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REPORT

on the proposal for a Council Regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism
(COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Henrik Lax

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council Regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism
(COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2004)0437)¹,
 - having regard to Article 62(2)(b)(i) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0097/2004),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs (A6-0065/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 RECITAL 2

(2) Given the seriousness of such situations of non-reciprocity, it is essential that they

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¹ OJ C ... / Not yet published in OJ.

should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the Council and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I.

should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the **European Parliament and the** Council and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I. ***To ensure transparency and democratic control, the European Parliament should be kept informed of the mechanism at all stages and should be able to give an opinion on a provisional measure.***

Justification

It is important that the European Parliament be fully informed on the non-reciprocity situation so that it can take any action it sees fit, particularly in the area of foreign relations with the country concerned.

Amendment 2 RECITAL 3 A (new)

(3a) The concept of reciprocity should also be applied to conditions and procedures introduced by a third country the effect of which is substantially to limit travel by nationals of a Member State.

Justification

See justification for amendment on ARTICLE 3, Article 7 a new (Regulation (EC) N° 539/2001).

Amendment 3 RECITAL 5

(5) Transitional arrangements should be provided for where, when this Regulation comes into force, Member States are subject to a visa requirement by third countries listed in Annex II to Regulation (EC) No 539/2001. 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 association of those two States with the implementation, application and development of the Schengen acquis, which falls within the area referred to in Article 1(A) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.

(5) Transitional arrangements should be provided for where, when this Regulation comes into force, Member States are subject to a visa requirement by third countries listed in Annex II to Regulation (EC) No 539/2001. ***To reinforce solidarity between Member States in such cases, reciprocity should be the guiding principle for the Commission in its efforts to establish visa-free travel.*** 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 association of those two States with the implementation, application and development of the Schengen acquis, which falls within the area referred to in Article 1(A) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.

Justification

The situation following the enlargement of the EU is a very special one keeping in mind that in this area of exclusive Community competence individual Member States are deprived of the power to act unilaterally. It is not reasonable that for years to come new Member States which are bound to respect Regulation 539/2001 have to accept nationals of third countries without a visa while their citizens need one to visit that third country. By emphasising reciprocity the solidarity between Member States is reinforced.

Amendment 4 ARTICLE 1 Article 1, paragraph 4, point (a) (Regulation (EC) No 539/2001)

(a) within ten days of such introduction, or its announcement, the Member State concerned shall notify the **Council and the Commission** in writing; the notification shall be published in the C series of the Official Journal of the European Union;

(a) within **90** days of such introduction, or its announcement, the Member State concerned shall notify the Commission in writing; the notification shall be published in the C series of the Official Journal of the European Union;

Justification

More time is required to give the individual Member State affected by non-reciprocity a reasonable period to negotiate on a bilateral basis with the third country which has introduced a visa requirement to withdraw it.

To avoid unnecessary procedures, it should be sufficient if the Commission is notified. Transparency will then be ensured through the publication in the Official Journal.

Amendment 5

ARTICLE 1

Article 1, paragraph 4, point (b) (Regulation (EC) No 539/2001)

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the Council;

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the **European Parliament and the Council**;

Justification

Visa policy is an area of exclusive Community competence in the first pillar. Information to the European Parliament constitutes therefore an absolute necessity.

Amendment 6

ARTICLE 1

Article 1, paragraph 4, point (c) (Regulation (EC) No 539/2001)

(c) depending on the conclusions in its report, the Commission may present to the Council a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question. The Council shall act on such proposal by a qualified majority within three months;

(c) depending on the conclusions in its report, the Commission may present to the Council, **at the latest within two months after the date of submission of the report referred to in point (b)**, a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question, **which the Council shall transmit to the European Parliament**. The Council shall

act on such proposal by a qualified majority within three months;

Justification

*In the Commission's proposal there is no deadline in which the Commission, after it reported about its procedures to establish visa-free travel, has to make a proposal if it wants to do so. This is a surprising omission since all other steps have a clearly defined timeframe. A deadline should therefore also be added for this step.
For the second part: See justification for amendment on ARTICLE 1, Article 1, point (4), letter (b).*

Amendment 7

ARTICLE 1

Article 1, paragraph 4, point (c a) (new) (Regulation (EC) No 539/2001)

(ca) If the European Parliament indicates, in a Resolution setting out the grounds on which it is based, that it disagrees with a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question, the Commission shall re-examine that proposal. Taking the Resolution into account and within one month after the adoption thereof, the Commission may submit a new proposal or continue the procedure. It shall give the reasons for its action.

