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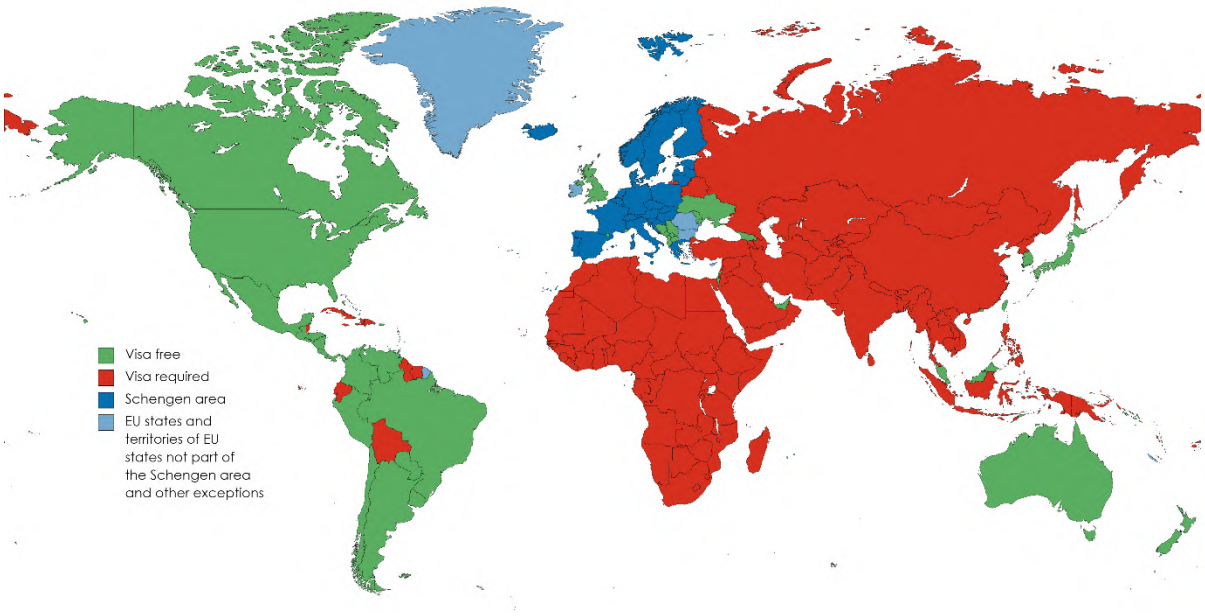
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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the monitoring of the EU's visa free regimes

1. INTRODUCTION

The EU currently has a **visa-free regime in place with 61 third countries**[1]. Under this regime, nationals from these countries can enter the Schengen area for short stays of up to 90 days in any 180-day period without a visa. The EU's visa-free policy is based on the principle of visa reciprocity. Visa-free travel brings key benefits for citizens on both sides, strengthening further the EU relations with its partners.



Of the 60 non-EU countries with a visa free-regime, 25 countries[2] have **visa waiver agreements** with the EU and 8 obtained visa exemption as a result of the successful completion of a **visa liberalisation dialogue** (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, Georgia, Moldova, and Ukraine). The remaining countries obtained visa exemption in accordance with the first harmonisation of EU rules (Council Regulation (EC) No 539/2001)[3]. Additionally, on 19 April 2023, the Council and

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1 Including two special administrative regions of China (Hong Kong and Macao) and one territorial authority that is not recognised as a state by at least one EU member state (Taiwan) and, at the latest by 1 January 2024, Kosovo*. As listed in Annex II of 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 Antigua and Barbuda, Bahamas, Barbados, Brazil, Colombia, Dominica, Grenada, Kiribati, Marshall Islands, Mauritius, Micronesia, Palau, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Solomon Islands, Timor-Leste, Tonga, Trinidad and Tobago, Tuvalu, United Arab Emirates, Vanuatu.

3 Andorra, Argentina, Australia, Brunei, Canada, Chile, Costa Rica, El Salvador, Guatemala, Holy See, Honduras, Israel, Japan, Malaysia, Mexico, Monaco, New Zealand, Nicaragua, Panama, Paraguay, San Marino, Singapore, South Korea, United States of America, Uruguay, Venezuela. The United Kingdom was added in 2019 following its withdrawal from the European Union (Regulation (EU) 2019/592 of the European Parliament and of the Council of 10 April 2019 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, OJ L 103I , 12.4.2019, p. 1–4).

the European Parliament agreed to grant a visa exemption to Kosovo, following the successful completion of a visa liberalisation dialogue, which will enter into force as of 1 January 2024 at the latest[4].

