



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.1.2000
COM(2000) 27 final

2000/0030 (CNS)

Proposal for a

COUNCIL REGULATION

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. General points and background

Institutional context

The Amsterdam Treaty marked a great step forward in European integration in relation to visa policy, following on from the Maastricht Treaty. Maastricht, by inserting Article 100c in the EC Treaty, brought only two aspects of visa policy within the Community framework - the determination of the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States and the establishment of a standard model visa.

The Amsterdam Treaty brought all the other aspects of visa policy into the Community framework, integrating them into the new Title IV of the EC Treaty (visas, asylum, immigration and other policies related to free movement of persons), the objective of which is to establish an area of freedom, security and justice. At the same time, a Protocol annexed to the Amsterdam Treaty integrated the Schengen *acquis* in the Union; this extended to the whole range of harmonisation measures regarding visas which the Schengen States have so far introduced.

The law as it stands

1. Community law

The Council, acting on the basis of Article 100c, adopted Regulation (EC) No 2317/95 of 25 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States¹; this was annulled by the Court of Justice on 10 June 1997 and replaced by Regulation (EC) No 574/99².

Regulation (EC) No 574/99, like its predecessor, Regulation (EC) No 2317/95, merely lays down a common list of third countries whose nationals are subject to a visa requirement. Member States remained free to decide whether or not to impose a visa requirement for nationals of third countries not on the list.

2. The law established by intergovernmental cooperation in the Schengen context

In the Schengen context, certain Member States developed closer cooperation in visa matters. The legality of this cooperation in terms of Community law was confirmed by Regulations (EC) Nos 2317/95 and 574/99, which provided that they were “without prejudice to any further harmonisation between individual Member States, going beyond the common list”.

The Schengen States developed further harmonisation of visa policy in relation to countries not listed in Regulations (EC) Nos 2317/95 and 574/99. This harmonisation proceeded by stages; the final outcome by the time Schengen was integrated into the European Union was:

¹ OJ L 234, 3.10.1995, p. 1.

² OJ L 72, 18.3.1999, p. 2.

- (a) a list of 32 third countries not listed in Regulation (EC) No 574/99 whose nationals are subject to a visa requirement in all Schengen States;
- (b) a list of 44 third countries whose nationals are exempt from the visa requirement in all the Schengen States (there was no equivalent in Regulation (EC) No 574/99, where there is no such list).

There was only a single country in relation to which the Schengen States did not achieve a harmonised position.

Since the entry into force of the Amsterdam Treaty, the Schengen *acquis* has been an integral component of Community law and remains applicable in the Schengen States. Under the Schengen Protocol, the United Kingdom and Ireland may at any time ask to join in all or part of the Schengen *acquis*. The request made by the United Kingdom by letters dated 20 May 1999, 9 July 1999 and 6 October 1999 to the Council President does not concern visas.

A new Regulation: why, and with what provisions?

The need to adopt a new Regulation flows primarily from the entry into force of the Amsterdam Treaty.

Full harmonisation of the list of non-member countries

The measures mentioned in Article 62(2)(b) of the EC Treaty (“rules on visas for intended stays of no more than three months”) explicitly include the “list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement”. The proposed Regulation satisfies Article 62(2)(b), and the Annexes contain two exhaustive lists of countries. A third country is listed in either Annex I (visa requirement) or Annex II (exemption). Once the Regulation is adopted, the visa rules applying to third-country nationals will be fully harmonised; the Member States will be precluded from unilaterally determining the visa rules for any third country at all.

The obligation to adopt a new Regulation is the formal consequence of the entry into force of the Amsterdam Treaty, but it also flows from the original objective of Article 100c. It should be remembered that when the Commission presented the proposal for a Regulation based on Article 100c on 10 December 1993, it interpreted the Article as necessarily implying that the Council should also determine the third countries whose nationals were exempt from that requirement.

The European Parliament, incidentally, when reconsulted following the annulment of Regulation (EC) No 2317/95, firmly supported amendments of substance both to the Articles and to the Annex (removal of Bulgaria and Romania from the common list). The Commission stated at the time that it wished to present a new proposal for a Regulation following the entry into force of the Amsterdam Treaty and that it would then take account of some of Parliament’s suggestions.

