the grounds referred to in Article 8a(1) it shall inform the European Parliament and the Council of its analysis, and Article 8e and Article 8f shall apply.

Article 8d
Reporting

1. The Commission shall report to the European Parliament and to the Council on the monitoring conducted in accordance with Article 8c(1) with regard to the third countries which have been listed in Annex II as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country, at least once a year and for a period of seven years after the date of entry into force of visa liberalisation for those third countries**.**~~, and thereafter~~**After that period** ~~whenever~~ the Commission **shall report whenever it** considers ~~it~~ to be necessary, or upon request by the European Parliament or by the Council. The report shall focus on the third countries which the Commission considers, based on concrete and reliable information, as no longer complying with certain specific requirements, which are based on Article 1 and which were used to assess the appropriateness of granting visa liberalisation.

2. The Commission shall also report, whenever it considers it to be necessary, or upon request by the European Parliament or by the Council, on third countries listed in Annex II other than the ones referred to in paragraph 1 of this Article.

PUBLIC

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**, including the political context or economic matters at stake,** 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)~~ **(e), (f) or (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~~ **submit** the **draft** implementing act **referred to in the first subparagraph to the Committee referred to in Article 11(1)**

(a) within one month of:

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

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

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

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

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 11(2).

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

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

The implementing acts referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 11(2). The chair of the committee provided for in Article 11(1) shall make use of the exceptions provided for in Article 3(3) and (5), second subparagraph of Regulation (EU) 182/2011.

3. During the period of suspension, the Commission shall establish an enhanced dialogue with the third country concerned with a view to remedying the circumstances in question.

4. Where the circumstances that led to the temporary suspension of the exemption from the visa requirement are remedied before the end of the period of validity of the implementing acts adopted pursuant to paragraphs 1 and 1a ~~2~~, the Commission shall adopt an implementing act to lift the temporary suspension in accordance with the examination procedure referred to in Article 11(2).

Article 8f
Delegated acts

1. Where the grounds referred to in Article 8a persist, the Commission shall adopt, at the latest two months before the expiry of the 12-month period referred to in Article 8e(1) and (1a), 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 (1a)**.

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

3. A Member State which, in accordance with Article 6, provides for new exemptions from the visa requirement for a category of nationals of the third country covered by the act suspending the exemption from the visa requirement shall communicate those measures in accordance with Article 12.

4. Before the end of the period of validity of the delegated act adopted pursuant to paragraph 1 of this Article, the Commission shall submit a report to the European Parliament and to the Council.

The report may be accompanied by a legislative proposal to amend this Regulation in order to transfer the reference to the third country concerned from Annex II to Annex I. In that case, the Commission shall adopt a further delegated act in accordance with Article 10, amending Annex II to extend the period of suspension of the exemption from the visa requirement from the end of the period of validity of the delegated act adopted pursuant to paragraph 1 of this Article until the entry into force of the amendment transferring the third country concerned to Annex I. The footnote shall be amended accordingly.

5. Where the circumstances that led to the temporary suspension of the exemption from the visa requirement are remedied before the end of the period of validity of the delegated acts adopted pursuant to paragraphs 1 and 4 of this Article, the Commission shall adopt a delegated act in accordance with Article 10 amending Annex II to lift the temporary suspension."

(43) Article 10 is amended as follows:

(a) in paragraph 3, 'point (b) of Article 8(6)' is replaced by 'Article 8f';

(b) in paragraph 4, 'point (b) of Article 8(6)' is replaced by 'Article 8f';

(c) in paragraph 8, 'point (b) of Article 8(6)' is replaced by 'Article 8f'.

~~(5) in Article 11, the following paragraph 4 is added:~~

~~"4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply."~~

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

PUBLIC