Overall, visa-free travel continues to bring **significant economic, social and cultural benefits** to EU Member States and third countries, and is an important tool to **promote tourism and business**. According to OECD estimates, the travel and tourism sector alone accounted for around 7% of global exports in 2019 and contributed around 4.4% of GDP of OECD countries.[5]

At the same time, the common EU visa policy is an integral part of the Schengen acquis and one of its core objectives is to **address security and irregular migration risks for the Schengen area**.

Nevertheless, the Commission's monitoring of the EU's visa-free regimes, including its reports under the Visa Suspension Mechanism[6] has shown that significant migration and security challenges can result from visa-free travel.

In particular, insufficient **visa alignment** with the EU visa policy can turn a visa-free country into a transit hub for irregular entries to the EU, in particular for countries in the EU's immediate vicinity. Visa-free travel can also result in increased **irregular migration** through overstays by visa-free travellers or through asylum applications lodged in high numbers by nationals from visa-free third countries with low recognition rates (**unfounded asylum applications**).

Additionally, **investor citizenship schemes** operated by third countries with visa-free access to the EU can result in risks or threats to the security of the EU, including risks related to

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* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

4 Regulation (EU) 2023/850 of the European Parliament and of the Council of 19 April 2023 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 (Kosovo (This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.)), OJ L 110, 25.4.2023, p. 1–4.

5 Safe-and-seamless-travel-and-improved-traveller-experience-OECDReport-for-the-G20-TWG_merged.pdf

6 Article 8(4) of Regulation (EU) 2018/1806 requires the Commission to 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, by the third countries whose nationals have been exempted from the visa requirement when travelling to the territory of Member States as a result of the successful conclusion of a visa liberalisation dialogue conducted between the Union and that third country. To this end, since 2017 the Commission has adopted five reports under the Visa Suspension Mechanism, covering the visa-free partners in the Western Balkans (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia) and in the Eastern Partnership (Georgia, Moldova, and Ukraine). Furthermore, the Commission regularly monitors visa-free regimes with other third countries, in the context of the possibility to trigger the suspension mechanism on its own initiative, as per Article 8(3) of Regulation (EU) 2018/1806.

infiltration of organised crime, money-laundering, tax evasion and corruption[7], and allow visa-free access to the EU to third-country nationals that would otherwise be visa-required.

Furthermore, the security of the EU and its external borders have been profoundly impacted by recent geopolitical events, demonstrating that the actions of certain foreign actors may pose serious threats to the Union's security interests. The EU should be well prepared to react swiftly to a wide range of potential future security risks, including **hybrid threats**.

To address these challenges and prevent these risks effectively, existing rules included in Article 8 of Regulation (EU) 2018/1806 (the 'Visa Regulation'), concerning the **monitoring** of the functioning of visa-free regimes with third countries and the **suspension** of visa exemptions in cases of increased irregular migration or security risks (the '**visa suspension mechanism'**), should be re-assessed and improved. The criteria for triggering the mechanism need to be complete and clear, yet flexible enough to allow for their efficient and swift application where necessary. This would help to address the multitude of challenges resulting from visa-free travel in a constantly evolving geopolitical context.

In the first months of 2023, on the initiative of the Swedish Presidency, the Justice and Home Affairs Council discussed a possible revision of these rules, and in particular of the **visa suspension mechanism**, for which the Member States expressed broad support. This was prompted by the increase in numbers of detected irregular border crossings to the EU via the Western Balkans route, which was partly linked to a lack of visa policy alignment by neighbouring countries (see point 2a below), and which spurred a reflection on the need to revise the visa suspension mechanism. In her letter to the European Council of 20 March 2023, President von der Leyen acknowledged this discussion and stated that '*the Commission will strengthen its monitoring of the visa policy alignment and will present a comprehensive report paving the way for a legislative proposal amending the visa suspension mechanism'*.

With a view to presenting a legislative proposal in autumn 2023, the Commission intends to consult the European Parliament and the Council on the identification of the main challenges in the areas of irregular migration and security linked to the functioning of visa-free regimes, on the main shortcomings of the current visa suspension mechanism, and on the possible ways to address them, notably through a **revision of Article 8 of the Visa Regulation**.

2. CHALLENGES OF THE VISA-FREE REGIMES

a. Visa policy alignment

In 2022, 144 118 irregular border crossings have been reported by Frontex at the EU external borders on the Western Balkan route[8] more than twice than in 2021. The increase was partly

[7] See also the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union (COM(2019) 12 final).

