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## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 November 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 745 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending 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, as regards the withdrawal of the United Kingdom from the Union

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Delegations will find attached document COM(2018) 745 final.

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Encl.: COM(2018) 745 final



Strasbourg, 13.11.2018  
COM(2018) 745 final

2018/0390 (COD)

Proposal for a

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

**amending 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, as regards the withdrawal of the United Kingdom from the Union**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The United Kingdom of Great Britain and Northern Ireland ("the United Kingdom") will withdraw from the European Union on 30 March 2019 (date of withdrawal) and will become a third country. Currently, British citizens are also Union citizens. They enjoy the fundamental right to move and reside freely within the Union and the right to enter any other Member State without any entry visa or equivalent formality. Nationals of the United Kingdom who are British citizens<sup>1</sup> will enjoy this right until the moment when Union law on free movement of Union citizens will cease to apply to them. This will occur on 30 March 2019, unless a ratified Withdrawal Agreement pursuant to Article 50 of the Treaty on European Union establishes another date or the European Council, in agreement with the United Kingdom, unanimously establishes another date..

Therefore, it will be necessary to determine whether the nationals of the United Kingdom who are British citizens will be subject to a visa requirement when crossing the external borders of the Member States or whether they will be exempt from that requirement. The determination as to whether a third country national is subject to or exempt from a visa requirement is laid down in Council Regulation (EC) No 539/2001<sup>2</sup>. Annex I to the Regulation lists the countries whose nationals are subject to the visa requirement, and Annex II lists those countries whose nationals are exempt from that requirement. For this determination, a legislative action is necessary to include the United Kingdom in one of the Annexes to Regulation (EC) No 539/2001 as of the date when Union law ceases to apply to the United Kingdom.

- **Consistency with existing policy provisions in the policy area**

Regulation (EC) No 539/2001 is applied by all Member States – with the exception of Ireland – and by the Schengen Associated Countries (Iceland, Liechtenstein, Norway and Switzerland). The Regulation is part of the Union's common visa policy for short stays of 90 days in any 180-day period. The United Kingdom has never been bound by this Regulation.

As Ireland does not participate in the Schengen acquis on visas, the specific bilateral arrangement (the “Common Travel Area”) it has with the United Kingdom and which provides for visa-free travel between Ireland and the United Kingdom by nationals of either country, is not affected by Regulation (EC) No 539/2001 or this proposal for an amendment.

The criteria which should be taken into account when determining – based on a case-by-case assessment – the third countries whose nationals are subject to, or exempt from, the visa requirement are laid down in Article -1 of Regulation (EC) No 539/2001. They include “illegal immigration, public policy and security, economic benefit, in particular in terms of

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<sup>1</sup> British nationality law distinguishes six categories of United Kingdom (British) nationals. British citizens are one of these categories and they are currently Union citizens. The other five categories are not affected by the current proposal (see section 5).

<sup>2</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, 21.3.2001, p. 1).

tourism and foreign trade, and 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 is also important to pay particular attention to the security of travel documents issued by the third country concerned.

The Annexes to Regulation (EC) No 539/2001 were last amended in 2017 by Regulation (EU) 2017/372 and Regulation (EU) 2017/850, which transferred Georgia and Ukraine from Annex I (visa-required) to Annex II (visa-free). The Commission also tabled two further proposals regarding Kosovo<sup>3</sup> and Turkey<sup>4</sup>. Regulation (EC) No 539/2001 is currently being codified<sup>5</sup>; therefore any references to this Regulation in the proposal will need to be replaced by references to the codified Regulation once it has entered into force, which will likely take place before the end of 2018.

- **Consistency with other Union policies**

Keeping the lists of third countries annexed to Regulation (EC) No 539/2001 complete and up to date is a key element to facilitate the crossing of the external borders of the Member States. In its Communication on adapting the common visa policy to new challenges<sup>6</sup>, the Commission underscored that it is an essential element for ensuring the security and proper functioning of the area without internal border control. The same objectives are pursued by the Commission's proposals to amend the Visa Code (Regulation (EC) No 810/2009)<sup>7</sup> and the VIS Regulation (Regulation (EC) No 767/2008)<sup>8</sup> that are currently being discussed by the co-legislators. Similarly, the proposed regulation on establishing a framework for interoperability between Union information systems<sup>9</sup> aims to join up and strengthen in a comprehensive manner the Union's information tools for border management, migration and security.

