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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**Sixth report
on certain third countries' maintenance of visa requirements in breach of the principle
of reciprocity**

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1. INTRODUCTION

Council Regulation (EC) No 539/2001 of 15 March 2001, listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States (Annex 1 to the Regulation, the "negative list") and those whose nationals are exempt from that requirement (Annex II to the Regulation, the "positive list")¹, is the basic instrument of our common visa policy, providing a reciprocity mechanism for cases where a third country on the positive list maintains or introduces a visa requirement for the citizens of one or more Member States².

The first four reports³ showed gradual progress achieved in solving non-reciprocity issues. The fifth visa reciprocity report⁴ of 19 October 2009 showed that only five third countries on the positive list still continued to require visas from citizens of one or more Member States.

On the same date, the Commission adopted an ad-hoc report on the re-imposition of the visa requirement by Canada for Czech citizens⁵. For the first time a third country on the positive list had re-imposed a visa requirement for citizens of a Member State since the introduction of the new visa reciprocity mechanism in 2005. The Commission concluded that unless Canada were to take positive steps towards facilitating formalities for Czech citizens wishing to visit Canada and setting out a path of measures towards the restoration of visa-free travel for them by the end of 2009, the Commission would recommend imposing or re-imposing a visa requirement for certain categories of Canadian citizens.

Both reports were presented to the JHA Council on 23 October 2009. The Council requested the Commission to continue its efforts to achieve full reciprocity in the case of third countries continuing to impose a visa requirement in breach of the principle of reciprocity, including, in particular, through the restoration of visa free travel for Czech nationals in relation to Canada.

The present sixth visa reciprocity report takes stock of the results of the efforts made since 19 October 2009.

2. RESULTS ACHIEVED SINCE THE COMMISSION'S FIFTH REPORT ON RECIPROCITY

2.1. Australia

Current situation

Since 27 October 2008, citizens of all Member States and Schengen associated countries are entitled to use the eVisitor system regardless of their previous status

¹ OJ L 81, 21.3.2001, p. 1.

² The current visa reciprocity mechanism has been introduced by amending Council Regulation (EC) No 539/2001 by Council Regulation (EC) No 851/2005 of 2 June 2005 (OJ L 141, 4.6. 2005, p.3.).

³ COM(2006) 3 final of 10.1.2006, COM(2006) 568 final of 2.10.2006, COM(2006) 533 final of 13.9.2007, COM(2008) 486 final/2 of 9.9.2008.

⁴ COM(2009) 560 final.

⁵ COM(2009) 562 final.

(i.e. ETA or eVisa)⁶. An “eVisitor” is an authorisation to visit Australia for tourism or business purposes, for a maximum period of three months per entry. An eVisitor is valid for twelve months from the date it is granted.

Processing of eVisitor applications

Since the introduction of the eVisitor system Australia has provided the Commission with regular reports on eVisitor application statistics covering all Member States. The third report covering the period from 1 July 2009 to 31 October 2009 was provided on 18 January 2010. During this period 132,036 eVisitor authorisations were granted of which 88.54% were granted automatically. Except for citizens of Romania (28.99%), Bulgaria (40.95%) and Slovakia (69.92%) the autogrant rate is above 82%, with Greek citizens having the highest rate at 95.59%. Due to stated integrity concerns regarding applicants from some Member States, Australia had decided to process more of their applications manually and examine them more carefully. 745 applications were refused, of which 263 were made by Romanian citizens. Moreover, the statistics show that the average Modified Non-Return Rate (MNRR⁷) was 0.71% while Latvia had the highest rate at 5.63%.

In addition, an overview was given of the first full year of eVisitor (27 October 2008 – 31 October 2009). During that year 358,273 applications were lodged, of which 86.94% were granted automatically. 1,863 refusals were noted, of which 761 for Romanian citizens. The average MNRR was 0.59%, while Romania had the highest rate of 4.83%. Australia has stated that although no additional integrity concerns arose during the first year, continued monitoring of applications by Bulgarian and Romanian citizens is required.

On 4 April 2010, Australia provided a fourth report covering the period from 1 July 2009 to 31 January 2010. During this period 255,178 eVisitor authorisations were granted, of which 87.69% were granted automatically. Romania (25.63%) and Bulgaria (36.61%) had the lowest autogrant rates. Romania had the highest MNRR of 6.23% and Bulgaria a rate of 3.72%, while the average rate was 0.75%.