Maintenance of a limited number of derogations and exceptions

The need has been felt to leave the Member States with the possibility of providing for certain derogations and exceptions applicable to specific categories of persons, notably on grounds of international law or custom.

Subsidiarity and proportionality

Article 62(2)(b)(i) confers on the Community the exclusive power to determine the list of third countries whose nationals must be in possession of visas and those whose nationals are exempt from that requirement.

There are various reasons for preferring a Regulation to a Directive. For one thing, the determination of the list of third countries whose nationals must be in possession of visas and those whose nationals are exempt from that requirement leaves no room for discretion as to transposal. For another, delays in transposal in one or other Member State would generate a wide range of practical difficulties, some of which would jeopardise the operation of the visa rules in the Schengen *acquis*, already incorporated in the Union.

A new Regulation: when?

Article 62 of the EC Treaty provides that all the measures for which it provides (in particular the list of third countries subject to the visa requirement and those which are exempt from it) must be adopted by the Council within five years following the entry into force of the Amsterdam Treaty.

The Council and Commission Action Plan of 3 December 1998 (OJ C 19, 23.1.1999), approved by the Vienna European Council of 11 and 12 December 1998, set a tighter timetable than the Treaty as regards certain of the measures to be adopted under Title IV of the EC Treaty. The preparation of a Regulation determining the list of third countries subject to the visa requirement and those which are exempt from it is listed in the Action Plan among the measures to be taken within two years.

More recently, the Tampere European Council on 15 and 16 October 1999 recalled the need for full and immediate implementation of the Amsterdam Treaty on the basis of the Vienna Action Plan.

A Regulation: for which Member States?

The question of the exemption from the visa requirement has already been a variable-geometry issue, as the Member States were able to develop closer harmonisation (Schengen) regarding third countries not subject to the visa requirement under Regulations (EC) Nos 2317/95 and 574/99. This variable-geometry structure is maintained, with added complexity, by the Amsterdam Treaty and the Protocols to it. Three Member States are concerned:

Denmark

By the Protocol annexed to the Amsterdam Treaty on the position of Denmark, Denmark does not take part in the adoption by the Council of measures pursuant to Title IV of the EC Treaty, with the exception of “measures determining the third countries whose nationals must be in possession of visas when crossing the external borders, or measures relating to a uniform format for visas”.

This passage from the Protocol reflects Denmark's concern to abide by the Community commitments it undertook in the Maastricht Treaty (Regulations (EC) Nos 1683/95 and 574/99). The Commission, on the basis of its own interpretation of Article 100c, considers that Article 62(2)(b)(i) of the EC Treaty makes no innovations over Article 100c but merely confirms and clarifies the objective to which it gives form. Denmark is accordingly to play a full part in the legislative procedure following the presentation of this proposal for a Regulation based on Article 62(2)(b)(i).

The United Kingdom and Ireland

By the Protocol annexed to the Amsterdam Treaty on the position of the United Kingdom and Ireland, these two Member States do not take part in the adoption of measures pursuant to Title IV of the EC Treaty, but they have the option of doing so case by case. Ireland and the United Kingdom may, under Article 3 of the Protocol, notify their wish to play a full part in the adoption and application of the measure within three months following presentation of the proposal for a visas Regulation to the Council. They may also, at any time after the adoption of the Regulation by the Council, notify their intention of accepting it.

A Regulation not confined to the Member States

Acting under the first paragraph of Article 6 of the Schengen Protocol, the Council concluded an Agreement with Iceland and Norway on 17 May 1999 concerning the latter's association with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 35). By Article 1 of the Agreement, Iceland and Norway are associated with EC and EU activities in matters covered by the provisions specified in Annexes A and B to the Agreement and by subsequent provisions. Annex B mentions Regulation (EC) No 574/99. This proposal for a Regulation will thus have to be considered by the Joint Committee in accordance with Article 2(3) of the Agreement; in particular, Articles 4 and 8 will apply at the time of adoption by the Council.