[8] The Western Balkans route refers to irregular arrivals in the EU through the region: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia.

due to nationals of third countries arriving visa-free in the Western Balkans, and travelling onwards to the EU.[9]

Visa-free entries into the Western Balkans by nationals of countries that are visa-required for the EU had an impact on the increased number of irregular arrivals to the EU in 2022. This increased the burden on certain Member States asylum systems, at a time of an overall increase in asylum claims.

In this context, on 5 December 2022 the Commission presented an **EU Action plan on the Western Balkans**, with visa policy alignment as one of the main pillars, and on 6 December the Commission adopted the Fifth Report under the Visa suspension mechanism[10], reiterating that the non- alignment with the EU's visa policy should be addressed as a matter of priority in all Western Balkan partners.

While visa liberalisation dialogues included ensuring effective migration and border management as a key requirement, visa policy alignment was not specifically addressed. It has since emerged as a key factor for the sustainable functioning of these visa-free regimes.

This message was confirmed at the highest political level in the conclusions of the February 2023 European Council[11], which stressed that **visa policy alignment by neighbouring countries is of urgent and crucial importance for migration management** as well as for the overall good functioning and sustainability of visa-free regimes where relevant, and calling for an increased monitoring of neighbouring countries' visa policies.

Visa policy alignment: the case of Serbia

The 2022 increase in numbers of detected irregular border crossings to the EU via the Western Balkans route was in part the consequence of the non-alignment of Serbia's visa policy with the EU's visa policy; at that time, Serbia had visa-free agreements with 24 third countries, whose nationals were visa-required in the EU. Citizens of some of those countries, including in particular Burundian, Cuban, Indian and Tunisian nationals, were arriving to Serbia visa-free, then attempting to enter irregularly into the EU.

The issue prompted immediate and extensive contacts between the Commission and the Serbian authorities.

As a result of this cooperation and coordinated efforts, between October 2022 and April 2023 Serbia reacted promptly and has made substantial progress in the alignment with the EU visa

[9] These mainly involved arrivals of Tunisian, Cuban and Burundian nationals via Serbia, Indian nationals via Serbia and Albania, and third-country nationals who are residents of the United Arab Emirates via Albania and Montenegro, as reported in the EU Action Plan on the Western Balkans https://home-affairs.ec.europa.eu/system/files/2022-12/Western%20Balkans_en.pdf

[10] Report from the Commission to the European Parliament and the Council, Fifth Report under the visa suspension mechanism, COM(2022) 715 final/2.

[11] Special meeting of the European Council (9 February 2023) – Conclusions, https://data.consilium.europa.eu/doc/document/ST-1-2023-INIT/en/pdf

policy, terminating its visa-free agreements with Burundi, Tunisia, Guinea Bissau, India, Bolivia and Cuba[12], and engaging to adopt a visa alignment plan by the end of 2023, including a timeline towards full visa policy alignment.

All Western Balkans partners have so far respected their commitments to pursue visa policy alignment. The Commission welcomes **Serbia**'s decision to reinstate the above-mentioned visa requirements; and **Montenegro**'s decision to re-establish a visa-regime with Cuba as well as to reintroduce the visa-regime for third-country nationals legally residing in the United Arab Emirates (respectively in January and April 2023). The Commission also welcomes the decision taken by **Albania** not to renew the seasonal visa exemption for nationals of Egypt, India and Russia, as well as the decision of **North Macedonia** to reintroduce a visa requirement for nationals of Botswana, Cuba and Azerbaijan.

These decisions are **important and welcome steps towards the objective of reducing irregular arrivals to the EU** along the Western Balkans route, though important challenges remain.

The Commission expects all the EU neighbouring visa-free countries to continue their efforts to **further align[13] their visa policies with the EU's visa policy,** in particular when it concerns third countries with patterns of high migratory pressure or security risks for the EU. The Commission will **strengthen its monitoring and reporting** on visa policy alignment (see below section 3) and will consider, based on the upcoming consultations, adding the **lack of visa policy alignment as an explicit suspension ground** in Article 8 of the Visa Regulation.