On 10 June 2010, Australia provided a fifth report covering the period of 1 July 2009 to 30 April 2010, and the period 1 July 2008 to 30 April 2009. A comparison of those two periods shows that the autogrant rate has increased from 85.32% to 87.09%. However, the autogrant rates for Bulgarian and Romanian applicants significantly decreased respectively from 87.30% to 35.38%, and from 78.57% to 27.94%. This reflects the fact that, due to stated integrity concerns, Australia is processing more of their applications manually. Moreover, Australia has stated that applications by Latvian citizens are also emerging as an integrity concern.

The assessment of whether eVisitor is tantamount to the Schengen visa application process is being finalised and will be submitted in a separate document soon.

⁶ See Annex 2 of the first visa reciprocity report (COM(2006) 3 final) for further explanation of ETA and the eVisa.

⁷ The Modified Non-Return Rate (MNRR) is a calculation of the percentage of visitors who have arrived, whose initial visas has expired within the reporting period and either remain in Australia unlawfully, who departed Australia on an expired visa, or who have applied for a subsequent visa other than visas that are deemed to be of benefit to Australia.

Assessment

In principle, eVisitor provides equal treatment of the citizens of all Member States and Schengen associated countries. Besides, the average autogrant percentage remains very high. However, the reports show that due to Australia's integrity concerns applications by citizens of some Member States are mainly processed manually in order to allow for additional examination. The Commission will therefore continue to closely monitor the processing of eVisitor applications.

2.2. Brazil

Current situation

The citizens of four Member States (Cyprus, Estonia, Latvia and Malta) still require a visa to enter Brazil.

Steps taken to achieve reciprocity

At the last round of negotiations held in Brasilia from 29 September to 1 October 2009, the text of a short-stay visa-waiver agreement for ordinary passport holders between the European Union and Brazil was finalised and thus the negotiations were concluded. The negotiations on the visa waiver agreement for holders of diplomatic, service or official passports were finalised on 19 November 2009.

The remaining issue of a unilateral declaration of the European Union to be communicated to Brazil in order to safeguard the existing bilateral agreements (which provide a visa waiver for categories of travellers not covered by the EU-Brazil agreement) has been solved through an exchange of letters between the Commission and Brazil between February and April 2010. In its letter the European Commission declares that the European Union may suspend the agreement for ordinary passport holders if Brazil were to start denouncing the existing bilateral agreements. In its reply, Brazil took note of the EU declaration and reaffirmed its intention to renegotiate some of the bilateral agreements on a case-by-case basis, in cooperation with the other party.

On 28 April 2010, both agreements were formally initialled.

On 6 August 2010 the Commission adopted the draft decisions on signature and conclusion of the two EU-Brazil short-stay visa waiver agreements. The decisions on signature were adopted by the Council at the JHA Council meeting on 7-8 October 2010, which will allow the EU side to formally sign the agreements with Brazil.

Assessment

The Commission welcomes the initialling of the respective short-stay visa waiver agreements for holders of ordinary passports and for holders of diplomatic, service or official passports. The Commission hopes that both parties will be able to ratify both agreements through their internal procedures as soon as possible, in order to ensure that the citizens of all Member States will be able to travel visa-free to Brazil.

2.3. Brunei Darussalam

Current situation

The citizens of all Member States benefit from a 30-day visa waiver. This visa waiver can be extended locally for two periods of 30 days each, up to a maximum visa-free stay of 90 days. However, citizens of the U.S. enjoy a preferential immediate 90-day visa-free stay if they hold an ordinary machine-readable passport.

Steps taken to achieve reciprocity

The Commission has held further consultations with the Brunei Darussalam Mission to the European Union at technical level to discuss the possibilities for a full 90 days' visa waiver for EU citizens. Internal discussions among ministries of Brunei Darussalam on the possibilities to extend the visa waiver to 90 days have taken place. However, the authorities of Brunei Darussalam require a formal request from the EU side to extend the visa waiver to 90 days. On 24 June 2010, the Commission formally requested the authorities of Brunei Darussalam to grant EU citizens a 90 days visa waiver.

Assessment

The Commission will await the reaction from Brunei Darussalam to its formal request before defining possible further action.

