

Proposal for a Council Regulation 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

(2000/C 177 E/09)

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(Submitted by the Commission on 26 January 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(b)(i) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Under Article 62(2)(b) of the Treaty, the Council is to adopt rules relating to visas for intended stays of no more than three months, and in that context it is required to determine the list of those third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement⁽¹⁾. Article 61 cites those lists among the flanking measures which are directly linked to the free movement of persons in an area of freedom, security and justice.

(2) The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity.

(3) The circumstances of third-country nationals residing lawfully in a Member State and holding a residence permit issued by that State are such that further visa requirements are superfluous when they cross external borders. The principle that a residence permit is equivalent to a visa should be laid down for this category of persons, without prejudice to other conditions for entry or to other rules applying to travel within the Community by holders of residence permits.

⁽¹⁾ Under Article 1 of the Agreement concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, this proposal will have to be considered by the Joint Committee in accordance with Article 4 of the Agreement.

(4) As regards stateless persons, who have lost any links with any particular State, and recognised refugees, who are unable to avail themselves of the protection of the State of which they have the nationality, the decision as to the visa requirement or exemption should be based on a simple criterion reflecting the fact that the State where these persons reside affords them its protection and issues them with travel documents.

(5) In specific cases where special visa rules are warranted, Member States may exempt certain categories of persons from the visa requirement or impose it on them in accordance with public international law or custom.

(6) With a view to ensuring that the system is administered openly and that the persons concerned are informed, Member States should communicate to the other Member States and to the Commission the measures which they take pursuant to this Regulation. For the same reasons, that information should also be published in the *Official Journal of the European Communities*.

(7) In accordance with the principle of proportionality stated by Article 5 of the Treaty, enacting a Regulation 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 is both a necessary and an appropriate means of ensuring that the common visa rules operate efficiently.

(8) This Regulation provides for full harmonisation as regards the third countries whose nationals are subject to the visa requirement for the crossing of Member States' external borders, and those whose nationals are exempt from that requirement. Accordingly, it is appropriate to replace existing Community law on the subject,

HAS ADOPTED THIS REGULATION:

Article 1

1. Nationals of third countries on the list in Annex I shall be required to be in possession of a visa when crossing the external borders of the Member States.

2. Nationals of third countries on the common list in Annex II shall be exempt from the requirement set out in paragraph 1.

3. Nationals of third countries formerly part of countries on the lists contained in Annexes I and II shall be subject to the requirements of paragraphs 1 and 2 unless and until the Council decides otherwise under the procedure laid down in the relevant provision of the Treaty.

Article 2

For the purposes of this Regulation, 'visa' shall mean an authorisation issued or a decision taken by a Member State which is required for entry into its territory with a view to:

- an intended stay in that Member State or in several Member States of no more than three months in all,
- transit through the territory of that Member State or several Member States, except for transit through the international zones of airports and transfers between airports in a Member State.

Article 3

For nationals of third countries listed in Annex I, a valid residence permit issued by one of the Member States shall be equivalent to a visa for the purposes of crossing external borders.

Article 4

Stateless persons and recognised refugees shall be subject to the visa requirement or shall be exempted from it on the same terms as nationals of the non-member State in which they reside and which issued their travel document.

Article 5

1. A Member State may provide for exceptions from the visa requirement provided for by Article 1(1) or for the exemption from the visa requirement provided for by Article 1(2) as regards:

- (a) holders of diplomatic passports, official-duty passports and other official passports;
- (b) civilian air and sea crew;
- (c) the flight crew and attendants on emergency or rescue flights and other helpers in the event of disaster or accident;

(d) the crew of ships navigating in international waters;

(e) the holders of official documents issued by international organisations.

2. A Member State may exempt 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 and 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.

Article 6

1. Within 10 working days of the entry into force of this Regulation, Member States shall communicate to the other Member States and the Commission the list of residence permits relevant for the purposes of Article 3 and the exception measures they have taken pursuant to Article 5. Any further changes to this list and to those measures shall be similarly communicated within five working days.