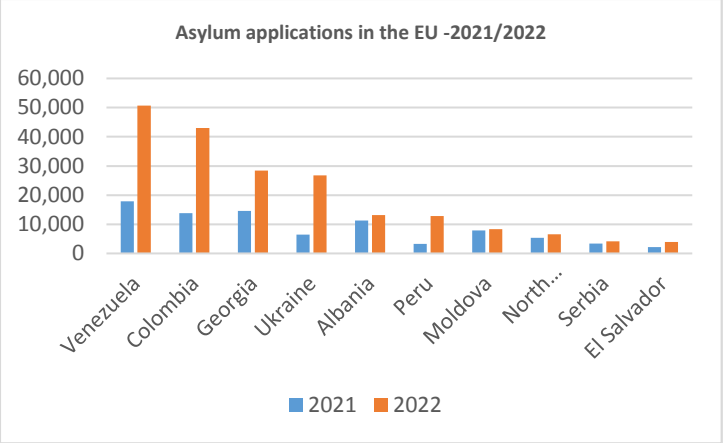
b. Asylum applications lodged by nationals of visa-free countries

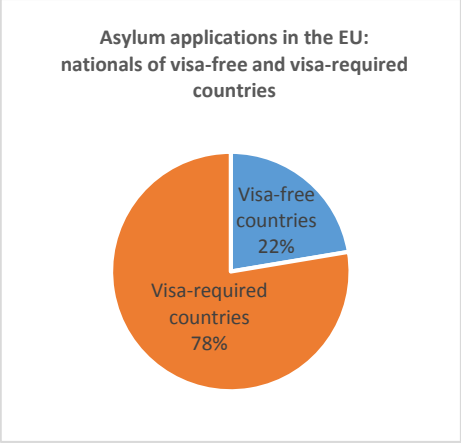
The benefits of visa-free travel also come with responsibilities and commitment of third countries to ensure the sustainability of the visa exemption. Unfounded asylum applications contribute to the creation of bottlenecks in the Member States' asylum systems and can impact the asylum process of third-country nationals who have genuine asylum claims. In 2022, 22% (around 215 000 applications) of the total asylum applications (around 962 000) were lodged by third-country nationals that enjoy visa-free travel to the EU. These applications have a very low recognition rate (around 5%). This number represents a near-record number of asylum applications, i.e. more than twice as many as in 2021 and +15% compared to 2019.

[12] On 21 October Serbia announced the termination of the visa-free agreements with Burundi and Tunisia, with the visa requirement reinstated on 22 November 2022. It was followed by the termination of the visa-free agreement with Guinea Bissau on 1 December, with the visa requirement reinstated five days later. On 6 December 2022, the Commission adopted the 5th Visa Suspension Mechanism Report, reiterating the request for Serbia to align its visa policy with the EU's list of visa-required third countries, as a matter of priority. Following the publication of the report, three days later, on 9 December, Serbia announced the termination of the visa-free agreement with India, effective on 1 January 2023. On 27 December, the visa-free agreements with Bolivia and Cuba were also terminated, effective respectively on 10 February and 13 April 2023.

[13] Candidate countries will have to ensure full alignment with the EU acquis, including on visa policy, within the framework of the accession process.

In 2022, asylum applications **with recognition rates**[14] ranging from 4% to 6% were lodged in the EU by nationals of various visa-free countries such as **Colombia** (43 020), **Georgia** (28 385 applicants), **Albania** (13 100 applicants), or **Peru** (12 845 applicants). In the case of Venezuela (50 730 applicants in 2022), 72% of first instance decisions resulted in granting of national protection.





Source: Eurostat data, 2022

Overall, visa-free partner countries in the EU's neighbourhood have made **significant efforts to better inform their own nationals on the rights and responsibilities of visa-free travel to the EU, and to prevent abuses of visa-free travel**, in order to continue to fulfil the visa liberalisation benchmarks and the recommendations of the Reports under the Visa Suspension Mechanism.

Actions to address the issue of unfounded asylum applications: Albania and Georgia

Specifically, actions taken by Georgia and Albania in recent years include the implementation of thorough border checks on departure, awareness-raising campaigns on rights and obligations under the visa-free regime, and actions to address the underlying reasons for the high numbers of asylum applications. Cooperation with Europol and Frontex has also been strengthened to address this issue, as has bilateral law enforcement cooperation. Georgia and Albania also continue to implement successfully their readmission agreements with the EU[15]. In addition, Albania has established and continues to implement the action plans in place with the most affected Member States.

c. Investor citizenship schemes

Investor citizenship schemes (or citizenship-by-investment programmes, also commonly referred to as "golden passports") run by visa-free countries present a number of security

[14] The recognition rate includes EU-regulated forms of protection (refugee status and subsidiary protection) and excludes national protection statuses (humanitarian reasons). It is calculated by dividing the number of positive first instance decisions (granting refugee status or subsidiary protection) by the total number of decisions issued.