2.4. Canada

Current situation

The visa requirement is maintained for citizens of Bulgaria, the Czech Republic and Romania.

State of play regarding the Czech Republic

Following the re-introduction of the visa requirement by Canada for nationals of the Czech Republic on 14 July 2009, the Commission adopted on 19 October 2009 an ad-hoc report on this re-introduction. The Commission indicated two conditions for Canada to establish, in a satisfactory manner, by the end of 2009: reinstating visa issuing facilities in the Czech Republic and setting out a path of measures towards the restoration of visa-free travel for Czech nationals. The Commission would recommend imposing or re-imposing a visa requirement for certain categories of Canadian citizens, unless Canada were to meet these two conditions.

By letter of 10 December 2009, Canada informed the Commission that as of 21 December 2009, Czech visa applicants would be able to submit their applications, speak to a visa office employee and pick up their visas at the Embassy of Canada in Prague. At the Justice and Home Affairs Council of 25 February 2010, the Commission indicated that by opening visa facilities in Prague as from 21 December 2009 the first of the two conditions set in the ad-hoc report had been met.

On 15 March 2010, the second Canada-Czech Republic Experts Working Group meeting took place in Prague and was also attended by the Commission. The meeting

allowed for an in-depth discussion on the possible content of the path of measures that would lead Canada to decide to lift the visa requirement for Czech citizens in the future. Based on this discussion, the Commission drafted an outline of the path of measures, which consists of two parts: firstly, measures for which the process has already been launched and which, in the longer run, should prevent a situation similar to the one that led Canada to re-introduce the visa obligation for the Czech Republic; secondly, measures that would allow Canada to decide to lift the visa obligation before the first measures are fully implemented. Both Canada and the Czech Republic agreed to this outline of the path of measures.

On 30 March 2010, the Canadian Government tabled the Balanced Refugee Reform Act (Bill C-11) in Parliament. The Bill includes changes at the Immigration and Refugee Board (IRB), the authority to designate safe countries of origin, limits on pre-removal risk assessments and other post-claim processes, and timely removals of failed asylum claimants. This should lead to quicker decisions, provide protection for persons who need it, and faster removals of rejected applicants. Following the approval by the House of Commons and the Senate the Bill received Royal Assent by the Government General on 29 June 2010. The Royal Assent is the period of implementation of the Bill, during which additional regulations and operational guidelines will have to be drafted and additional staff be recruited and trained. On 14 May 2010, the third Canada-Czech Republic Experts Working Group meeting took place in Ottawa and was also attended by the Commission. The outline of the path of measures as agreed following the meeting in Prague was used as a basis for discussion. Each point of the outline was discussed, and for each point actions and timelines were set. Agreement has been reached on measures to be implemented. The document drafted by the Czech Republic, was by the mutual agreement between the Czech Republic and Canada named: “Measures Pertinent to the Visa Regime between the Czech Republic and Canada (as agreed at the EWG Meeting in Ottawa on 14 May 2010)”.

On 20 September 2010, the fourth Canada-Czech Republic Experts Working Group meeting took place in Prague and was again attended by the Commission. The progress of implementation of the actions agreed in the document “Measures Pertinent to the Visa Regime between the Czech Republic and Canada” was checked. It was agreed that Canada will carry out an expert data-gathering mission to the Czech Republic in the framework of its visa policy review in November or the beginning of December 2010. Canada informed that the implementing regulations for the Balanced Refugee Reform Act should be adopted and the Act should enter into force before the end of 2011.

State of play regarding Bulgaria and Romania

The issue of visa-free travel for all EU citizens to Canada was raised on several occasions, in particular at the EU-Canada Summit on 5 May 2010 where the European Union strongly pressed for the common goal of visa-free travel to Canada for all EU citizens. Canada reaffirmed its commitment to resolve the remaining obstacles to achieving this common goal as soon as possible.

Following technical visits by Canadian officials to Bulgaria and Romania in April 2008, Canada shared the key findings of its reviews with Bulgaria and Romania in March 2009. Both Member States have provided updated information related to the

findings of the review. Canada shared its outstanding concerns with both Member States, expressed its intention to continue working together and said that it would be receptive to receiving further updates on the areas of concern.