What the new Regulation does not do

1. The proposed Regulation, being based on Article 62(2)(b)(i), cannot:
 - apply to instruments not based on that provision, such as long-stay visas and airport transit visas;
 - determine the procedures and conditions for issuing visas, which are covered by Article 62(2)(b)(ii);
 - determine the conditions for travel within the Community by visa holders or persons exempted from the requirement, which are to be governed by an instrument based on Article 62(3);
 - contain provisions relating to the crossing of external borders (e.g. non-admission, exceptional admission on humanitarian grounds, issue of visas at the border).
2. The proposed Regulation does not affect the possibility of exceptional measures in special circumstances. Reference should be made in this respect to Article 64(2) of the EC Treaty, which provides for the terms and duration of such measures ("emergency situation characterised by a sudden inflow of nationals of third countries") and determines the procedure to be applied.

3. The proposed Regulation does not affect the provisions of the Schengen *acquis* as regards visas that have been incorporated but are not within the scope of this Regulation (mutual recognition, equivalence between residence permits and visas).

2. Commentary on the Articles

Article 1

Paragraphs 1 and 2 reflect Article 62(2)(b)(i) of the EC Treaty; they are the expression of the total harmonisation of visa policy as regards the lists of countries. Nationals of third countries will be either subject to a visa requirement (Annex I) or exempted from it (Annex II). Unlike the situation under Regulations (EC) Nos 2317/95 and 574/99, there are now no third countries in respect of which the Member States retain the sovereign power to decide unilaterally whether their nationals are or are not subject to the visa requirement.

Paragraph 3, inspired by Article 1(2) of Regulation (EC) No 574/99, governs the consequences of specific developments in international law, in the event of succession of States. The principle is to maintain the temporary application of the visa rules applicable to nationals of the former State unless and until the Council takes a decision on the visa rules applying to the new State or States.

Article 2

The definition of “visa” is necessary for the proper application of the Regulation. The definition proposed here is taken over from Regulation (EC) No 574/99.

The exemption from the visa requirement for nationals of the third countries listed in Annexes I and II applies solely to short stays and transit as set out in the definition.

Long-stay visas cannot be covered by the Regulation as they come under Article 63(3)(a) of the EC Treaty. Nor can airport transit visas be covered: the Court of Justice has held (Case C-170/96) that “visas when crossing the external borders” (formulation of the former Article 100c taken over in Article 62(2)(b)(i) of the EC Treaty) cannot include airport transit visas.

Lastly, the reference in Article 2 to one or more Member States leaves open the question of the territorial validity of the visa. The question of mutual recognition of visas is not addressed by the Regulation as it concerns “rules on a uniform visa” within the meaning of another provision of the EC Treaty, Article 62(2)(b)(iv). The proposed Regulation does not affect the provisions of the Schengen *acquis* as regards mutual recognition of visas.

Article 3

This Article concerns third-country nationals who are subject to the basic visa requirement because of their nationality but are in a special situation since they reside lawfully in a Member State. The criteria underlying the visa requirement for nationals of this or that third country have no *raison d'être* where they reside in a Member State, hold a residence permit issued by that State and have therefore been subject to the controls that precede the issue of a residence permit.

The principle that the visa requirement does not apply to these third-country nationals is valid under this Regulation, in other words for the purposes of crossing external borders without affecting the other conditions for crossing borders determined in the Schengen *acquis* and elsewhere. This Regulation cannot govern their travel within the Community, as this is covered by Article 62(3) and will be dealt with in that context.

Article 4

The concept of third-country national within the meaning of Article 62(2)(b)(i) of the EC Treaty also covers categories of persons with special status in international law. These are people who cannot seek the protection of the State of which they have the nationality (recognised refugees) or persons who have lost their connecting factor with a given State (stateless persons).

Regulation (EC) No 574/99 left the Member States free to determine whether or not to impose a visa requirement for these two categories. In the proposed new arrangements, the decision to impose a visa requirement or give exemption from it flows from an objective criterion.