[15] Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation – Declarations, OJ L 124, 17.5.2005, p. 22–40; Agreement between the European Union and Georgia on the readmission of persons residing without authorisation, OJ L 52, 25.2.2011, p. 47–65.

risks for the EU. In particular, investor citizenship schemes in third countries with visa-free access to the EU can be used to bypass the regular EU short-stay visa procedure and the in-depth assessment of individual migratory and security risks it entails, including a possible evasion of measures to prevent money laundering and financing of terrorism[16]. This is especially problematic when the passports issued to beneficiaries of such schemes cannot be differentiated from other ordinary passports.

The Commission has been engaging with all visa-free countries operating investor citizenship schemes with a view to preventing and mitigating possible security risks for the EU. At the moment, a number of visa-free third countries are under close scrutiny due to the potential risks raised by their citizenship-by-investment schemes, or their plans to establish such schemes. These include Albania, Montenegro, and North Macedonia, as well as Vanuatu and some countries in the Caribbean.

Countries that have obtained their visa exemption through visa liberalisation dialogues are under close scrutiny in the context of the regular reporting under the visa suspension mechanism, as well as through the enlargement reports, where applicable. In the 2022 Enlargement Package[17] and the Fifth Report under the Visa Suspension Mechanism, the Commission made **explicit recommendations to effectively phase out or refrain from adopting investor citizenship schemes**. In addition, this issue is also addressed in the context of the regular political dialogue as well as at the Sub-Committee meetings on Justice, Home Affairs and Security organised in the framework of the Stabilisation and Association Agreements between the EU and the countries concerned.

In this regard, the Commission welcomes the decision of **Albania** to suspend initiatives related to the establishment of an investor citizenship scheme, as well as the phasing out by **Montenegro** of its investor citizenship scheme.

Investor citizenship schemes- the case of Vanuatu

Vanuatu was the first country to see its visa exemption suspended[18], because of the security risks raised by its investor citizenship schemes.

Since 2015, almost at the same time as the visa waiver agreement between the EU and Vanuatu was signed and started to apply provisionally[19], Vanuatu started operating investor citizenship schemes on an increasingly large scale, granting citizenship to a high number of applicants. The Commission has carefully monitored the schemes and collected information regarding their management, in particular as regards application requirements, security

[16] Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union (COM(2019) 12 final), p. 23.

[17] https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6082

[18] Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver; Council Decision (EU) 2022/2198 of 8 November 2022 on the suspension in whole of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver.

[19] Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver. OJ L 173, 3.7.2015, p. 48–54.

screening of applicants, exchange of information and statistics on the number of applications, the nationality of applicants and the rejection rate.

Following an assessment of the security risks linked to Vanuatu's investor citizenship schemes and the concerns raised by Member States, the Commission concluded that Vanuatu's investor citizenship schemes present serious deficiencies and security failures. In particular, these were related to the absence of residence or presence requirements, very short screening procedures, lack of systematic exchange of information with countries of origin or past residence, and a high number of passports issued to nationals that would otherwise be visa-required for the EU, including nationals from high-risk countries.

The Commission adopted on 12 January 2022 a proposal for a Council decision to suspend the visa waiver agreement with Vanuatu[20]. This was the first proposal ever to suspend a visa waiver agreement with a third country. The Council adopted on 3 March 2022 the decision to partially suspend the visa waiver agreement with Vanuatu[21]. Given that the circumstances which gave rise to the partial suspension were not remedied, on 12 October 2022 the Commission proposed a Council Decision on the full suspension of the agreement from 4 February 2023.[22] The Decision was adopted by the Council on 8 November 2022.[23]

Since the entry into force of the partial suspension, the Commission has been engaging with the competent authorities of Vanuatu in an enhanced dialogue[24], in order to remedy the circumstances which led to the suspension of the visa exemption and allow the EU to lift the suspension.

A number of countries in the Caribbean operate investor citizenship schemes. In June 2022, the Commission's services reached out to their competent authorities with a request to provide relevant information and data on those schemes.

A **preliminary assessment** has shown that such investor citizenship schemes often present many similarities with Vanuatu's investor citizenship schemes. These include: the eligibility for nationals of countries who require a visa to travel to the EU; the lack of on-site application or residence requirements; short processing times not allowing a diligent scrutiny of applicants; low fees (USD 100 000 – 200 000); and a high number of successful applicants (at least 81 000 passports issued by the relevant countries concerned to date). All these investor citizenship schemes are commercially promoted as a way to obtain visa-free access to the EU. Other jurisdictions such as the United States and Canada do not have visa-free regimes with Caribbean countries which operate investor citizenship schemes.

