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*Committee on Civil Liberties, Justice and Home Affairs*

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**2009/0104(CNS)**

18.9.2009

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## **DRAFT REPORT**

on the 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  
(COM(2009)0366 – C7-0112/2009 – 2009/0104(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Tanja Fajon

### ***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***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. 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). Suggested corrections of this kind 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 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 (COM(2009)0366 – C7-0112/2009 – 2009/0104(CNS))**

### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal (COM(2009)0366),
  - 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 (C7-0112/2009),
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0000/2009) ,
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 on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

#### **Proposal for a Council regulation**

#### **Recital 1**

*Text proposed by the Commission*

(1) The composition of the lists of third countries in Annexes I and II to Regulation (EC) No 539/2001 of 15 March 2001 should be, and should remain, consistent with the criteria laid down in recital (5) thereto. Some *third* countries, for which

*Amendment*

(1) The composition of the lists of third countries in Annexes I and II to Regulation (EC) No 539/2001 of 15 March 2001 should be, and should remain, consistent with the criteria laid down in recital (5) thereto. Some *of the Western*

the situation has changed as regards these criteria, should be transferred from one Annex to the other.

***Balkans countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia)***, for which the situation has changed as regards these criteria, should be transferred from one Annex to the other.

Or. en

### *Justification*

*The present regulation as well as the Thessaloniki agenda is devoted exclusively to countries of the Western Balkans and it is important to stress that visa liberalisation process is an effect of regional approach of the EU towards all countries of the region.*

## **Amendment 2**

### **Proposal for a Council regulation Recital 2**

#### *Text proposed by the Commission*

(2) With five Western Balkan countries – ***Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia*** – Visa Facilitation Agreements entered into force on 1 January 2008, as a first concrete step forward along the path set out by the Thessaloniki agenda towards a visa free travel regime for the citizens of Western Balkan countries. With each of these countries, a visa liberalisation dialogue was opened in 2008 and roadmaps for visa liberalisation have been established. In its assessment of the implementation of the roadmaps of May 2009, the Commission considered that the former Yugoslav Republic of Macedonia has met all the benchmarks set out in its roadmap. Montenegro and Serbia have met the large majority of the benchmarks of their respective roadmaps.

#### *Amendment*

(2) With ***those*** five Western Balkan countries Visa Facilitation Agreements entered into force on 1 January 2008, as a first concrete step forward along the path set out by the Thessaloniki agenda towards a visa free travel regime for the citizens of Western Balkan countries. With each of these countries, a visa liberalisation dialogue was opened in 2008 and roadmaps for visa liberalisation have been established. In its assessment of the implementation of the roadmaps of May 2009, the Commission considered that the former Yugoslav Republic of Macedonia has met all the benchmarks set out in its roadmap. Montenegro and Serbia have met the large majority of the benchmarks of their respective roadmaps, ***and Albania and Bosnia and Herzegovina have made further progress with regard to the majority of the benchmarks since the last assessment of the Commission was published.***

Or. en

## *Justification*

*First part is an editorial consequence of Amendment 1.*

*Second part adds missing information about two states of the Western Balkans, which were covered by the visa liberalisation dialogues and in particular by the assessments of the Commission of May 2009. According to the Commission's assessment both countries made important progress and a significant progress (not recorded in the Commission's proposal of July 2009) was made between May and September 2009.*

### **Amendment 3**

#### **Proposal for a Council regulation**

#### **Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) With aim of furthering the implementation of the Thessaloniki agenda the Commission, [within the limits of its competence] should start a visa liberalisation dialogue with Kosovo<sup>1</sup> and establish a roadmap for visa liberalisation similar to the roadmaps established with other Western Balkan countries. This is without prejudice to the status of Kosovo.***

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<sup>1</sup> 22 Member States have recognised Kosovo as an independent state while 5 did not.

Or. en

## *Justification*

*This amendment reminds that Kosovo, which is not recognised by all the Member States as an independent state, is neither covered by a visa liberalisation dialogue with Serbia nor by a separate dialogue with authorities in Pristina. It is essential to remind that visa liberalisation process covers the whole region as provided in the Thessaloniki agenda and other EU documents.*

## Amendment 4

### Proposal for a Council regulation Recital 4

*Text proposed by the Commission*

(4) Therefore the former Yugoslav Republic of Macedonia, Montenegro and Serbia [the latter two meeting all the benchmarks by the date of adoption of the present Regulation], should be transferred to Annex II to Regulation (EC) No 539/2001. This visa waiver should only apply to holders of biometric passports issued by each of the *three* countries concerned.