Justification

The European Parliament should have the possibility to give an opinion about a proposed measure if it wishes to do so. Otherwise it would only have the possibility to give an opinion once the Commission has decided to propose to amend Regulation 539/2001.

Amendment 8

ARTICLE 1

Article 1, paragraph 4, point (c b) (new) (Regulation (EC) No 539/2001)

(cb) Should the Commission not present a proposal for a provisional measure on the temporary restoration of the visa

requirement for nationals of the third country in question, it shall make a further attempt to restore visa-free travel within six months after the date of submission of the report referred to in point (b), 1 and shall report on those procedures to the European Parliament and the Council. Within two months of that report, the Commission shall, if the third country has not abolished the visa requirement, submit to the Council a proposal for a provisional measure on the temporary restoration of the visa requirement for nationals of the third country in question or a proposal for another appropriate measure in the external field, which Council shall transmit to the European Parliament. The procedure referred to in point (ca) shall apply.

Justification

If necessary, i.e. if the visa requirement by the third country remains in force, it should be possible to pursue diplomatic contacts for six more months. After such a second period, however, action needs to be taken. In such a way the efficiency of the mechanism and the power of the Commission as negotiator on behalf of the EU can be increased.

Amendment 9

ARTICLE 1, POINT 1 A (new)

Article 7 a (new) (Regulation (EC) No 539/2001)

1a. The following Article 7a shall be inserted:

"Article 7a

1. Where a third country introduces conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the following provisions shall apply:

(a) within ten days of such introduction, or its announcement, the Member State

concerned shall notify the Commission in writing; the notification shall be published in the C series of the Official Journal of the European Union;

(b) the Commission shall immediately take steps with the authorities of the third country in order to secure the non-application of those conditions or procedures and, at the latest within six months of publication of the notification, shall report on those procedures to the European Parliament and the Council;

(c) depending on the conclusions in its report, the Commission may present to the Council, at the latest within two months after the date of submission of the report referred to in point (b), a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, which Council shall transmit to the European Parliament. The Council shall act on such proposal by a qualified majority within three months;

(d) if the European Parliament indicates, in a Resolution setting out the grounds on which it is based, that it disagrees with a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, the Commission shall re-examine that proposal. Taking the Resolution into account and within one month after the adoption thereof, the Commission may submit a new proposal or continue the procedure. It shall give the reasons for its action.

(e) should the Commission not present a proposal for a provisional measure introducing comparable conditions or procedures in respect of nationals of the third country in question travelling to the European Union, it shall make a further attempt to secure the non-application of

those conditions or procedures within six months after the date of submission of the report referred to in point (b) and shall report on those procedures to the European Parliament and the Council. Within two months of that report, the Commission shall, if the third country continues to apply those conditions or procedures, submit to the Council a proposal for an appropriate measure based on the principle of reciprocity, which Council shall transmit to the European Parliament. The procedure referred to in point (d) shall apply.

(f) if it considers it necessary, the Commission may present the proposal as referred to in points (c) and (e) without a prior report. The procedure referred to in points (c) and (d) shall apply to that proposal;

(g) where the third country withdraws the conditions or procedures the effect of which is substantially to limit the movement of nationals of a Member State, the Member State concerned shall notify the Commission thereof. The notification shall be published in the C series of the Official Journal of the European Union. Any provisional measure decided under point (c) and any appropriate measure decided under point (e) shall terminate automatically on the date of entry into force of the withdrawal of the conditions or procedures the effect of which is to limit the movement of nationals of a Member State.”

Justification

Reciprocity should not be limited to the visa requirement alone but should be extended to comprise also conditions and procedures because both have the same effect: making it more difficult for EU citizens to travel. The rapporteur therefore proposes a second reciprocity mechanism dealing with conditions and procedures.