[20] Proposal for a Council Decision on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (COM/2022/6 final)

[21] Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver

[22] Proposal for a Council Decision on the suspension in whole of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver. COM(2022) 531 final

[23] Council Decision (EU) 2022/2198 of 8 November 2022 on the suspension in whole of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver

[24] Article 8(6)(a) of Regulation (EU) 2018/1806.

While the EU respects the third countries' sovereign right to decide on their naturalisation procedures, the Commission considers that selling visa-free access to the EU to nationals that would otherwise be visa required is not in the spirit of the bilateral visa waiver agreements in force.

At the same time, the Commission has welcomed the decision of those Caribbean countries to suspend the examination of applications from Russian and Belarusian nationals as a reaction to the Russian aggression against Ukraine.

The assessment of the investor citizenship schemes operated by the relevant countries is still ongoing and, in this regard, the Commission has sent a follow-up request to the countries concerned in February 2023.

Following the completion of this assessment, the Commission will decide on the appropriate follow-up action in accordance with the rules of the Visa Regulation and the respective visa waiver agreements[25]. In particular, the Commission will work in close cooperation with those third countries to find long-term solutions. In this context, the Commission will consider to convene the **Joint Committee of experts** established by the bilateral visa waiver agreements, whose aim is to monitor, amend and settle disputes related to the implementation of the agreements.

In general, the Commission is considering an amendment to Article 8 of the Visa Regulation so as to include the security risks related to the operation of investor citizenship schemes as an explicit ground for the suspension of the visa exemption (see section 3 below).

3. ADDRESSING THE CHALLENGES OF VISA-FREE TRAVEL THROUGH A MORE EFFICIENT VISA SUSPENSION MECHANISM

The visa suspension mechanism is set out in Article 8 of the Visa Regulation. Its main purpose is to enable a temporary suspension of the visa exemption in case of a sudden and substantial increase in irregular migration or security risks.

Based on the above presentation of the challenges and taking into account the discussions in the Council[26], the Commission considers that while the visa suspension mechanism represents a safeguard against the abuse of visa exemptions, it could be further improved with particular regard to the following elements:

- The grounds for suspension;
- The thresholds to trigger the mechanism;
- The procedure of the suspension;
- The monitoring and reporting provisions.

[25] See list of visa waiver agreements at https://eur-lex.europa.eu/EN/legal-content/summary/visa-waiver-agreements.html#:~:text=The%20visa%20waiver%20agreements%20referred,during%20a%20180%2Dday%20period

[26] Justice and Home Affairs Council, 9-10 March 2023, https://www.consilium.europa.eu/en/meetings/jha/2023/03/09-10/

The Commission considers that the visa suspension mechanism should be better equipped to respond swiftly and decisively to emerging challenges linked to visa-free travel. At the same time, **the suspension mechanism should remain a mechanism of last resort**, without any automaticity, and any decision in this regard should continue to take due account of the overall relations between the EU and the third countries concerned as well as the overall political context. The following sections present the aspects of the visa suspension mechanism on which the Commission will further consult the European Parliament and the Council in view of putting forward its legislative proposal.

a. The grounds for suspension

At present (Article 8(2), (3) and (4) of the Visa Regulation), the visa suspension mechanism can be triggered in the event of:

- A substantial increase in the number of nationals of the third country concerned refused entry or found to be staying in the Member State's territory without the right to do so;
- A substantial increase of **asylum applications from the nationals of the third country concerned for which the recognition rate is low**;
- A decrease of **cooperation on readmission with the third country concerned**;
- An **increased risk or imminent threat** to the public policy or internal security of the Member States, in particular a substantial increase in serious criminal offences linked to the nationals of the third country concerned;
- With regard to the third countries that obtained visa exemption as a result of a visa liberalisation dialogue, the **non-compliance with the specific requirements which were used to assess the appropriateness of granting visa liberalisation.**

The above suspension grounds are considered by several Member States as too restrictive to capture the multitude of situations in which the visa-free regime could be abused and/or result in irregular migration or security risks for the EU.

As far as **irregular migration** is concerned, the **lack of visa policy alignment** is not a ground of suspension currently. As a consequence, the effectiveness of the suspension mechanism in addressing situations of irregular migrants having transited through neighbouring visa-free third countries, as recently observed in the Western Balkans, may be hampered.

