Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2018/0066(COD)	Procedure completed
Third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders. Codification Repealing Regulation (EC) No 539/2001 2000/0030(CNS) Subject 7.10.04 External borders crossing and controls, visas		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs	S&D GERINGER DE OEDENBERG Lidia Joanna	30/08/2018
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3646	06/11/2018
European Commission	Commission DG	Commissioner	
	Legal Service	JUNCKER Jean-Claude	
European Economic and Social Committee			

Key events

14/03/2018	Legislative proposal published	COM(2018)0139	Summary
16/04/2018	Committee referral announced in Parliament, 1st reading		
24/09/2018	Vote in committee, 1st reading		
26/09/2018	Committee report tabled for plenary, 1st reading	A8-0290/2018	Summary
02/10/2018	Results of vote in Parliament		
02/10/2018	Decision by Parliament, 1st reading	T8-0359/2018	Summary
06/11/2018	Act adopted by Council after Parliament's 1st reading		
14/11/2018	Final act signed		
14/11/2018	End of procedure in Parliament		

28/11/2018	Final act published in Official Journal		

Technical information

Procedure reference	2018/0066(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
	Repealing Regulation (EC) No 539/2001 2000/0030(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 077-p2
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/12520

Documentation gateway

Legislative proposal		COM(2018)0139	14/03/2018	EC	Summary
Committee draft report		PE622.141	30/08/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0290/2018	26/09/2018	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0359/2018	02/10/2018	EP	Summary
Draft final act		00050/2018/LEX	14/11/2018	CSL	
Follow-up document		COM(2020)0325	10/07/2020	EC	
Follow-up document		SWD(2020)0132	10/07/2020	EC	
Follow-up document		COM(2021)0602	04/08/2021	EC	
Follow-up document		COM(2021)0603	04/08/2021	EC	
Follow-up document		SWD(2021)0206	04/08/2021	EC	
Follow-up document		COM(2022)0715	05/12/2022	EC	
Follow-up document		SWD(2022)0405	05/12/2022	EC	
Follow-up document		COM(2023)0730	18/10/2023	EC	

Final act

Regulation 2018/1806
OJ L 303 28.11.2018, p. 0039 Summary

Final legislative act with provisions for delegated acts

Delegated acts

2022/2984(DEA)	Examination of delegated act

Third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders. Codification

PURPOSE: to codify Council 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.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLEOF THE EUROPEAN PARLIAMENT: Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: Council Regulation (EC) No 539/20016 has been substantially amended several times. On 1 April 1987 the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Edinburgh European Council in December 1992 confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

In the interests of clarity and transparency of the law, the purpose of this proposal is to undertake the codification of Council 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.

The new regulation will supersede the various acts incorporated in it; the proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

CONTENT: the proposed regulation establishes visa requirements and visa exemptions for third-country nationals entering the EU for a short stay.

Common lists: the proposal for a regulation lists third countries whose nationals must have a visa to cross the external borders of a Member State (Annex I to the Regulation). It also lists the countries whose nationals are exempt from the visa requirement for stays of up to 90 days in any 180-day period (Annex II of the Regulation).

Determination of third countries whose nationals are subject to or exempt from the visa requirement is made on the basis of a case-by-case assessment of various criteria, relating inter alia to:

- illegal immigration, public policy and security;
- economic benefit, in particular in terms of tourism and foreign trade ;
- the Union's external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence and reciprocity.

This assessment should be periodic and may lead to legislative proposals to amend the lists in Annexes I and II to the Regulation.

Exceptions and exemptions: Member States may grant exceptions to the visa requirement as regards certain categories of persons, e.g. holders of diplomatic passports, service or official passports or special passports, civilian air or sea crewmembers or crew and members of emergency or rescue missions.

The following persons may be exempted 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 or in Switzerland and Liechtenstein and who 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;
- recognised refugees and stateless persons if the third country where they reside and which issued their travel document is one of the third countries listed in Annex II;

Reciprocity mechanism: the Regulation provides for a Union mechanism allowing the implementation of the principle of reciprocity if one of the third countries included in the list of third countries whose nationals are exempt from the visa requirement decides to make the nationals of one or more Member States subject to the visa obligation. That mechanism should provide for a Union response as an act of solidarity, if such a third country applies a visa requirement for nationals of at least one Member State.

Suspension mechanism: the proposal also provides for a mechanism for the temporary suspension of the exemption from the visa requirement for a third country included in the list of third countries whose nationals are exempt from the visa requirement in an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by at least one Member State, and taking account of the overall impact of the emergency situation on the Union as a whole.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in order to ensure the proper participation of the European Parliament and the Council in respect of certain elements of the reciprocity and suspension mechanisms.