EXPLANATORY STATEMENT

I. Context of the proposal

The European Union is currently confronted with a number of cases in which citizens of certain Member States have to obtain a visa to travel to certain third countries although the citizens of those third countries do not require a visa to travel to the EU.¹ Before the enlargement of the EU this had been the case of Greek citizens travelling to the US, citizens from Austria, Finland, Greece, Portugal and Iceland travelling to Brunei, Finnish citizens to Venezuela and Icelandic citizens to Guatemala. After enlargement this situation became much more complex. On 30 September 2004 following already a series of contacts and liftings of visa requirements according to information provided by the Commission 19 third countries whose nationals are exempted from the visa requirement by the EU still require visas from citizens of at least one new Member State.²

Regulation 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 requirement³ provides in such cases for a reciprocity mechanism. The "victim Member State" can notify such a situation after which Member States introduce a visa requirement for citizens of the third country in question unless Council decides otherwise. Since its entry into force in 2001 this clause was, however, never invoked by a Member State. In the views of the Commission this is due to the rigidity and automatism of the mechanism. A notification by a "victim Member State" would either lead to a "major crisis [...] in external relations with the third country concerned or internally" because the "mechanism's second stage can be blocked only by Council [...]", a decision which would be seen "as a refusal by the Member States to act in solidarity" (p. 2 of the explanatory statement).

II. The proposal of the Commission

The Commission therefore proposes a new "more flexible and more realistic" (p. 3 of the explanatory statement) mechanism. It essentially provides the Commission with a six-months period in which it can try by diplomatic means to re-establish visa-free travel. Additional important proposed changes are that "victim Member States" have an obligation for notification and that the Commission, following its contacts with the third country, may or may not propose the temporary restoration of the visa requirement for citizens of the third country concerned. According to the Commission's proposal the same mechanism should be applied as regards the existing cases of non-reciprocity mentioned above. The Commission believes that such a mechanism will be more effective because it will be used.

¹ "EU" is understood here as the Schengen area comprising all Member States (except Ireland and the UK) as well as Iceland and Norway.

² Australia, Bolivia, Brazil, Brunei, Canada, Costa Rica, Guatemala, Honduras, Malaysia, Mexico, New Zealand (visa exemption agreement concerning all new Member States signed but not yet entered into force), Nicaragua, Panama, Paraguay, Salvador, Singapore, United States, Uruguay, Venezuela

³ OJ L 81, 21/3/2001, p. 1

III. Position of the rapporteur

The rapporteur generally agrees with the philosophy and the main elements of the Commission's proposal. The current mechanism is too radical to be effective. He is, however, of the opinion that a second phase should be added to the mechanism to make it more effective. Finally, he proposes that the concept of reciprocity should be understood in a wider sense than proposed to include conditions and procedures which constitute an obstacle to free travel.

The mechanism

The rapporteur proposes a series of amendments to the mechanism which reflect upon three objectives. Firstly, the mechanism needs to be effective. The primordial objective of the EU's action needs to be free travel for all our citizens to those countries that benefit from visa-free access to the EU. The rapporteur sees a weakness in the proposed mechanism because it does not provide for a follow-up if the Commission chooses not to act after six months. There is a risk that third countries assume that nothing will happen and things remain as they are. The rapporteur therefore proposes to add a second period of six months in which the Commission has the possibility to re-establish visa-free travel. At the end of this second six-months period the Commission should then have the obligation to make a proposal for further action. This can be either the provisional establishment of the visa requirement or, if for political reasons this cannot be justified, any other measure in the external relations field the Commission considers appropriate in the particular circumstances. Depending on the seriousness this could be for example the re-examination of cooperation agreements, the temporary suspension of political dialogue, the exclusion of the country from the EU's system of generalised preferences, the freezing of financial assistance or trade sanctions. In such a second period the Commission would have the means to put more pressure on the third country in question because it can point out that in case of non-establishment of visa-free travel it has the obligation to make a proposal. By adding an element of firmness the solidarity between Member States is reinforced keeping in mind that in this area of exclusive Community competence individual Member States are deprived of the power to act unilaterally. It is not reasonable that for years to come new Member States which are bound to respect Regulation 539/2001 have to accept nationals of third countries without a visa while their citizens need one to visit that third country. This particular situation following enlargement requires that the criteria of reciprocity as one of the criteria to determine those third countries whose nationals are subject to the visa requirement by the EU (recital 5 of Regulation 539/2001) should be strengthened in comparison to the other criteria.