*Amendment*

(4) Therefore the former Yugoslav Republic of Macedonia, Montenegro and Serbia [the latter two meeting all the benchmarks by the date of adoption of the present Regulation] ***and Albania and Bosnia and Herzegovina [as regards Albania and Bosnia and Herzegovina, the exemption from the visa requirement should apply without delay immediately after the assessment by the Commission that each of those countries meets all the benchmarks set in the roadmap for visa liberalisation and a notice about the assessment is published in the Official Journal]***, should be transferred to Annex II to Regulation (EC) No 539/2001. This visa waiver should only apply to holders of biometric passports issued by each of the *five* countries concerned.

Or. en

### *Justification*

*The recital is amended as a consequence of Amendments 5 and 6, which change the actual text of the Regulation (EC) No 539/2001. The visa liberalisation will apply only when all the benchmarks are fulfilled.*

## Amendment 5

### Proposal for a Council regulation Article 1 - point 1 - point -a (new) Regulation (EC) No 539/2001 Annex I - part 1

*Text proposed by the Commission*

*Amendment*

***(-a) in Part 1, the reference to Albania and Bosnia and Herzegovina shall be amended as follows:***



*"Albania \**

*Bosnia and Herzegovina \**

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*\* The name of the country shall be deemed deleted from this Annex without delay immediately after the assessment by the Commission that this country meets all the benchmarks set in the roadmap for visa liberalisation and a notice about the assessment is published in the Official Journal.*

Or. en

### *Justification*

*The consequence of Amendment 6 which adds Albania and Bosnia to the list of the countries with exemption of visa requirement. The visa liberalisation will apply only when all the benchmarks are fulfilled.*

### **Amendment 6**

#### **Proposal for a Council regulation**

#### **Article 1 - point 2**

Regulation (EC) No 539/2001

Annex II - part 1

#### *Text proposed by the Commission*

2) In Annex II , Part 1, the following references shall be inserted:

"the former Yugoslav Republic of Macedonia \*

Montenegro \*

Serbia [excluding holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: *Koordinaciona uprava*) ]\*

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#### *Amendment*

2) In Annex II , Part 1, the following references shall be inserted:

*"Albania \* \*\**

*Bosnia and Herzegovina \* \*\**  
the former Yugoslav Republic of Macedonia \*\*

Montenegro \*\*

Serbia [excluding holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: *Koordinaciona uprava*) \*\*

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*\* The exemption from the visa requirement shall apply without delay immediately after the assessment by the Commission that this country meets all the benchmarks set in the roadmap for visa liberalisation and a notice about the assessment is published in the Official Journal.*

\* The exemption from the visa requirement only applies to holders of biometric passports".

\*\*The exemption from the visa requirement only applies to holders of biometric passports".

Or. en

### *Justification*

*This Amendment is necessary to provisionally add Albania and Bosnia to the list of the countries with exemption of visa requirement, which will contribute to fulfilment of the longstanding EU policy for the region, in particular implementation of the Thessaloniki agenda. The visa liberalisation will apply only when all the benchmarks are fulfilled.*

## EXPLANATORY STATEMENT

Back in the beginning of the 1990s when Yugoslavia was collapsing, the Member States of today's European Union were not able to deliver a common regional policy, which would put a stop to bloody wars. We took over the responsibility of the region progressively from the Americans who moved on to other "hot spots" of the globe. Our goal is to build stability and prosperity in the region which is to join the Union, but we must always remember that when we say "the region" we are talking about people living there. And, we should bear in mind that after the break up of Yugoslavia, after cruel wars that left very deep wounds and hundreds of thousands of refugees and migrants who fled the region, we are witnesses to the growth of a young generation which is cut off from the unifying and prosperous Union surrounding the region. The young people in the Western Balkans usually only travel within (and sometimes between) their divided countries and are hardly ever able to enter the EU. The youngsters there know as much about Europeans as they do about Americans - mostly from the internet and TV. The EU, which is supposed to become their Union, which pushes their administrations to reform, which wants them to believe that we are one European family, is still something abstract. While our Union strongly advocates the freedom of movement we observe that people in the region enjoy less rights to travel freely today than during the times of the former Yugoslavia. Do we really want to keep the door shut to our close neighbours to the countries, which have experienced wars and the fight against poverty and which do their best to please us? We are not deciding about granting jobs or residential rights, we are deciding about the basic right of a future EU citizen to travel to the Union.

