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From: General Secretariat of the Council

To: Delegations

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1806, 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 (Kuwait, Qatar)

– Mandate for negotiations with the European Parliament

Delegations will find attached the mandate on the abovementioned proposal as approved by the Permanent Representatives Committee at its meeting on 29 June 2022.

Changes to the Commission's proposal are marked in **bold underlined** and ~~strikethrough~~

2022/0135 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/1806, 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

(Kuwait, Qatar)

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), point (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) Regulation (EU) 2018/1806 of the European Parliament and of the Council¹ 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.
- (2) The third countries whose nationals are exempt from the visa requirement are determined on the basis of a case-by-case assessment of a variety of criteria laid down in Article 1 of Regulation (EU) 2018/1806. Those criteria relate, inter alia, to “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”.

¹ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303, 28.11.2018, p. 39–58

(3) Kuwait and Qatar present low risks of irregular migration to the Union and issue biometric passports in line with standards of the International Civil Aviation Organisation. Security cooperation with those countries has intensified in recent years. As regards economic interests, Kuwait and Qatar are important economic partners for the Union, in particular in the area of energy. Although challenges remain in the area of human rights and fundamental freedoms, Kuwait and Qatar have undergone societal transformations and improvements regarding women's rights, labour rights and freedom of religion and interfaith dialogue and are expected to continue making progress and reforms. The long-term benefits of visa-free travel to the EU can reinforce positive trends in these areas.

(3a) Important consideration should be given to regional coherence, in particular with the aim of reinforcing people-to-people contact and travel between the EU and Gulf Cooperation Council (GCC). Therefore, the Commission should further assess the situation of those countries with regard to the criteria laid down in Article 1 of Regulation (EU) 2018/1806 with the view to exempt further GCC Member States from the visa requirement as soon as all the relevant conditions are met.

(4) Consequently, nationals of those countries should be exempt from the visa requirement for stays of no more than 90 days in any 180-day period, and references to those countries should be transferred to Annex II to Regulation (EU) 2018/1806.

(5) The exemption from the visa requirement for nationals of Kuwait and Qatar is without prejudice to the application of EU restrictive measures adopted on the basis of Article 29 TEU and Article 215 TFEU.

(6) The exemption from the visa requirement for nationals of Kuwait and Qatar should not apply until bilateral agreements on visa waiver between the Union and Kuwait and Qatar have been concluded, in order notably to ensure full reciprocity is maintained. **Those agreements should not apply until the effective start of operation of the European Travel Information and Authorisation System (ETIAS²).**

(6a) In order to ensure the necessary coherence between visa policy and other EU policies, particular conditions need to be taken into account when exempting nationals of third-countries from visa requirement. Such conditions should be reflected in the bilateral agreements on visa waiver to be concluded between the Union and those countries, and be regularly assessed.

² **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.**

(6b) In that respect, those agreements should include clauses regarding the rights and responsibilities of each Party on matters of return and readmission, as well as specify the modalities to be observed in this regard.

(6c) Taking into account the remaining challenges mentioned in Recital 3 for Qatar and Kuwait, each agreement should also provide for the launch of a formal bilateral dialogue on human rights and fundamental freedoms, as well as the launch of a formal dialogue on security and fight against terrorism, including on transparency regarding foreign financing of religious activities, in order to reinforce the security cooperation between the EU and GCC Member States.

~~(7) Regulation (EU) 2018/1806 should therefore be amended accordingly,~~

~~(78)~~ 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/EC³. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

~~(89)~~ 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 those 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/EC⁴.

~~(910)~~ 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 **Council** Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC⁵.

³ 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).

⁴ 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).

⁵ 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.

- (101) 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 **Council** Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU⁶,
- (112) 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.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2018/1806 is amended as follows:

- (a) in point 1 of Annex I, (“STATES”) the references to Kuwait and Qatar are deleted.
- (b) in Annex II, Point 1 (“STATES”), is amended as follows:
- (i) between the references to ~~---~~ “**Kiribati**”~~---~~ and to “**Saint Kitts and Nevis**”~~----~~, the following reference is inserted :

“Kuwait (*)**(**)(***)**”²²

⁶ 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.

(*) The exemption from the visa requirement shall apply from the date of entry into force of an agreement on visa exemption to be concluded with the European Union.

(**) The exemption from the visa requirement shall only apply to holders of biometric passports issued in line with the standards of the International Civil Aviation Organisation (ICAO).²

(*) The exemption from the visa requirement shall only apply from the date of the start of operation of the European Travel Information and Authorisation System (ETIAS⁷).**

(ii) between the references to ~~---~~ **“Paraguay”** and to ~~---~~ **“Serbia”**, the following reference is inserted :

“Qatar (*)(**)(***)”²

(*) The exemption from the visa requirement shall apply from the date of entry into force of an agreement on visa exemption to be concluded with the European Union.

(**) The exemption from the visa requirement shall only apply to holders of biometric passports issued in line with the standards of the International Civil Aviation Organisation (ICAO).²

(*) The exemption from the visa requirement shall only apply from the date of the start of operation of the European Travel Information and Authorisation System (ETIAS⁸).**

⁷ **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.**

⁸ **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.**

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.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