For stateless persons within the meaning of the New York Convention of 28 September 1954 and recognised refugees within the meaning of the Geneva Convention of 28 July 1951, the visa requirement or exemption from it presupposes a specific framework mechanism. For stateless persons, the reference to the rules relating to a specific country is out of the question, as statelessness obviously implies that there is no connecting factor to a particular country. For recognised refugees, reference to the country of origin is likewise inconceivable since the refugee has to all intents and purposes severed his links with his country and cannot seek its protection.

On the other hand, what stateless persons and recognised refugees have in common is that they enjoy the protection of the country where they regularly reside. Article 28 of each of the two Conventions provides that “Contracting States shall issue to stateless persons [refugees] lawfully staying in their territory travel documents for the purpose of travel outside their territory”. It follows that the visa requirement or exemption for stateless persons and refugees could be based on the rules applying to nationals of the State giving its protection to the stateless person or refugee.

The proposed mechanism, which would constitute further progress towards harmonisation, has the advantage of being simple. It is also logical: the situation of a stateless person or refugee in relation to the non-member State giving its protection is broadly comparable to the situation of that State’s nationals in terms of the obligation to readmit them and of the reliability of their travel documents.

Article 5

Paragraph 1

In accordance with international law and custom, special visa arrangements are applied to persons who carry special travel documents by reason of their functions or exercise specific professions or functions. In spite of the objective of attaining a high degree of harmonisation in visa matters, it has to be accepted that national considerations specific to a Member State will continue to apply in certain areas. Each Member State should retain a certain margin of flexibility so that it can decide on the visa to apply to third-country nationals in these categories.

Paragraph 1 is inspired by Article 4 of Regulation (EC) No 574/99. But there are two differences. First, it reflects the fact that the proposed Regulation determines lists of third countries subject to the visa requirements and those that are exempted. Consequently, the power to derogate conferred on the Member States must operate both ways – both from the visa requirement and from the exemptions. Second, the list of potential beneficiaries is extended with the addition of two new categories to reflect custom in waterway navigation and international organisations, with respect both to the documents that these organisations issue to their staff and to those they issue to persons under their protection.

Paragraph 1 also clarifies the original provision in Article 4 of Regulation (EC) No 574/99: since special schemes based on international law and custom are to be preserved and the categories of persons mentioned correspond exactly to these special schemes, the words “in particular” must no longer appear (they were in Article 4 of Regulation (EC) No 574/99), since they would give the impression that other categories could be covered by international law and custom.

Paragraph 2

The Joint Action adopted by the Council on 30 November 1994 concerning travel facilities for school pupils from third countries resident in a Member State (OJ L 327, 19.12.1994) provides certain conditions for exemption from the visa requirement for schoolchildren with a third-country nationality and residing in a Member State when travelling to another Member State on a school excursion. This special facility could be extended to school groups from third countries whose nationals enjoy exemption; the exemption would then apply to pupils in such groups who are not nationals of the country from which they are coming and are theoretically subject to the visa requirement.

Paragraph 2 offers the possibility of visa exemption for certain categories of schoolchildren. This possibility might prompt a future proposal for a specific instrument inspired by the joint action on school excursions, establishing the principle of visa exemption for schoolchildren having the nationality of a third country listed in Annex I who reside in a third country listed in Annex II and determining the detailed rules, as well as the negotiation of Community agreements extending the facility to this or that third country.

Article 6

The information and publication rules provided for in Article 6 as regards both the residence permits that give exemption from the visa requirement and the special rules applicable to specific categories of persons serve to secure transparency and to facilitate the tasks of authorities in the Member States (and airlines), who need detailed, up-to-date information.

Articles 2 and 4 of Regulation (EC) No 574/99 provided similar rules for areas that were not harmonised.

Article 7

The form of words used here, which is not exactly the standard form used for repeal of an earlier Regulation, reflects the fact that the proposed Regulation serves a double purpose on account of the institutional context following the entry into force of the Amsterdam Treaty: it repeals both an earlier Regulation (Regulation (EC) No 574/99) and at the same time a part of the Schengen *acquis* relating to visas.

