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### OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council  
On: 17 November 2016  
To: Delegations

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Subject: Proposal for a Regulation of the European Parliament and of the Council 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 nationals are exempt from that requirement (Ukraine)  
- Mandate for negotiations with the European Parliament

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At its meeting on 17 November 2016, COREPER gave a mandate to the Presidency to start negotiations with the European Parliament on the basis of the text as set out in the Annex, on the understanding that trilogues would not start before the adoption of the revision of the suspension mechanism (interinstitutional file 2016/0142 (COD)).

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**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**

**(Ukraine)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 77(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 539/2001<sup>1</sup> lists the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States and those whose nationals are exempt from that requirement. The composition of the lists of third countries in Annexes I and II should be, and should remain, consistent with the criteria set therein. References to third countries in respect of which the situation has changed as regards these criteria should be transferred from one annex to the other, as appropriate.

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<sup>1</sup> 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 and those whose nationals are exempt from that requirement, OJ L 81, 21.03.2001, p. 1

- (2) It is considered that Ukraine has met all the benchmarks set out in the Visa Liberalisation Action Plan presented to the Ukrainian Government in November 2010, and therefore fulfils the criteria for its citizens to be exempted from the visa requirement when travelling to the territory of the EU Member States. **The continuous fulfilment by Ukraine of such criteria, especially on the fight against organised crime and corruption, will be duly monitored by the Commission in accordance with the relevant mechanism set out in Regulation (EC) No 539/2001.**
- (3) Ukraine should thus be transferred from Annex I to Regulation (EC) No 539/2001 to Annex II thereof. This visa waiver should apply only to holders of biometric passports issued in line with the standards of the International Civil Aviation Organisation (ICAO).
- (4) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC<sup>1</sup>. The United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (5) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>2</sup>. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

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<sup>1</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*, OJ L 131, 1.6.2000, p. 43

<sup>2</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*, OJ L 64, 7.3.2002, p. 20

- (6) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of these two States with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Point B of Article 1, of Council Decision 1999/437/EC<sup>1</sup>.
- (7) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in point B of Article 1, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>2</sup>.

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<sup>1</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*, OJ L 176, 10.7.1999, p. 31

<sup>2</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, OJ L 53, 27.2.2008, p. 1

- (8) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in point B of Article 1, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>1</sup>,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 539/2001 is amended as follows:

- (a) in Annex I, Part 1 ("STATES"), the reference to Ukraine is deleted.
- (b) in Annex II, Part 1 ("STATES"), the following reference is inserted:  
"Ukraine"\*

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\* The visa waiver is limited to the holders of biometric passports issued in line with standards of the International Civil Aviation Organisation (ICAO).

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<sup>1</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons, OJ L 160, 18.6.2011, p. 19

*Article 2*

This Regulation shall enter into force on [...] <sup>1</sup> ~~the twentieth day following that of its publication in the Official Journal of the European Union.~~

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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<sup>1</sup> **This Regulation will enter into force on same date as the 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 (revision of the suspension mechanism).**