Since the last report, Canadian officials have met several times with Romanian Embassy officials in Ottawa to discuss visa and migration issues. Canada has communicated to the Romanian authorities that it is not planning to lift the visa requirement at this time. In addition, Canada has communicated to both Member States that it continues to monitor country conditions and the progress made in Romania and Bulgaria toward Canada's criteria for visa exemption.

Assessment

As regards the situation with the Czech Republic, the Commission had set two conditions to be met by Canada. The first condition was fulfilled by the opening of visa facilities in Prague as from 21 December 2010.

As regards the second condition on the path of measures towards the restoration of visa-free travel for Czech nationals, the Commission takes note of the ongoing reform of the asylum system in Canada and cooperation between the Governments of the Czech Republic and Canada.. Following the third Canada-Czech Republic Experts Working Group meeting, Canada and the Czech Republic agreed on the document drafted by the Czech Republic and entitled "Measures Pertinent to the Visa Regime Between the Czech Republic and Canada (as agreed at the EWG Meeting in Ottawa on May 14th, 2010)". The Commission in this respect appreciates a full cooperation of the Czech Republic on the implementation of these measures and notes that the above document constitutes the "path of measures", thereby implementing the second condition. Thus the Commission considers that Canada has met both conditions set in the ad-hoc report.

At the fourth Canada-Czech Republic Experts Working Group meeting on 20 September 2010 in Prague, further progress was achieved in the implementation of the path of measures; in particular, it was agreed that Canada will carry out a data-gathering mission to the Czech Republic in the framework of its visa policy review before the end of 2010, which could open concrete prospects for a decision by Canada on the return to a visa waiver for the Czech citizens. The Commission notes that the re-lifting of the visa requirement for Czech citizens should not await the implementation of the asylum reform in Canada; it was agreed by the Czech Republic, Canada and the Commission in the minutes of the second Experts Working Group meeting on 15 March 2010 "that the adoption of the new CAN asylum legislation – which may not be implemented before 2013 – should not condition the lifting of the visa requirement; the implementation of the path of other measures would allow CAN to decide to lift the visa requirement before the date of implementation of this new CAN asylum legislation", and confirmed by Canada at the fourth Experts Working Group meeting on 20 September 2010. The Commission will closely monitor the progress of the implementation of outlined steps by Canada, in particular, the prompt and appropriate follow-up by Canada of its data-gathering mission to the Czech Republic expected to take place before the end of 2010. In case of a positive assessment the Commission expects Canada to promptly lift its visa obligation for Czech citizens in line with its previous commitments as set out in the ad-hoc report and the path of measures.

Regarding Bulgaria and Romania the Commission is aware that both countries do not yet meet all criteria for visa exemption set by Canada. Nevertheless, the Commission will closely monitor the situation and continue to pursue discussions with Canada in order to achieve progress towards the lifting of the visa requirements for citizens of Bulgaria and Romania.

2.5. Japan

Current situation

All Member States enjoy visa-free travel to Japan. However, visa-free travel for citizens of Romania has been granted on a temporary basis only, from 1 September 2009 to 31 December 2011.

Temporary visa waiver for Romanian citizens

Japan has stated that it will evaluate the temporary visa waiver for Romanian citizens one year after its entry into force. From September to December 2010, the Immigration Bureau of the Ministry of Justice of Japan will collect and analyse relevant information, including the over-stay rate.

The attaché dispatched from the Ministry of Administration and Interior of Romania to the Embassy of Romania in Japan – one of the conditions for temporarily lifting the visa requirement – has developed close cooperative relations with the Japanese Immigration Bureau.

Assessment

The Commission will await the evaluation on the first year of temporary visa waiver for Romanian citizens by the Japanese Immigration Bureau and hopes that this evaluation will lead Japan to convert the temporary visa waiver into a permanent one.

2.6. United States of America (U.S.)

Current situation

The visa requirement is maintained for citizens of Bulgaria, Cyprus, Poland and Romania.

On 5 April 2010, Greece joined the Visa Waiver Program (VWP).