Article 8

This is a purely standard formulation used in instruments not applicable to or in all Member States (*cf.* Council Decision of 31 May 1999 laying down its Rules of Procedure - OJ L 147, 12.6.1999).

Annexes

Criteria used for determining whether a third country should be in Annex I or Annex II

To determine whether nationals of a third country are subject to the visa requirement or exempted from it, regard should be had to a set of criteria should that can be grouped under three main headings:

- illegal immigration: the visas rules constitute an essential instrument for controlling migratory flows. Here, reference can be made to a number of relevant sources of statistical information and indicators to assess the risk of illegal migratory flows (such as information and/or statistics on illegal residence, cases of refusal of admission to the territory, expulsion measures, and clandestine immigration and labour networks), to assess the reliability of travel documents issued by the relevant third country and to consider the impact of readmission agreements with those countries;
- public policy: conclusions reached in the police cooperation context among others may highlight specific salient features of certain types of crime. Depending on the seriousness, regularity and territorial extent of the relevant forms of crime, imposing the visa requirement could be a possible response worth considering. Threats to public order may in some cases be so serious as even to jeopardise domestic security in one or more Member States. If the visa requirement was imposed in a show of solidarity by the other Member States, this could again be an appropriate response;
- international relations: the option for or against imposing the visa requirement in respect of a given third country can be a means of underlining the type of relations which the Union is intending to establish or maintain with it. But the Union's relations with a single country in isolation are rarely at stake here. Most commonly it is the relationship with a group of countries, and the option in favour of a given visa regime also has implications in terms of *regional coherence*. The choice of visa regime can also reflect the specific position of a Member State in relation to a third country, to which the other Member States adhere in a spirit of solidarity. The *reciprocity criterion*, applied by States individually and separately in the traditional form of relations under public international law, now has to be used by reason of the constraints of the Union's external relations with third countries.

Given the extreme diversity of situations in third countries and their relations with the European Union and the Member States, the criteria set out here cannot be applied automatically, by means of coefficients fixed in advance. They must be seen as decision-making instruments to be used flexibly and pragmatically, being weighted variably on a case-by-case basis.

Annex I

The proposed list of countries whose nationals would be subject to a visa requirement differs from the list annexed to Regulation (EC) No 574/99 in the following respects:

- two countries - Bulgaria and Romania - are taken off the list (*cf. infra*);
- the footnote relating to China (holders of passports from the Hong Kong SAR) has been removed, as this entity is now in Annex II;
- 35 non-member countries that were not on the list annexed to Regulation (EC) No 574/99 have been added following the integration of the Schengen *acquis* into the Community framework and the criteria mentioned above;
- East Timor is added to the list of entities and territorial authorities not recognised as states by at least one Member State.

The list of countries whose nationals would be subject to a visa requirement now includes Colombia, this being a departure from the latest Schengen list.

Annex II

The proposed list of countries whose nationals would be exempt from the visa requirement extends to 48 countries. Two remarks are in order:

1. Bulgaria and Romania: there are two reasons for proposing that they be in Annex II:
 - in recent years, both have paid special attention to a number of matters that are particularly important for the visa rules (e.g. border controls, security of travel documents, new readmission agreements and review of existing agreements) and have achieved what can be regarded as generally satisfactory progress, albeit at different rates;
 - the enlargement process is now entering a decisive phase since the Helsinki European Council on 10 and 11 December 1999, acting on a Commission recommendation, has decided to open accession negotiations with, among others, Bulgaria and Romania. This new situation, which reflects the qualitative leap forward in relations between Bulgaria and Romania and the European Union, is a new factor in terms of international relations.

For all these reasons, the Commission proposes that Bulgarian and Romanian nationals be exempt from the visa requirement henceforth. In this the Commission is also following up a recommendation by the European Parliament (Resolution of November 1995 and Legislative Resolution of February 1999 in the context of the reconsultation on the visa Regulation).

2. The Hong Kong and Macao SARs are in Annex II to the proposed Regulation. This reflects the “one country, two systems” concept as well as the Commission’s assessment of the two entities in relation to the various criteria set out above. The Commission has responded to the legal situation and the provisions relating to immigration, border controls and security of travel and identity documents by proposing a visa exemption for holders of passports issued by the Hong Kong and Macao SARs.

