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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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 whose nationals are exempt from that requirement (Ukraine) – Outcome of the European Parliament's first reading (Strasbourg, 3 to 6 April 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Ms Mariya GABRIEL (EPP - BG) presented one compromise amendment (amendment 1) to the proposal for Regulation, on behalf of the Committee on Civil Liberties, Justice and Home Affairs. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 6 April 2017, the plenary adopted the compromise amendment (amendment 1) to the proposal for a Regulation.

The Commission proposal as thus amended and the legislative resolution constitute the Parliament's first-reading position², it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

Third countries whose nationals are subject to or exempt from a visa requirement: Ukraine *I**

European Parliament legislative resolution of 6 April 2017 on the 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 whose nationals are exempt from that requirement (Ukraine) (COM(2016)0236 – C8-0150/2016 – 2016/0125(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0236),
 - having regard to Article 294(2) and Article 77(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0150/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the provisional agreement approved by the responsible committee under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 2 March 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Legal Affairs (A8-0274/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 6 April 2017 with a view to the adoption of Regulation (EU) 2017/... 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 procedure¹,

¹ Position of the European Parliament of 6 April 2017.

Whereas:

- (1) Council Regulation (EC) No 539/2001⁴ 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 out in Regulation (EC) No 539/2001. References to third countries in respect of which the situation has changed as regards those criteria should be transferred from one annex to the other, as appropriate.
- (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 relevant criteria for its citizens to be exempted from the visa requirement when travelling to the territory of 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) The reference to Ukraine should thus be transferred from Annex I to Regulation (EC) No 539/2001 to Annex II thereto. That visa waiver should apply only to holders of biometric passports issued by Ukraine in line with the standards of the International Civil Aviation Organisation (ICAO).
- (4) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁵; 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.

⁴ 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, 21.3.2001, p. 1).

⁵ 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).

- (5) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁶; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

⁶ 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 the 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 latters' association with the implementation, application and development of the Schengen *acquis*⁷ which fall within the area referred to in Article 1, Point B of Council Decision 1999/437/EC⁸.
- (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*⁹, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁰.
- (8) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*¹¹,

⁷ OJ L 176, 10.7.1999, p. 36.

⁸ 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).

⁹ OJ L 53, 27.2.2008, p. 52.

¹⁰ 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).

¹¹ OJ L 160, 18.6.2011, p. 21.

which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹²,

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*'

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

Article 2

This Regulation shall enter into force on 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.

¹² 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).

Done at ...

For the European Parliament
The President

For the Council
The President