Steps taken to achieve reciprocity

The Commission has continued to raise the issue of non-reciprocity with the U.S. authorities at technical and political levels, notably at the EU-US Justice and Home

Affairs Ministerial Troika meeting on 28 October 2009, the EU-US Task Force meetings on 10 December 2009 and 10 March 2010, the EU-US Senior Level Informal Justice and Home Affairs meetings in January 2010 and in July 2010, and the EU-US Justice and Home Affairs Ministerial meeting on 8-9 April 2010. On 2 November 2009, the Final Rule on medical examination of Aliens was published in the U.S. Federal Register Vol. 74, No. 210, which came into effect as from 4 January 2010. This rule deleted HIV/AIDS from the list of communicable diseases. This means that persons with HIV/AIDS are eligible to travel under the VWP as from 4 January 2010.

On 20 January 2010, U.S. Customs and Border Protection (CBP) initiated a 60-day transition period to enforced Electronic System for Travel Authorization (ESTA) compliance for air carriers. Airlines may refuse boarding to VWP travellers without an approved ESTA.

On 4 March 2010, President Obama signed into law H.R. 1299, the “United States Capitol Police Administrative Technical Corrections Act of 2009,” which includes the Travel Promotion Act of 2009 (TPA). The TPA amends the Immigration and Nationality Act in the sense that no later than 6 months after the date of enactment of the TPA, the Secretary of Homeland Security shall establish a fee for the use of the ESTA and begin assessment and collection of that fee. The initial fee shall be the sum of \$10 per travel authorisation and an amount that will at least ensure recovery of the full costs of providing and administering the ESTA, to be determined by the Secretary of Homeland Security. Concerns about the fee have been voiced at several occasions and letters (see the fifth visa reciprocity report for detailed information on the concerns voiced in various demarches)⁸. In addition, on 23 December 2009, concerns were once again raised in common letters by the European Union and Japan to Secretary of State Clinton and Secretary of Homeland Security Napolitano.

On 20 May 2010, Secretary of Homeland Security Napolitano announced the elimination of the paper arrival/departure form (Form I-94W) for travellers under the VWP. By the end of this summer the use of the paper I-94W form will be eliminated at all airports. This means that travellers only have to fill in the ESTA on the website and no longer need to fill in the I-94W form additionally. On 6 August 2010, respecting the timeframe set by TPA bill, the U.S. Homeland Security Customs and Border Protection announced the publication of the interim final rule on a Travel Promotion Fee and a Fee for Use of the System of the Electronic System for Travel Authorization (ESTA), which became effective on 8 September 2010. It requires ESTA applicants to pay a fee of \$14, which is the sum of \$10 per travel authorization, defined in the TPA bill, and a fee of \$4, determined by the Secretary of Homeland Security, to ensure the recovery of the full costs of providing and administering the ESTA system. The \$4 fee is charged to all applicants applying for electronic travel authorization, while the \$10 fee is charged only for approved ESTA applications.

The ESTA fee is required for new registrations on or after 8 September 2010. In the case of a traveller already registered in ESTA, in principle he/she does not need to re-register and pay the fee after 8 September 2010.

⁸ COM(2009) 560 final, p. 7 and 8.

The payment has to be made by selected credit or debit cards. DHS is examining other measures of payment for the future.

On the same day of the announcement by the U.S. of the interim final rule on the ESTA fee, a public statement was issued by the Commission expressing, on the one hand, understanding that this decision is taken in accordance with the legal obligations under the TPA bill, but on the other hand, regretting very much the introduction of the fee. The concerns repeatedly raised by the EU and the Commission were reiterated that these new requirements, applicable only to travellers under the VWP, are inconsistent with the commitment of the U.S. to facilitate transatlantic mobility and will be an additional onus for European citizens travelling to the U.S.

The Commission sent written comments on this interim final rule to the U.S. on 7 October 2010 in the framework of the public consultation procedure set up by the U.S., recalling once again its concerns regarding the hindrance to transatlantic mobility created by these new requirements and providing specific comments on the provisions of this interim rule, e.g. on the means of payment and the data protection aspects.

The Final Rule on ESTA has not yet been published in the U.S. Federal Register. Once it is published, the Commission will issue a final assessment taking into account any possible changes, including the introduction of a fee for the ESTA.

The "twin track approach", as agreed by the Committee of Permanent Representatives (Coreper) on 12 March 2008, requires special consideration in relation to the execution of external competences under the Lisbon Treaty. This is something the Commission will look into more closely. However, even though the EU track has not yet been finalized, the U.S. has let additional Member States join the VWP; e.g. Greece in April 2010. Furthermore, it should be noted that some of the U.S. legal requirements which fall under EU competence – and which would be covered by an EU-U.S. exchange of letters as being met – for (continued) participation in the VWP, are not yet met by some Member States; e.g. the issuance of biometric passports.