The Commission intends to explore the possibility of adding the lack of visa policy alignment as a new suspension ground, where it may result in a risk of irregular migration to the EU. Such new ground would allow the triggering of the suspension mechanism in cases where the lack of visa alignment by a visa-free third country has enabled or risks to enable irregular entries to the EU by third country nationals who are legally present in that visa-free country as a result of visa-free travel.

As concerns **public policy and internal security**, the current suspension ground (Article 8(2)(d)) allows the possibility of triggering the suspension mechanism in case of an increased risk to the internal security of Member States linked to nationals of a visa-free country. However, it does not address explicitly the security risks stemming from the operation of **investor citizenship schemes** by visa-free countries, or **hybrid threats**.

The Commission intends to explore the possibility of broadening the scope of the current public policy and security ground, so as to cover additional possible threats arising from visa-free third countries, including in particular those related to the operation of **investor citizenship schemes** and **hybrid threats.**

Finally, the current visa suspension mechanism does not consider the possibility that **visa waiver agreements** between the EU and third countries might provide for suspension grounds that are not included in the Visa Regulation, for example to address circumstances that are specific to the relations between the negotiating parties. Where the EU decides to suspend the application of a visa waiver agreement with a third country (at the level of international law), there must also be the possibility to provide for the suspension at the level of Union law.

To ensure this possibility and a correct articulation between the visa suspension mechanism and the EU visa waiver agreements, **the Commission intends to explore the possibility of adding a reference to the application of additional suspension grounds provided for in visa waiver agreements**.

b. The thresholds to trigger the mechanism

The suspension mechanism can be triggered following a **substantial increase** in irregular stays, asylum applications from countries with a low recognition rate and serious criminal offences, or a **decrease** in readmission cooperation, compared to the previous year or the year before the visa exemption was obtained.

Currently, '**substantial increase'** is interpreted as **exceeding 50%**[27] and **'low recognition rate'** as around **3 or 4%**.[28] The recent experience suggests that these thresholds may not always be adequate to address situations of irregular migration experienced by Member States, as reported in the relevant discussions in the Council. The example of the notification to the Commission made a Member State in May 2019[29] showed that the thresholds for triggering the suspension mechanism could not be reached despite the reported increase in unfounded asylum applications and serious criminal offences by the nationals of a visa-free country registered in that Member State. Several Member States in the Council discussions considered that these thresholds should be set at a lower level.

To better address the risk of increases in irregular migration deriving from visa-free travel, **the Commission will explore the possibility of adapting the thresholds triggering the visa suspension mechanism**. The objective should be to create a higher deterrent effect and more flexibility in triggering the mechanism, while continuing to provide legal certainty and a sufficient degree of predictability to third countries, as well as accountability of the EU.

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[27] Over a two-month period, compared with the same period in the preceding year or compared with 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.

[28] These thresholds are set in Recitals 23 and 24 of the Visa Regulation.

[29] The Member State reported an increase in the following circumstances related to nationals of a visa-free third country: an increase in the number of refusals of entry, unfounded asylum applications, and criminal offences. The Commission's assessment concluded that that the conditions to trigger the mechanism were not met in that circumstance.

c. The suspension procedure

The suspension procedure follows a two-step approach: a first 9-month suspension via an implementing act, which can be extended by another 18-month suspension via a delegated act[30]. During the temporary suspension, the Commission should establish an *enhanced dialogue* with the third country concerned aiming at finding an appropriate solution that remedies the circumstances which led to the suspension of the visa exemption. In order to reduce the risk of slipping into the third stage of the procedure, which is the **termination of the visa exemption** and the transfer of the third country to the visa-required list, the procedure could be streamlined in such a way as to give better opportunities to the country concerned to bring about a satisfactory remedial action. Additionally, in order to face emergency situations where an urgent response is needed, it should be possible to provide for an **urgent procedure** for the triggering of the suspension mechanism.

To make the suspension procedure more efficient and allow appropriate time to remedy the circumstances that led to the suspension, **the Commission intends to explore the possibility of extending the duration of the two temporary suspension phases**: e.g., in phase 1 a suspension of 12 instead of 9 months and in phase 2 a suspension of 24 instead of 18 months. In either phase, the suspension would be lifted as soon as the circumstances that led to the suspension are remedied in the meantime.

The possibility to terminate the visa exemption by ordinary legislative proposal, if the reasons which led to the suspension persist, would remain at the end of phase 2.