Secondly, the role of the Commission needs to be reinforced. In order to be a credible negotiator vis-à-vis third countries the Commission should not only get the power but also the obligation to propose at the end of an eventual second period of six months either the establishment of the visa obligations for nationals from the third country concerned or any other measure in the field of external relations like outlined above. For the same reason the rapporteur agrees with the deadlines proposed for notification by Member States (the rather short deadline of 10 days) and action by the Commission (the rather long deadline of six months).

Thirdly, the process needs to be more transparent and democratic. Citizens have to know that the Community acts on their behalf to abolish visa requirements for them. The European Parliament can help to ensure transparency of the process and democratic accountability if it is kept informed and has a possibility to react.

Reciprocity in a wider sense

The rapporteur regrets that the Commission used a very narrow concept of reciprocity for its proposal. The question is only whether a third country introduces or keeps a visa requirement. In its staff working paper on reciprocity in visas¹ the Commission listed a series of other circumstances which constitute breaches of reciprocity without being addressed by the present proposal. This is for example the case if third countries grant visa exemptions for stays of less than three months while the Schengen acquis provides that third country nationals can stay within the Schengen area for up to three months in any half-year. There are also cases in which other criteria than nationality are used to determine the visa requirement (for example in case of Germans visiting Israel those who were born before 1 January 1928 need a visa).

In addition, the Commission does not take into consideration the issue of reciprocity in the conditions and procedures for issuing visas (as it states on p. 2 of the above mentioned staff working paper). Conditions and procedures, however, can constitute real obstacles for obtaining a visa, for example if sudden changes are made in the documents that are required (like an HIV certificate or travel insurance only from certain companies) or if there is a general policy "to make it as difficult and unpleasant as possible". Currently the Commission negotiates with the Russian Federation on precisely these conditions and procedures in order to reach a facilitation agreement.

On the other hand cases where the visa exemption is subject to conditions should also be looked at. This is for example the case with the Visa Waiver Programme of the US which now has as one condition that participating countries introduce biometric passports in order to be able to continue to benefit from the visa exemption.

To respond to such obstacles the rapporteur proposes to extend the mechanism to better meet the real needs. This second mechanism is based on the one proposed in case of the introduction of the visa requirement. The rapporteur underlines in this context that the EU should also clarify and abolish itself its own disproportionate requirements like for example regarding the documents required to obtain a visa (system of invitations) or the obligation to register (Article 22 of the Schengen Implementing Convention). A revision of the Common Consular Instructions is urgently required and the rapporteur urges the Commission to make such a proposal by early 2006 at the latest.

In this context the rapporteur would like to invite the Commission to focus more attention on visa questions in general that developed after the recent treaty revisions and in particular after EU enlargement. The whole area is one of great concern to citizens and to third country nationals wishing to visit the EU. The European institutions today have to assume the

¹ Document JAI-B-1(2004)1372, 18.2.2004. It needs to be mentioned that it is difficult to understand why the Commission writes a staff working document while it ignores the legal obligation to present a report on the implications of reciprocity to Parliament and Council by 30 June 2003 as laid down in Article 2 of Reg. 453/2003.

responsibility that was given to them in this new situation. It is absolutely crucial to get firstly the Schengen and Community acquis straight and secondly to ensure its harmonised application. The possibilities of stateless EU citizens to travel within the Union are not covered by this proposal and have to be solved.

This application in the field of visas and reciprocity show itself to be especially exemplary vis-à-vis the international community.

15.3.2005

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council Regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism
(COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS))

Draftswoman: Marielle De Sarnez

SHORT JUSTIFICATION

The Committee on Civil Liberties, Justice and Home Affairs was appointed committee responsible for amending the proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism.

The mechanism has never in fact been used since its introduction in 2001, mainly because Member States subject to a visa requirement from third countries have been unwilling to request initiating it. Its excessive rigidity and virtually automatic nature have discouraged Member States from using it for fear of sparking off a major crisis in the field of foreign relations. The current mechanism needed revising to make it more operational and flexible, so as to take account of the political and diplomatic dimension that is an inherent aspect of its use.