Assessment

The Commission is pleased that Greece has joined the VWP as well. As no biometric airport exit system – that can verify the departure of not less than 97 percent of foreign nationals who exit through U.S. airports – is in place yet (being one of the conditions of the 9/11 Act), the visa refusal rate threshold remains three percent. This means that based on the latest visa refusal rates of the four Member States not yet participating in the VWP only Cyprus meets this threshold. However, Cyprus does not meet other legal criteria set by the U.S. for participation in the VWP. The Commission will continue to raise the issue of non-reciprocity in its contacts with the U.S. in order to have full visa reciprocity in place as soon as possible.

Regarding the issue of HIV/AIDS, the Commission appreciates that HIV/AIDS has been removed from the list of communicable diseases and that persons with HIV/AIDS are now eligible to travel under the VWP.

In relation to the interim final rule on the ESTA fee, the Commission, while understanding that this decision is taken in accordance with the Travel Promotion Act's obligations, has regretted very much the introduction by the U.S. of this new fee. The Commission has reiterated the concerns, already voiced in numerous demarches at EU level, that the introduction of a fee for ESTA is an additional onus for European citizens travelling to the U.S. and is inconsistent with the often-repeated commitment to transatlantic contacts and cooperation. The Commission has sent written comments on the interim final rule on the ESTA fee to the U.S. in the framework of the public consultation procedure set up by them on 7 October 2010. The Commission will continue to raise its concerns over the ESTA fee with the U.S.

The Commission has not yet completed its assessment of the ESTA with a view to determining whether or not it is tantamount to the Schengen visa application process as the Final Rule on ESTA has yet to be published in the U.S. Federal Register. There is no doubt that charging a fee will be an additional factor in this assessment.

3. CONCLUSION

The implementation of the new visa reciprocity mechanism established in 2005 through Council Regulation (EC) No 851/2005 can be considered as satisfactory. Australia and Japan now provide equal treatment of citizens of all Member States but final determination of full visa reciprocity awaits respectively further assessment of the eVisitor system and the permanent visa waiver for Romania. With Brazil the European Union will sign very soon two visa waiver agreements – one on ordinary passport holders, the other on holders of diplomatic, service or official passports – which will ensure visa reciprocity. The Commission will endeavour an early ratification of these agreements by the European Union and monitor ratification by the Brazilian side.

Only a very limited number of "non reciprocity" cases subsist, two of which have specific characteristics:

- Brunei-Darussalam grants all EU citizens a visa waiver, but it is valid only for 30 days, renewable twice for 30 days; the Commission will continue efforts to establish full reciprocity although the current situation does not lead to problems for EU citizens;
- Canada has re-introduced the visa requirement for Czech citizens, in 2010 Canada has adopted a reform of its asylum system and agreed to review the visa regime with the Czech Republic before the new Canadian asylum legislation is implemented in the end of 2011. The Czech Republic is fully cooperating with Canada on agreed path of measures supporting this process. The steps indicated by Canada with a goal to review the visa regime with the Czech Republic will be closely monitored by the Commission, in particular, the prompt and appropriate follow-up by Canada of its data-gathering mission to the Czech Republic expected to take place before the end of 2010. In case of a positive assessment the Commission expects Canada to lift visa obligation for Czech citizens.
- When addressing the other remaining cases of non-reciprocity, i.e. as regards the U.S. (visa requirement for Bulgaria, Cyprus, Romania and Poland) and Canada (visa requirement for Bulgaria and Romania), the EU is confronted with the limits

of its reciprocity mechanism as set out in the current acquis. In these cases indeed Member States are considered by third countries not to meet objective criteria for visa waiver set out unilaterally by these third countries in their domestic legislation (e.g. not issuing biometric passports, not meeting thresholds set for visa refusal and/or overstay rates).

The Commission will continue to raise these issues at all relevant occasions and in all appropriate fora with the third countries concerned. At the same time, the Commission invites the European Parliament, the Council and the Member States to reflect on how to further address these cases of non-reciprocity.