Furthermore, to address emergency situations caused by a sudden increase in irregular arrivals or security risks, **the Commission intends to explore the possibility of introducing an urgency procedure for immediately applicable implementing acts**[31]. This would allow the Commission to suspend a visa exemption before the consultation of the competent committee[32], when there are duly justified imperative grounds of urgency. The urgency procedure should remain a mechanism of last resort, without any automaticity, and any decision in this regard should continue to take due account of the overall relations between the EU and the third countries concerned as well as the overall political context[33].

d. Monitoring and reporting obligations

An efficient suspension mechanism is predicated on the effective and targeted monitoring of the visa-free countries. However, the current provisions of the Visa Regulation require the Commission to monitor and report only on the countries that have obtained visa-free access

[30] Furthermore, where the EU has a visa waiver agreement with the third country concerned, the application of that agreement should be also suspended, in accordance with Article 218(9) of the Treaty on the Functioning of the EU.

[31] As provided for in Article 8 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

[32] In those cases, the act would be submitted to the competent Visa reciprocity and Visa suspension Committee for its opinion, at the latest 14 days after the adoption of the implementing act.

[33] The urgency procedure should also take into account the suspension procedures of the Visa waiver agreements, where applicable.

following a visa liberalisation dialogue, and for a period of seven years following its successful completion[34].

To deliver on the European Council's call of 9 February 2023 for a reinforced monitoring of visa-free countries[35], as in accordance with President von der Leyen's letter to the European Council of 20 March 2023, the Commission will present as from 2023 a **new strategic and comprehensive Visa suspension mechanism report**.

The new Visa suspension mechanism report will continue to fully assess the continuous compliance with the visa liberalisation requirements by countries that have completed a visa liberalisation dialogue less than 7 years ago. The reporting on the countries that have completed a visa liberalisation dialogue more than 7 years ago will also continue, in coherence with the **Country reports under the Enlargement package**, but it will be targeted on specific challenges and priorities, such as visa policy alignment, investor citizenship schemes and unfounded asylum applications.

Finally, the report will also cover other **geographical areas beyond the EU neighbourhood,** focusing on specific countries where issues may arise and where further cooperation may be needed to address specific migration and/or security challenges that could be assessed under the visa suspension mechanism.

This approach will be taken up in the next Visa suspension mechanism report, where the geographical and material scope will be adjusted to current priorities and needs. **The Commission intends also to explore the possibility of reflecting this new approach in the monitoring and reporting provisions of the suspension mechanism**.

4. CONCLUSION

The EU visa policy is an essential part of the Schengen acquis and one of the most valued achievements of EU integration. Visa policy is, and should remain, a tool to facilitate people-to-people contacts, tourism and business, while preventing security risks and the risk of irregular migration to the EU. At the same time, the EU's visa policy is constantly evolving, and must continue to do so in order to be able to effectively address new challenges.

In the last years, the EU has been faced with a number of new and emerging challenges linked to the functioning of its visa policy, including increased irregular migration along the Western Balkan route, the abuse of the asylum system by nationals of a number of visa-free countries in different parts of the world, and the security risks stemming from the operation of investor citizenship schemes by visa-free third countries.

These and other developments have proven the need to launch a reflection on possible ways to strengthen the visa policy toolbox with a **revised visa suspension mechanism**. The

[34] Since this monitoring and reporting obligation was introduced in 2017, the Commission has issued five reports COM(2017) 815 final (first report); COM(2018) 856 final (second report); COM(2020) 325 final (third report); COM(2021) 602 final (fourth report); COM(2022) 715 final/2 (fifth report).

[35] Special meeting of the European Council (9 February 2023) – Conclusions, https://data.consilium.europa.eu/doc/document/ST-1-2023-INIT/en/pdf.

Commission is looking forward to discussing how to best achieve this objective with the European Parliament and the Council. In particular, the discussion should cover the following points:

- the need to add new grounds for suspension to address new emerging situations in which the visa-free regime could be abused and/or result in irregular migration or security risks for the EU;
- whether and how best to adapt the thresholds to trigger the mechanism to the actual migratory and security risks reported by Member States, thus creating a higher deterrent effect, and quickly address a wider range of risks linked to visa-free travel;
- how the suspension procedure could be made more efficient and flexible;
- the strengthening of the monitoring and reporting obligations.

On the basis of an in-depth consultation with the European Parliament and the Council, the Commission will present in autumn 2023 a legislative proposal revising the visa suspension mechanism provided for in Article 8 of the Visa Regulation.