



EUROPEAN PARLIAMENT

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**A7-0011/2011**

27.1.2011

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## **RECOMMENDATION**

on the draft Council decision on the conclusion of the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports  
(16364/2010 – C7-0400/2010 – 2010/0228(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Macovei Monica Luisa

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion of the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports  
(16364/2010 – C7-0400/2010 – 2010/0228(NLE))**

**(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (16364/2010),
  - having regard to the draft agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports (13712/2010),
  - having regard to the request for consent submitted by the Council in accordance with Article 77(2), point (a) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0400/2010),
  - having regard to Rules 81 and 90(8) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2010),
1. Consents to conclusion of the agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and the Federative Republic of Brazil.

## EXPLANATORY STATEMENT

In accordance with Council Regulation (EC) No 539/2001<sup>1</sup>, Brazilian nationals can travel to all Member States of the European Union without visa for short stays. Brazil however still requires a visa from the nationals of four Member States: Estonia, Cyprus, Malta and Latvia to enter its territory. The other Member States have bilateral visa agreements with Brazil, allowing their nationals to enter Brazil for short stays without a visa.

For constitutional reasons, Brazil cannot grant a visa waiver for these Member States unilaterally; it is necessary to conclude a visa waiver agreement to be ratified by its Parliament, as regards *ordinary passport* holders entering Brazil (*diplomatic and service passport* holders are covered by a separate agreement, to be concluded at the same time with this agreement, but which does not need approval in the Brazil Parliament).

It stems from the nature of the common visa policy and the exclusive external competence of the European Union in this area that only the Union can negotiate and conclude a visa waiver agreement, and not the individual Member States. Therefore, on 18 April 2008, the Council adopted a decision authorizing the Commission to open negotiations on the conclusion of a short-stay visa-waiver agreement between the European Union and Brazil. The negotiations started on 2 July 2008 and have been finalized on 1 October 2009. The Agreement was initialled on 28 April 2010 and the formal signature on behalf of the Union and Brazil took place in Brussels on 8 November 2010.

On the part of the Union, the legal basis for the Agreement is Article 77 (2) (a), in conjunction with Article 218 of the TFEU<sup>2</sup>.

### Purpose and Scope

The present EU-Brazil agreement gives a reciprocal visa waiver for travel for the purpose of tourism and business, as defined in the agreement, for all Brazilian and EU citizens, including the nationals of the four Member States not enjoying visa-free travel to Brazil at present. The agreement does not replace but supplements existing bilateral agreements between several EU Member States and Brazil, and which cover travel for purposes other than tourism and business (e.g. students and researchers). The category of persons travelling for the purpose of carrying out a paid activity is also excluded from the scope of this agreement.

In order to safeguard equal treatment of all EU citizens, a provision has been included in the agreement stating that Brazil may suspend or terminate it only in respect of all the EU Member States. Reciprocally, the Union may also suspend or terminate the agreement only in respect of all its Member States.

### Duration of stay

The duration of stay is limited by the agreement to three months during a six-month period in the Schengen area.

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<sup>1</sup> OJ L 81, 21.3.2001, p.1

<sup>2</sup> Treaty on the Functioning of the European Union, OJ C 115, 9.5.2008, p. 47

The agreement takes into account the situation of the Member States that do not yet apply the Schengen acquis in full. As long as they are not part of the Schengen area without internal borders, the visa waiver confers a right for the nationals of Brazil to stay for three months on the territory of each of those Member States (Cyprus, Bulgaria, Romania), independently of the period calculated for the whole Schengen area.

Other provisions

Among other provisions, the Agreement sets up a Committee of experts for the management of the Agreement.

The specific situation of the United Kingdom and Ireland is reflected in the preamble.

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The Rapporteur is in favour of providing the European Parliament consent to conclude this visa-waiver agreement as soon as possible, so that all EU citizens, including those of Estonia, Latvia, Malta, and Cyprus, can travel without a visa to Brazil for purposes of tourism and business, in the same way in which citizens of Brazil can already travel visa-free to all EU Member States. We need to enforce the EU visa reciprocity policy with no delay.

The visa reciprocity should be pursued by the Union until all its citizens from all the EU Member States can enter without a visa all the countries whose citizens can already travel visa free to the EU, including the United States and Canada.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	26.1.2011
<b>Result of final vote</b>	+: 44 -: 2 0: 3
<b>Members present for the final vote</b>	Sonia Alfano, Roberta Angelilli, Rita Borsellino, Emine Bozkurt, Simon Busuttill, Philip Claeys, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Ágnes Hankiss, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Clemente Mastella, Véronique Mathieu, Louis Michel, Claude Moraes, Antigoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Wim van de Camp, Daniël van der Stoep, Axel Voss, Renate Weber, Tatjana Ždanoka
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Ioan Enciu, Monika Hohlmeier, Stanimir Ilchev, Ádám Kósa, Wolfgang Kreissl-Dörfler, Jean Lambert, Petru Constantin Luhan, Norica Nicolai, Raül Romeva i Rueda, Ernst Strasser, Marie-Christine Vergiat