2. The Commission shall publish the measures communicated pursuant to paragraph 1 in the *Official Journal of the European Communities* for information.

Article 7

1. Regulation (EC) No 574/1999 ⁽¹⁾ is replaced by this Regulation.

2. Annex I to the Common Consular Instruction and Annex V to the Common Manual, as laid down by the decision of the Schengen Executive Committee of 28 April 1999 (SCH/Com-ex(99)13) concerning the final versions of the Common Manual and the Common Consular Instruction, are replaced by Annexes I and II to this Regulation.

Article 8

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

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

⁽¹⁾ OJ L 72, 18.3.1999, p. 2.

ANNEX I

LIST REFERRED TO IN ARTICLE 1(1)

1. STATES

Afghanistan	Ghana	Peru
Albania	Grenada	Philippines
Algeria	Guinea	Qatar
Angola	Guinea-Bissau	Russia
Antigua and Barbuda	Guyana	Rwanda
Armenia	Haiti	Saint Kitts and Nevis
Azerbaijan	India	Saint Lucia
Bahamas	Indonesia	Saint Vincent and the Grenadines
Bahrain	Iran	São Tomé and Príncipe
Bangladesh	Iraq	Saudi Arabia
Barbados	Jamaica	Senegal
Belarus	Jordan	Seychelles
Belize	Kazakhstan	Sierra Leone
Benin	Kenya	Solomon Islands
Bhutan	Kiribati	Somalia
Bosnia and Herzegovina	Kuwait	South Africa
Botswana	Kyrgyzstan	Sri Lanka
Burkina Faso	Laos	Sudan
Burma/Myanmar	Lebanon	Surinam
Burundi	Lesotho	Swaziland
Cambodia	Liberia	Syria
Cameroon	Libya	Tajikistan
Cape Verde	Madagascar	Tanzania
Central African Republic	Malawi	Thailand
Chad	Maldives	The Comoros
China	Mali	Togo
Colombia	Marshall Islands	Tonga
Congo	Mauritania	Trinidad and Tobago
Côte d'Ivoire	Mauritius	Tunisia
Cuba	Micronesia	Turkey
Democratic Republic of the Congo	Moldova	Turkmenistan
Djibouti	Mongolia	Tuvalu
Dominica	Morocco	Uganda
Dominican Republic	Mozambique	Ukraine
Egypt	Namibia	United Arab Emirates
Equatorial Guinea	Nauru	Uzbekistan
Eritrea	Nepal	Vanuatu
Ethiopia	Niger	Vietnam
Federal Republic of Yugoslavia (Serbia-Montenegro)	Nigeria	Western Samoa
Fiji	North Korea	Yemen
Former Yugoslav Republic of Macedonia	Northern Marianas	Zambia
Gabon	Oman	Zimbabwe
Gambia	Pakistan	
Georgia	Palau	
	Papua New Guinea	

2. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE

East Timor
 Palestinian Authority
 Taiwan

ANNEX II

LIST REFERRED TO IN ARTICLE 1(2)

1. STATES

Andorra	Holy See	Romania
Argentina	Honduras	Salvador
Australia	Hungary	San Marino
Bolivia	Israel	Singapore
Brazil	Japan	Slovakia
Brunei	Latvia	Slovenia
Bulgaria	Lithuania	South Korea
Canada	Malaysia	Switzerland
Chile	Malta	United States of America
Costa Rica	Mexico	Uruguay
Croatia	Monaco	Venezuela
Cyprus	New Zealand	
Czech Republic	Nicaragua	Iceland ⁽¹⁾
Ecuador	Panama	Liechtenstein ⁽¹⁾
Estonia	Paraguay	Norway ⁽¹⁾
Guatemala	Poland	

2. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE

Hong Kong SAR
Macao SAR

⁽¹⁾ The visa exemption applicable to nationals of this country is not based on this Regulation but on the EEA Agreement.