Accordingly there needs to be provision for ensuring that notification to the Commission is also passed on to the Council, and that the Member State may as part of the notifying process request a period of notice from the Commission before triggering the mechanism. It must also be possible to deliver an opinion on a range of measures that could be taken in place of or in addition to reintroduction of the visa requirement with the third country concerned.

Further, the Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs to look into the desirability of the European Union devising a series of additional and proportionate mechanisms to respond to any situation of non-reciprocity. Such sanctions could include any of the political, commercial and diplomatic measures available to the European Union.

The Committee therefore asks the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 RECITAL 2

(2) Given the seriousness of such situations of non-reciprocity, it is essential that they should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the Council and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I.

Given the seriousness of such situations of non-reciprocity, it is essential that they should be notified without fail by the Member State(s) concerned. To ensure that the third country in question again applies visa-free travel to nationals of the Member States concerned, a mechanism should be provided which, will combine measures at variable levels and intensities that can be rapidly carried out. Thus the Commission should take steps with the third country without delay, report to the Council **and Parliament** and be able at any moment to propose that the Council adopt a provisional decision restoring the visa requirement for nationals of the third country in question. Resorting to such a provisional decision should not make it impossible to transfer the third country in question to Annex I of Regulation (EC) No 539/2001. A temporal link should also be provided between the entry into force of the provisional measure and any proposal to transfer the country to Annex I.

Justification

Parliament needs to be fully informed on the non-reciprocity situation so that it can take any action it sees fit, particularly in the area of foreign relations with the country concerned.

Amendment 2 ARTICLE 1, POINT (a)

¹ Not yet published in OJ.

(a) within ten days of such introduction, or its announcement, the Member State concerned shall notify the *Council and the Commission* in writing; the notification shall be published in the C series of the Official Journal of the European Union;

(a) within ten days of such introduction, or its announcement, the Member State concerned shall notify the Commission **and Council** in writing; the **notification may be accompanied by a request for a reasonable time limit, and/or an opinion on measures that could be taken against the third country.** The notification shall be published in the C series of the Official Journal of the European Union;

Justification

It is important for the Council to be informed at the same time as the Commission of a third country's introduction of the visa requirement for nationals of a Member State. This will enable the other Member States to act jointly in their diplomatic relations with the third country concerned.

The revised mechanism needs to be more flexible. It should enable the Member State to request a period of notice enabling it to try to settle the situation itself, if it so wishes, for instance through political and diplomatic negotiation. It is also important for the Member State to be able to deliver an opinion on any measures against the third country that the Commission might see fit to take.

Amendment 3 ARTICLE 1, POINT (b)

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the Council;

(b) the Commission shall immediately take steps with the authorities of the third country in order to restore visa-free travel and, at the latest within six months of publication of the notification, shall report on those procedures to the Council **and Parliament**;

Justification

Parliament needs to be fully informed on the non-reciprocity situation so that it can take any action it sees fit, particularly in the area of foreign relations with the country concerned.

Amendment 4 ARTICLE 2, PARAGRAPH 1

Member States whose nationals, at the date of entry into force of this Regulation, are subject to a visa requirement by a third

Member States whose nationals, at the date of entry into force of this Regulation, are subject to a visa requirement by a third

country listed in Annex II to Regulation (EC) No 539/2001 shall notify the Commission in writing within ten days of that entry into force. The notification shall be published in the C series of the Official Journal of the European Union.

country listed in Annex II to Regulation (EC) No 539/2001 shall notify the Commission **and Council** in writing within ten days of that entry into force. ***The notification may be accompanied by a request for a reasonable time limit, and/or an opinion on measures that could be taken against the third country.*** The notification shall be published in the C series of the Official Journal of the European Union.

Justification

It is important for the Council to be informed at the same time as the Commission of a third country's introduction of the visa requirement for nationals of a Member State. This will enable the other Member States to act jointly in their diplomatic relations with the third country concerned.

The revised mechanism needs to be more flexible. It should enable the Member State to request a period of notice enabling it to try to settle the situation itself, if it so wishes, for instance through political and diplomatic negotiation. It is also important for the Member State to be able to deliver an opinion on any measures against the third country that the Commission might see fit to take.