Proposal for a

COUNCIL REGULATION

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(b)(i) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Under Article 62(2)(b) of the Treaty, the Council is to adopt rules relating to visas for intended stays of no more than three months, and in that context it is required to determine the list of those third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement³. Article 61 cites those lists among the flanking measures which are directly linked to the free movement of persons in an area of freedom, security and justice.
- (2) The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity.
- (3) The circumstances of third-country nationals residing lawfully in a Member State and holding a residence permit issued by that State are such that further visa requirements are superfluous when they cross external borders. The principle that a residence permit is equivalent to a visa should be laid down for this category of persons, without prejudice to other conditions for entry or to other rules applying to travel within the Community by holders of residence permits.

¹ O J C

² O J C

³ Under Article 1 of the Agreement concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, this proposal will have to be considered by the Joint Committee in accordance with Article 4 of the Agreement.

- (4) As regards stateless persons, who have lost any links with any particular State, and recognised refugees, who are unable to avail themselves of the protection of the State of which they have the nationality, the decision as to the visa requirement or exemption should be based on a simple criterion reflecting the fact that the State where these persons reside affords them its protection and issues them with travel documents.
- (5) In specific cases where special visa rules are warranted, Member States may exempt certain categories of persons from the visa requirement or impose it on them in accordance with public international law or custom.
- (6) With a view to ensuring that the system is administered openly and that the persons concerned are informed, Member States should communicate to the other Member States and to the Commission the measures which they take pursuant to this Regulation. For the same reasons, that information should also be published in the *Official Journal of the European Communities*.
- (7) In accordance with the principle of proportionality stated by Article 5 of the Treaty, enacting a Regulation 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 is both a necessary and an appropriate means of ensuring that the common visa rules operate efficiently.
- (8) This Regulation provides for full harmonisation as regards the third countries whose nationals are subject to the visa requirement for the crossing of Member States' external borders, and those whose nationals are exempt from that requirement. Accordingly, it is appropriate to replace existing Community law on the subject.

HAS ADOPTED THIS REGULATION:

Article 1

1. Nationals of third countries on the list in Annex I shall be required to be in possession of a visa when crossing the external borders of the Member States.
2. Nationals of third countries on the common list in Annex II shall be exempt from the requirement set out in paragraph 1.
3. Nationals of third countries formerly part of countries on the lists contained in Annexes I and II shall be subject to the requirements of paragraphs 1 and 2 unless and until the Council decides otherwise under the procedure laid down in the relevant provision of the Treaty.

Article 2

For the purposes of this Regulation, “visa” shall mean an authorisation issued or a decision taken by a Member State which is required for entry into its territory with a view to:

- an intended stay in that Member State or in several Member States of no more than three months in all,
- transit through the territory of that Member State or several Member States, except for transit through the international zones of airports and transfers between airports in a Member State.

Article 3

For nationals of third countries listed in Annex I, a valid residence permit issued by one of the Member States shall be equivalent to a visa for the purposes of crossing external borders.

Article 4

Stateless persons and recognised refugees shall be subject to the visa requirement or shall be exempted from it on the same terms as nationals of the non-member State in which they reside and which issued their travel document.

Article 5

1. A Member State may provide for exceptions from the visa requirement provided for by Article 1(1) or for the exemption from the visa requirement provided for by Article 1(2) as regards:
 - (a) holders of diplomatic passports, official-duty passports and other official passports;
 - (b) civilian air and sea crew;
 - (c) the flight crew and attendants on emergency or rescue flights and other helpers in the event of disaster or accident;
 - (d) the crew of ships navigating in international waters;
 - (e) the holders of official documents issued by international organisations.
2. A Member State may exempt from the visa requirement a school pupil having the nationality of a third country listed in Annex I who resides in a third country listed in Annex II and is travelling in the context of a school excursion as a member of a group of school pupils accompanied by a teacher from the school in question.