Regulation (EU) 2017/2226<sup>10</sup> establishing an Entry/Exit system (EES) further improves the security and management of the Union's external borders. The main objectives of this regulation are to improve the quality of border checks for third-country nationals and to ensure a systematic and reliable identification of overstayers. The future Entry/Exit system (EES) will thus be an important element to ensure lawful use of the visa-free stays in the Schengen area by third country nationals and to contribute to preventing irregular migration of nationals from visa-free countries.

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

<sup>3</sup> COM(2016) 277 final of 4.5.2016.

<sup>4</sup> COM(2016) 279 final of 4.5.2016.

<sup>5</sup> COM(2018) 139 final of 14.3.2018.

<sup>6</sup> COM(2018) 251 final of 14.3.2018.

<sup>7</sup> COM(2018) 252 final of 14.3.2018.

<sup>8</sup> COM(2018) 302 final of 16.5.2018.

<sup>9</sup> COM(2017) 794 final of 12.12.2017.

<sup>10</sup> Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

Regulation (EU) 2018/1240<sup>11</sup> establishing a European Travel Information and Authorisation System (ETIAS) will close the information gap regarding travellers exempt from the requirement of being in possession of a visa when crossing the external borders. The system will determine the eligibility of visa-exempt third-country nationals prior to their travel to the Schengen area, and whether such travel poses a security, illegal immigration or high epidemic risk.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis is Article 77(2)(a) of the Treaty on the Functioning of the European Union, which provides for measures concerning the common policy on visas.

- **Subsidiarity, proportionality and choice of instrument**

As the Union has established a common visa policy including a Regulation listing the visa-free and the visa-required countries (Regulation (EC) No 539/2001), defining or changing the visa status of third countries' nationals can only be achieved by means of a Union legislative act amending that Regulation. Member States cannot act individually. No other (non-legislative) options are available to achieve the policy objective.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Collection and use of expertise**

In assessing the criteria enshrined in Regulation (EC) No 539/2001 for determining whether United Kingdom nationals who are British citizens should be visa-required or visa-free, the Commission has used a range of data sources. This includes Eurostat data on immigration by citizenship, United Nations and United Kingdom Office for National Statistics (ONS) data on the number of United Kingdom nationals living in the other 27 Member States of the Union (EU-27), passenger surveys on the number of trips made by United Kingdom nationals to the EU-27<sup>12</sup>, industry estimates regarding the spending by travelers from the United Kingdom<sup>13</sup>, and figures on trade between the Union and the United Kingdom<sup>14</sup>. The close relationship between the EU-27 and the United Kingdom following the latter's 46 years of Union membership have also been a factor in assessing the criteria.

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<sup>11</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

<sup>12</sup> ONS, [Travelpac: travel to and from the UK](#). September 2018.

<sup>13</sup> Centre for Economics and Business Research, [The economic importance of UK outbound tourism to the EU27 economies](#). September 2017.

<sup>14</sup> House of Commons Briefing Paper 7851, [Statistics on UK-EU trade](#). July 2018.

- **Impact assessment**

The amendment of Regulation (EC) No 539/2001 is necessary as a consequence of the withdrawal of the United Kingdom from the Union. Given the need for timely action and taking into account the conclusions of the analysis below, a full impact assessment was not carried out. There are only two policy options: including United Kingdom nationals who are British citizens in Annex I (visa-required) of Regulation (EC) No 539/2001, or including them in Annex II (visa-free) of the Regulation.

The Commission has come to the conclusion that United Kingdom nationals who are British citizens should be exempt from the visa requirement when travelling to the Union for short stays. As Union citizens, United Kingdom nationals who are British citizens currently enjoy freedom of movement under the Treaties and Directive 2004/38/EC<sup>15</sup>. They can move and reside across the Union without being required to hold a visa. While United Kingdom nationals who are British citizens will no longer be Union citizens as of the date of withdrawal of the United Kingdom and would not enjoy the free movement of persons once Union law ceases to apply, it would be beneficial to maintain close links between British citizens and those of the Union, as well as to facilitate travel for business and tourism purposes. As the United Kingdom is classified as a high-income economy by the World Bank and is a member of the OECD, it fits the profile of a country, which would, in principle, present low risks of irregular migration to the Union.

