



COMMISSION OF THE EUROPEAN COMMUNITIES

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2001/0231 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 539/2001 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

On 15 March 2001, the Council adopted Regulation (EC) No 539/2001¹ 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.

Romania is listed in Annex II of the Regulation (third countries whose nationals are exempt from the visa requirement), but is marked with an asterisk which refers the reader to Article 8(2). This indicates that the application of the visa derogation to Romanian nationals is to be decided ultimately by the Council, in accordance with Article 67(3) of the Treaty, on the basis of a report accompanied by any appropriate recommendations, which the Commission is to present to the Council by 30 June 2001 at the latest. The report must cover the commitments into which Romania is prepared to enter as regards illegal immigration and illegal residence, including the repatriation of persons having travelled from Romania and residing illegally in a Member State.

The Commission has forwarded to the Council the report which it was asked to provide.²

The report notes that Romania has made undeniable progress in legislative and organisational matters as regards illegal immigration and repatriation from the Member States of persons illegally resident there who have travelled from Romania, visa policy and border controls. The report also sets out Romania's commitments in these areas.

At the end of the report the Commission recommends the Council to decide that the derogation from visa requirements for Romanian nationals should take effect on 1 January 2002. This is why the Commission is presenting this proposal for an amendment to Regulation No 539/2001. Its purpose is to remove from the Regulation the provisions under which the entry into force of the visa derogation for Romanian nationals was made conditional on a decision by the Council at a later stage.

In proposing that the Council end the provisional situation in which Romania was maintained by Regulation No 539/2001, the Commission is confirming the line it originally took in its initial proposal of 26 January 2000³ and its amended proposal of 21 September 2001.⁴ The entry into force of the visa derogation for Romanian nationals also corresponds to Parliament's wishes as last expressed in its opinion of 5 July 2000⁵ on the Commission proposal of 26 January 2000.

¹ OJ L 81, 21 March 2001, p. 1.

² COM(2001) 361 final, 29 June 2001.

³ OJ C 177, 27 June 2000, E/66.

⁴ OJ C 376, 29 December 2000, E/1.

⁵ OJ C

NOTES ON THE ARTICLES

Article 1

This Article deletes the provisions of Article 8 which provisionally maintain the visa requirement for Romanian nationals and set out the stages and procedures to be undergone before this provisional state of affairs can be brought to an end. The only paragraph which it leaves in Article 8 is the one on entry into force.

Article 2

In line with Article 1, this Article deletes from Annex II (lists of third countries whose nationals are exempted from visas) the references to the provisional arrangements laid down in Article 8.

Article 3

Without amending the previous Regulation, this Article provides for the entry into force of this Regulation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, particularly Article 62(2)(b)(i),

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas,

- (1) Regulation No 539/2001 includes Romania among the third countries whose nationals are exempted from visa requirements, but makes the application to Romanian nationals of the visa derogation conditional on a decision to be taken at a later stage by the Council. This decision is to be taken on the basis of a report which the Commission is to present to the Council by 30 June 2001 at the latest and which is to be accompanied by any recommendations which may be appropriate.
- (2) In its report of 29 June 2001, the Commission notes the undeniable progress made by Romania as regards illegal immigration from the country, its visa policy and the controls at its borders. It also sets out the commitments entered into by Romania in this field. It concludes by recommending to the Council that Romanian nationals be exempted from the visa requirement as of 1 January 2002.
- (3) To apply the visa exemption to Romanian nationals, the provisions of Regulation No 539/2001 which provisionally maintain the visa requirement should be deleted,

HAS ADOPTED THIS REGULATION:

Article 1

Article 8 of Regulation No 539/2001 is replaced by the following:

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

Article 2

The following shall be deleted from Annex II of Regulation No 539/200:

- the asterisk against Romania; and
- the footnote referring to Article 8(2).

Article 3

The Regulation shall enter into force on the twentieth day after its publication in the *Official Journal of the European Communities*.

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

Done at Brussels,

For the Council
The President