Article 6

1. Within 10 working days of the entry into force of this Regulation, Member States shall communicate to the other Member States and the Commission the list of residence permits relevant for the purposes of Article 3 and the exception measures they have taken pursuant to Article 5. Any further changes to this list and to those measures shall be similarly communicated within five working days.
2. The Commission shall publish the measures communicated pursuant to paragraph 1 in the Official Journal of the European Communities for information.

Article 7

1. Regulation (EC) No 574/99⁴ is replaced by this Regulation.

⁴ OJ L 72, 18.3.1999, p. 2.

2. Annex I to the Common Consular Instruction and Annex V to the Common Manual, as laid down by the decision of the Schengen Executive Committee of 28 April 1999 (SCH/Com-ex(99)13) concerning the final versions of the Common Manual and the Common Consular Instruction, are replaced by Annexes I and II to this Regulation.

Article 8

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

*For the Council
The President*

ANNEX I

List referred to in Article 1(1)

1. States

Afghanistan
Albania
Algeria
Angola
Antigua and Barbuda
Armenia
Azerbaijan
Bahamas
Bahrain
Bangladesh
Barbados
Belarus
Belize
Benin
Bhutan
Bosnia and Herzegovina
Botswana
Burkina Faso
Burma/Myanmar
Burundi
Cambodia
Cameroon
Cape Verde
Central African Republic
Chad
China
Colombia
Congo
Côte d'Ivoire
Cuba
Democratic Republic of the Congo
Djibouti
Dominica
Dominican Republic
Egypt
Equatorial Guinea
Eritrea
Ethiopia
Federal Republic of Yugoslavia (Serbia-Montenegro)
Fiji
Former Yugoslav Republic of Macedonia
Gabon
Gambia
Georgia
Ghana
Grenada

Guinea
Guinea-Bissau
Guyana
Haiti
India
Indonesia
Iran
Iraq
Jamaica
Jordan
Kazakhstan
Kenya
Kiribati
Kuwait
Kyrgyzstan
Laos
Lebanon
Lesotho
Liberia
Libya
Madagascar
Malawi
Maldives
Mali
Marshall Islands
Mauritania
Mauritius
Micronesia
Moldova
Mongolia
Morocco
Mozambique
Namibia
Nauru
Nepal
Niger
Nigeria
North Korea
Northern Marianas
Oman
Pakistan
Palau
Papua New Guinea
Peru
Philippines
Qatar
Russia
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
São Tomé and Príncipe

Saudi Arabia
Senegal
Seychelles
Sierra Leone
Solomon Islands
Somalia
South Africa
Sri Lanka
Sudan
Surinam
Swaziland
Syria
Tajikistan
Tanzania
Thailand
The Comoros
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Tuvalu
Uganda
Ukraine
United Arab Emirates
Uzbekistan
Vanuatu
Vietnam
Western Samoa
Yemen
Zambia
Zimbabwe

2. Entities and territorial authorities that are not recognised as States by at least one Member State

East Timor
Palestinian Authority
Taiwan

ANNEX II

List referred to in Article 1(2)

1. States

Andorra
Argentina
Australia
Bolivia
Brazil
Brunei
Bulgaria
Canada
Chile
Costa Rica
Croatia
Cyprus
Czech Republic
Ecuador
Estonia
Guatemala
Holy See
Honduras
Hungary
Israel
Japan
Latvia
Lithuania
Malaysia
Malta
Mexico
Monaco
New Zealand
Nicaragua
Panama
Paraguay
Poland
Romania
Salvador
San Marino
Singapore
Slovakia
Slovenia
South Korea
Switzerland
United States of America
Uruguay
Venezuela

Iceland¹
Liechtenstein²
Norway³

2. Entities and territorial authorities that are not recognised as States by at least one Member State

Hong Kong SAR
Macao SAR

¹ The visa exemption applicable to nationals of this country is not based on this Regulation but on the EEA Agreement.
² The visa exemption applicable to nationals of this country is not based on this Regulation but on the EEA Agreement.
³ The visa exemption applicable to nationals of this country is not based on this Regulation but on the EEA Agreement.