The checks on third-country nationals carried out at the external borders, which will apply to nationals of the United Kingdom who are British citizens once Union law on free movement of Union citizens ceases to apply to them, seem sufficient to manage security risks. Furthermore, the United Kingdom issues biometric passports that conform to International Civil Aviation Organisation standards. In addition, should any migratory or security risks related to United Kingdom nationals who are British citizens arise that require urgent action to suspend visa-free travel, this situation can be addressed under the suspension mechanism provided for in Article 1a of Regulation (EC) No 539/2001.

The EU-27 is the United Kingdom's largest trading partner, accounting for 44% of all United Kingdom exports and 54% of United Kingdom imports in 2017. While the volume of trade could decline following the United Kingdom's withdrawal from the Union, the Union and the United Kingdom are likely to maintain important trade relations due to the geographical proximity and the historically close interlinkages in their economies. Moreover, there are currently about 800 000 United Kingdom nationals living in the EU-27 (excluding Ireland)<sup>16</sup> and roughly 50 000 United Kingdom nationals move to the EU-27 every year<sup>17</sup>. These aspects contribute to the high volume of travel from the United Kingdom to the EU-27: Overall, residents in the United Kingdom undertook 53 million trips to the EU-27 in 2016, whether for business, leisure or other purposes, spending about EUR 28 billion while in the other Member States. Imposing a visa requirement on United Kingdom nationals who are British citizens could diminish the economic benefit for the Union that results from these trips, reduce trade relations and harm the economic interest of the Union.

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<sup>15</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158 30.4.2004, p. 77).

<sup>16</sup> ONS, [Living abroad: British residents living in the EU](#), April 2018.

<sup>17</sup> Eurostat, [Immigration by age group, sex and citizenship](#), April 2018.

The United Kingdom is member of the Council of Europe. The Union and the United Kingdom attach similar importance to considerations of human rights and fundamental freedoms, as shown by the United Kingdom's adherence to the European Convention on Human Rights. The shared values stemming from the joint commitment to democracy and the rule of law will continue beyond the withdrawal of the United Kingdom from the Union. This should also be reflected by facilitating travel between the Union and the United Kingdom by providing for visa-free status for United Kingdom nationals.

The United Kingdom government has declared its intention not to require a visa from citizens of the EU-27 Member States for short stays for purposes of tourism and business<sup>18</sup>. This intention will now have to be formalised so that citizens can rely upon it and the legislators should take account of progress on this during the legislative process on the present proposal. Should the United Kingdom decide in the future to unilaterally impose a visa requirement on all or some Union citizens<sup>19</sup>, the reciprocity mechanism under Article 1(4) of Regulation (EC) No 539/2001 shall be activated. This would then lead to the introduction of a visa requirement.

Citizens of most European countries which are not members of the Union as well as those British nationals who are not British citizens can currently travel visa-free to the Schengen area. Due to the close proximity of the United Kingdom to the Union, considerations of regional coherence also speak in favour of including the United Kingdom on the list of visa-free countries.

Any remaining risks related to the visa-free travel of United Kingdom nationals who are British citizens to the Union should be mitigated by the recently adopted measures to improve the Union's external border management, notably the Entry/Exit system (EES) and the European Travel Information and Authorisation System (ETIAS), which will apply to United Kingdom nationals once Union law on free movement of Union citizens ceases to apply to them, as to other visa-free third country nationals..

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

This proposal has no negative consequences for the protection of fundamental rights in the European Union. Enabling visa-free travel by United Kingdom nationals who are British citizens to the Union will facilitate travel, for example in the context of the right to family life.

#### **4. BUDGETARY IMPLICATIONS**

Not applicable.