Third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders. Codification

The Committee on Legal Affairs adopted the report by Lidia Joanna GERINGER de OEDENBERG (S&D, PL) on the proposal for a regulation of the European Parliament and of the Council 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 (codification).

The committee recommended that the European Parliament adopt its position at first reading, taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the

Commission.

The examination of this proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal is a straightforward codification of existing texts, without any change in their substance.

Third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders. Codification

The European Parliament adopted by 611 votes to 20, with 11 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council 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 (codification).

The European Parliament adopt its position at first reading, taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

The Advisory Group concluded that the proposal was limited to a straightforward codification of the existing texts, without any change in substance.

The proposed Regulation lists the third countries whose nationals must hold a visa or are exempt from the visa requirement when crossing the external borders of the European Union (EU). It provides a common list of countries whose nationals must hold visas when crossing the external borders of a Member State (Annex I). It also lists the countries whose nationals are exempt from the visa requirement (Annex II) for stays of up to 90 days in any 180-day period.

Decisions to amend the lists would be taken on the basis of a case-by-case assessment of various criteria relating to, inter alia:

- illegal immigration, public policy and security;
- economic benefit, in particular in terms of tourism and foreign trade ;
- the Union's external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence and reciprocity.

It also provides for:

- the possibility for Member States to grant exceptions to the visa requirement for certain categories of persons and the exemption from the visa requirement for recognised refugees and stateless persons if the third country where they reside and which issued their travel document to them is one of the third countries listed in Annex II;
- a Union mechanism enabling the principle of reciprocity to be implemented if one of the third countries included in the list in Annex II decides to make the nationals of one or more Member States subject to a visa requirement;
- a mechanism for the temporary suspension of the exemption from the visa requirement for a third country included in the list in Annex II (the suspension mechanism) in an emergency situation, where an urgent response is needed in order to solve the difficulties faced by at least one Member State, and taking the overall impact of the emergency situation on the Union as a whole into account.

Third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders. Codification

PURPOSE: to establish 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.

LEGISLATIVE ACT: Regulation (EU) 2018/1806 of the European Parliament and of the Council 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 (codified text).

CONTENT: in the interests of clarity and transparency of the law, the Regulation codifies Council 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.

List of third countries

The Regulation lists the third countries whose nationals must hold a visa or are exempt from the visa requirement when crossing the external borders of the European Union (EU). It provides a common list of countries whose nationals must hold visas when crossing the external borders of a Member State (Annex I). It also lists the countries whose nationals are exempt from the visa requirement (Annex II) for stays of no more than 90 days in any 180-day period.

Case by case assessments

Decisions to amend the lists would be taken on the basis of a case-by-case assessment of various criteria relating to, inter alia:

- illegal immigration, public policy and security;

- economic benefit, in particular in terms of tourism and foreign trade;

- the Union's external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence and reciprocity.

Exceptions

The Regulation provides for the possibility for Member States to exempt from the visa requirement recognised refugees, all stateless persons, both those covered by the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954 and those outside of the scope of that Convention, and school pupils travelling on school excursions, where the persons of these categories reside in a third country

that is included in the list in Annex II to this Regulation.

Reciprocity mechanism

The Regulation provides for:

- a Union mechanism allowing the implementation of the principle of reciprocity if one of the third countries included in the list of third countries whose nationals are exempt from the visa requirement decides to make the nationals of one or more Member States subject to the visa obligation;

- a mechanism for the temporary suspension of the exemption from the visa requirement for a third country included in the list of third countries whose nationals are exempt from the visa requirement in an emergency situation.

The suspension mechanism shall make it possible for Member States to notify circumstances leading to a possible suspension and for the Commission to trigger the suspension mechanism on its own initiative.

The Commission may adopt delegated acts concerning the temporary suspension of the visa exemption for nationals of the third country concerned.

Regular reports

With a view to ensuring that the specific requirements which were used to assess the appropriateness of a visa exemption, granted as a result of a successful conclusion of a visa liberalisation dialogue, continue to be fulfilled over time, the Commission shall monitor the situation in the third countries concerned. The Commission should pay particular attention to the situation of human rights in the third countries concerned.

The Commission shall report regularly to the European Parliament and to the Council, at least once a year, for a period of seven years after the date of entry into force of visa liberalisation for that third country, and thereafter whenever the Commission considers it to be necessary, or upon request by the European Parliament or by the Council.

ENTRY INTO FORCE: 18.12.2018.