PROCEDURE

| | |
|---|---|
| Title | Proposal for a Council regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism |
| References | COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS) |
| Committee responsible | LIBE |
| Committee asked for its opinion Date announced in plenary | AFET 15.9.2004 |
| Enhanced cooperation | |
| Draftsman Date appointed | Marielle De Sarnez 29.9.2004 |
| Discussed in committee | 1.2.2005 15.3.2005 |
| Date amendments adopted | 15.3.2005 |
| Result of final vote | for: 28 against: 5 abstentions: 2 |
| Members present for the final vote | Vittorio Emanuele Agnoletto, Monika Beňová, André Brie, Elmar Brok, Paul Marie Couteaux, Simon Coveney, Ryszard Czarnecki, Giorgos Dimitrakopoulos, Anna Elzbieta Fotyga, Maciej Marian Giertych, Ana Maria Gomes, Jelko Kacin, Bogdan Klich, Cecilia Malmström, Willy Meyer Pleite, Annemie Neyts-Uyttebroeck, Justas Vincas Paleckis, Tobias Pflüger, José Ignacio Salafranca Sánchez-Neyra, György Schöpflin, Ursula Stenzel, István Szent-Iványi, Konrad Szymański, Charles Tannock, Jan Marinus Wiersma, Josef Zieleniec |
| Substitutes present for the final vote | Irena Belohorská, Marielle De Sarnez, Árpád Duka-Zólyomi, Anneli Jäätteenmäki, Tunne Kelam, Athanasios Pafilis, József Pinió, Aloyzas Sakalas, Inger Segelström |
| Substitutes under Rule 178(2) present for the final vote | |

PROCEDURE

| | | | |
|--|--|-------------------|-----------|
| Title | Proposal for a Council Regulation amending Regulation (EC) No 539/2001 as regards the reciprocity mechanism | | |
| References | COM(2004)0437 – C6-0097/2004 – 2004/0141(CNS) | | |
| Legal basis | Article 67 EC | | |
| Basis in Rules of Procedure | Rule 51 | | |
| Date of consulting Parliament | 26.7.2004 | | |
| Committee responsible Date announced in plenary | LIBE 15.9.2004 | | |
| Committee(s) asked for opinion(s) Date announced in plenary | AFET 15.9.2004 | DEVE 15.9.2004 | |
| Not delivering opinion(s) Date of decision | DEVE 2.12.2004 | | |
| Enhanced cooperation Date announced in plenary | | | |
| Rapporteur(s) Date appointed | Henrik Lax 13.9.2004 | | |
| Previous rapporteur(s) | | | |
| Simplified procedure Date of decision | | | |
| Legal basis disputed Date of JURI opinion | | | |
| Financial endowment amended Date of BUDG opinion | | | |
| European Economic and Social Committee consulted Date of decision in plenary | | | |
| Committee of the Regions consulted Date of decision in plenary | | | |
| Discussed in committee | 22.9.2004 | 21.2.2005 | 16.3.2005 |
| Date adopted | 16.3.2005 | | |
| Result of final vote | for: | 34 | |
| | against: | 5 | |
| | abstentions: | 0 | |
| Members present for the final vote | Alexander Nuno Alvaro, Edit Bauer, Johannes Blokland, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Antoine Duquesne, Patrick Gaubert, Magda Kósáné Kovács, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Henrik Lax, Sarah Ludford, Edith Mastenbroek, Jaime Mayor Oreja, Claude Moraes, Martine Roure, Michele Santoro, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka | | |
| Substitutes present for the final vote | Panayiotis Demetriou, Ignasi Guardans Cambó, Jeanine Hennis-Plasschaert, Luis Francisco Herrero-Tejedor, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Marie-Line Reynaud, Agnes Schierhuber, Bogusław Sonik | | |
| Substitutes under Rule 178(2) present | Thijs Berman, Joel Hasse Ferreira, Tadeusz Zwiefka | | |

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|---------------------------|------------------------|
| for the final vote | |
| Date tabled – A6 | 21.3.2005 A6-0065/2005 |
| Comments | |