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<sup>18</sup> HM Government, [The future relationship between the United Kingdom and the European Union](#). July 2018, paragraphs 76-78. The report of the United Kingdom's Migration Advisory Committee did not recommend introducing a visa requirement for short stays in the United Kingdom of Union citizens, either (Migration Advisory Committee, [EEA migration in the UK: Final report](#). September 2018, policy recommendation 30, p. 4).

<sup>19</sup> In any event, as long as Union law on free movement of Union citizens applies to the United Kingdom, the introduction of a visa obligation would be a breach thereof

## 5. OTHER ELEMENTS

### • **Implementation plans and monitoring, evaluation and reporting arrangements**

The amended Regulation will be applicable from the day following that on which Union law will cease to apply to the United Kingdom. This will be 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously establishes another date, or the date provided for by a ratified Withdrawal Agreement pursuant to Article 50 of the Treaty on European Union. The Regulation will be implemented directly by the Member States; therefore, no implementation plan is necessary.

### • **Detailed explanation of the specific provisions of the proposal**

Article 1 amends Regulation (EC) No 539/2001 in three respects:

- The reference to the United Kingdom will be deleted from point (d) of Article 4(2), as this point only applies to Member States that do not apply the Schengen *acquis*. Member States will continue to be able to exempt from the visa requirement recognised refugees and stateless persons and other persons who do not hold the nationality of any country that reside in the United Kingdom under point (b) of Article 4(2).
- The United Kingdom as regards British citizens will be inserted into Annex II, i.e. the list of visa-free third countries.
- The title of part 3 of Annex II will be replaced by “BRITISH NATIONALS WHO ARE NOT BRITISH CITIZENS” in order to remove the current reference to Union law. The full list of British nationals who are not British citizens will be retained to ensure legal certainty. The visa status of these British nationals was first determined by Regulation (EC) No 1932/2006, which listed some categories of these nationals in Annex I (visa-required) and others in Annex II (visa-free) based on an assessment of the criteria listed in Regulation (EC) No 539/2001<sup>20</sup>. Regulation (EU) No 509/2014 of 15 May 2014 transferred them all to Annex II (visa-free)<sup>21</sup>. The withdrawal of the United Kingdom from the Union does not affect the visa status of these British nationals who are not British citizens.

Article 3 ensures that the amendments to Regulation (EC) No 539/2001 apply from the day following that on which Union law ceases to apply to the United Kingdom, avoiding any legal uncertainty regarding the visa-free status of United Kingdom nationals who are British citizens.

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<sup>20</sup> See COM(2006) 84 final of 13.7.2006 for the full assessment leading to this determination.

<sup>21</sup> See COM(2012) 650 final of 7.11.2012 for the full assessment leading to this determination.



Proposal for a

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

**amending 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, as regards the withdrawal of the United Kingdom from the Union**

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 Article 77(2)(a) 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) On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. Consequently, the United Kingdom will become a third country and Union law will cease to apply to it from 30 March 2019, unless another date is established in a withdrawal agreement, or the European Council, in agreement with the United Kingdom, unanimously establishes another date.
- (2) Under Article 21 of the Treaty on the Functioning of the European Union and Directive 2004/38/EC of the European Parliament and of the Council<sup>22</sup> citizens of the Union have the right to move and reside freely within the territory of the Member States, including the right to enter the Member States without a visa or equivalent formalities.
- (3) As a consequence of the United Kingdom's withdrawal from the Union, the Treaty and Directive 2004/38/EC will cease to apply to nationals of the United Kingdom who are British citizens and with these also their right to enter the Member States without a visa. It is therefore necessary to include the United Kingdom in one of the annexes to

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<sup>22</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

[Council Regulation (EC) No 539/2001]<sup>23</sup>. Annex I lists the third countries whose nationals must be in possession of visas when crossing the external borders and Annex II lists those third countries whose nationals are exempt from that requirement.