The Union's strategy for the region is laid down in the Thessaloniki agenda, which guarantees European perspective to people of the Western Balkans and, in particular, mentions visa liberalisation. At the beginning of 2008, five years after signing the Thessaloniki agenda, the Slovenian Presidency made the issue one of its priorities and negotiations were launched. The Commission's explanatory memorandum attached hereto proposes changes to the EC Regulation 539/2001 and describes how the process was implemented. It concludes that all five states of the Western Balkans negotiating the liberalisation have made important progress but only three of them can expect to see visa liberalisation in the coming months. Bosnia and Albania do not qualify. The technical judgement of the Commission is correct but we all know that purely technical decisions can have a very strong political impact. Unfortunately, the Commission's proposal underestimates a risk of additional division in the region - damage not only to the regional cooperation but also to these states internally: Croats live in Croatia and Bosnia, Serbs live in Serbia and Bosnia, and Albanians live in Albania, Serbia and Macedonia. By prizing only some nations we destabilize the region and cut the political and ethnical puzzles in even smaller pieces. I do support the Commission's stand that **we should neither lower the requirements which were agreed upon nor should we punish the best for the mistakes of those lingering behind**, but there is a third approach.

In my draft report, I am proposing the amendments, which without lowering the benchmarks set in the roadmaps for visa liberalisation, leave a path for Albania and Bosnia to catch up with Macedonia, Montenegro and Serbia. **The deal is very simple: visa requirements for each of the two countries is lifted immediately after one or the other one fulfils all the benchmarks set by the Commission but without again needing to amend the Regulation.** With this proposal, we will not leave any state behind and will not lose additional time for repeated law-making process. As this extra time would weigh heavily politically in the two

states it is worth finding a flexible legislative solution. We will send a clear signal to the citizens of the two countries - we are waiting for you, you just must mobilize your governments to work hard so they can repair their own mistakes and delays and deliver the same quality as your neighbouring countries. And the EU is doing its utmost to help you on that European path, without lowering the standards common to all of us.

The Commission prefers to exclude the two countries from the white list and until they fulfil the benchmarks, at which time, a new proposal of the amendments to the EC Regulation 539/2001 would be proposed. Such an approach is very technical and comfortable for the legislator but delays Albania's and Bosnia's white listing (in the best case for one year) during which the citizens of the other three countries will be able to travel freely. No timeframe means weak motivation for the two governments to reform and repair their own mistakes. I do not need to repeat the warning about the political repercussions of this approach as well as psychological damage it would cause among the citizens of Bosnia and Albania towards European integration, also taking into account that, in practice only one entire nation – the Bosniaks (Bosnian Muslims) - would be left out of the process. We must also recall that when two states from the region - Croatia and my own country Slovenia - became independent, visas were not introduced for their citizens

I would like to stress that adding a country to a white list under a certain condition is not a novelty or an extravagant proposal of the Parliament. When this Regulation was amended previously<sup>1</sup> three years ago, countries like Antigua, Bahamas, Barbados, Mauritius, Saint Kitts and Nevis and Seychelles were conditionally added to the annex listing countries for which visas were not required. It would be really improper not to give a similar chance to Albania and Bosnia, which are European and have a perspective of the EU membership. I am certain that Albania and Bosnia deserve a constructive approach for rapid visa liberalisation as well; especially when the liberalisation is granted only after all the requirements of the Commission are fulfilled.

The second concern of my report is about Kosovo. It is the only part of the Western Balkans, which is completely left out of the visa liberalisation process, not even a perspective of talks is envisaged. This is naturally caused by a division among the Member States towards recognizing its independence. While understanding the political complexity of the problem, the people of Kosovo should not be left in a black hole created by disagreements. I believe that the Parliament should put pressure on both the Commission and the Council to find a way to initiate the visa liberalisation process while respecting Kosovo's status under UNSCR 1244/99 and division between the Member States towards its declaration of independence. This is without prejudice to the status of Kosovo. It will push forward the necessary structural reforms.

We, the European Union, have to take our political responsibility to carry out this process. It is about people in our direct neighbourhood, it is about people to people contact, the quality of their lives, closer contacts and better economical cooperation. If we really want to integrate all the countries of the Western Balkans in the European Union, the younger generation, in particular, has to have a chance to travel, to learn about it. Staying behind closed doors for too long can only strengthen nationalism and deepen ethnical divisions, which, before the wars, were practically non-existent.

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<sup>1</sup> COUNCIL REGULATION (EC) No 1932/2006 of 21 December 2006.