- (4) The criteria which should be taken into account when determining – based on a case-by-case assessment – the third countries whose nationals are subject to, or exempt from, the visa requirement are laid down in [Article -1 of Regulation (EC) No 539/2001]<sup>24</sup>. They include illegal immigration, public policy and security, economic benefit, in particular in terms of tourism and foreign trade, and 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.
- (5) Taking account of all the criteria listed in [Article -1 of Regulation (EC) No 539/2001]<sup>25</sup>, it is appropriate to exempt nationals of the United Kingdom who are British citizens from the visa requirement when travelling to the territory of the Member States. Considering the geographical proximity, the link between economies, the level of trade and the extent of short-term movements of persons between the United Kingdom and the Union for business, leisure or other purposes, visa-free travel should facilitate tourism and economic activity, thereby bringing benefits to the Union.
- (6) The United Kingdom government has stated its intention not to require a visa from citizens of the EU-27 when travelling to the United Kingdom for short stays for business or tourism as from the date on which Union law ceases to apply to the United Kingdom. In case the United Kingdom introduces a visa requirement for nationals of at least one Member State in the future, the reciprocity mechanism provided for in [Article 1(4) of Regulation (EC) No 539/2001]<sup>26</sup> should apply. The European Parliament, the Council, the Commission and the Member States should act without delay in applying the mechanism.
- (7) The United Kingdom should thus be included in Annex II to [Regulation (EC) No 539/2001]<sup>27</sup> as regards British citizens.
- (8) As regards Iceland and the Kingdom of 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 those two States with the implementation, application and development of the Schengen *acquis*<sup>28</sup>,

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<sup>23</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, 21.3.2001, p. 1), currently subject to codification (see COM(2018) 139 final of 14.3.2018). Reference to be updated following entry into force of the codified Regulation.

<sup>24</sup> See footnote 23.

<sup>25</sup> See footnote 23.

<sup>26</sup> See footnote 23.

<sup>27</sup> See footnote 23.

<sup>28</sup> OJ L 176, 10.7.1999, p. 36.

which fall within the area referred to in point B of Article 1 of Council Decision 1999/437/EC<sup>29</sup>.

- (9) As regards the Swiss Confederation, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed by 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*<sup>30</sup>, which fall within the area referred to in points (B) and (C) of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>31</sup>.
- (10) As regards the Principality of 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*<sup>32</sup>, which fall within the area referred to in points (B) and (C) of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>33</sup>.
- (11) 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/EC<sup>34</sup>; the United Kingdom is therefore not taking part in its adoption.
- (12) 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>35</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>29</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>30</sup> OJ L 53, 27.2.2008, p. 52.

<sup>31</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).

<sup>32</sup> OJ L 160, 18.6.2011, p. 21.

<sup>33</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).

<sup>34</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>35</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).

- (13) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (14) This Regulation should enter into force on 30 March 2019, the day of the United Kingdom's withdrawal from the Union.
- (15) This Regulation should apply from the day on which Union law ceases to apply to the United Kingdom.
- (16) [Regulation (EC) No 539/2001]<sup>36</sup> should therefore be amended,

HAVE ADOPTED THIS REGULATION:

### *Article 1*

[Regulation (EC) No 539/2001]<sup>37</sup> is amended as follows:

1. In [Article 4(2)]<sup>38</sup>, point (d) is replaced by the following:  
“(d) without prejudice to the requirements stemming from the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, recognised refugees and stateless persons and other persons who do not hold the nationality of any country who reside in Ireland and are holders of a travel document issued by Ireland, which is recognised by the Member State concerned.”;
2. in Part 1 of Annex II, the following is inserted:  
“United Kingdom (excluding British nationals referred to in Part 3)”;
3. the title of Part 3 of Annex II is replaced by the following:  
“BRITISH NATIONALS WHO ARE NOT BRITISH CITIZENS”.

### *Article 2*

In case the United Kingdom introduces a visa requirement for nationals of at least one Member State, the reciprocity mechanism provided for in [Article 1(4) of Regulation (EC) No 539/2001]<sup>39</sup> shall apply. The European Parliament, the Council, the Commission and the Member States shall act without delay in applying the mechanism.

### *Article 3*

1. This Regulation shall enter into force on 30 March 2019.

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<sup>36</sup> See footnote 23.

<sup>37</sup> See footnote 23.

<sup>38</sup> See footnote 23.

<sup>39</sup> See footnote 23.

It shall apply from the day following that on which Union law ceases to apply to the United Kingdom.

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

Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*