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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 November 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 733 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1806 as regards holders of Serbian passports issued by the Serbian Coordination Directorate (Koordinaciona uprava)

Delegations will find attached document COM(2023) 733 final.

Encl.: COM(2023) 733 final



EUROPEAN
COMMISSION

Brussels, 16.11.2023
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2023/0418 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EU) 2018/1806 as regards holders of Serbian passports issued by
the Serbian Coordination Directorate (Koordinaciona uprava)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Regulation (EC) No 1244/2009 of 30 November 2009¹ amended 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 requirement². The change consisted in the transfer of the former Yugoslav Republic of Macedonia (currently North Macedonia), Montenegro and Serbia from Annex I (countries whose nationals are required to be in possession of a visa) to Annex II (countries whose nationals are exempt from that visa requirement for stays of no more than 90 days in a 180-day period) to Regulation (EC) No 539/2001. The exemption from visa requirement applied (and still applies) only to holders of biometric passports.

In view of concerns at the time about risks of irregular migration movements originating from Kosovo* and the fact that no visa liberalisation dialogue was then in place with Kosovo, one category of holders of Serbian passports was excluded from the visa requirement exemption, namely the holders of passports issued by the Serbian Coordination Directorate in Belgrade. This directorate processes all passport applications received from Kosovo Serbs residing in Kosovo and the Kosovo Serb diaspora living outside Kosovo.

The Serbian Coordination Directorate was established during the visa liberalisation dialogue with Serbia. The aim was to replace the seven regional Police Directorates scattered over the Serbian territory, which had been responsible for issuing passports to Kosovo Serbs until then. The passports issued by the Serbian Coordination Directorate are biometric and have been used by their holders as travel documents for the purpose of traveling to the EU since the Directorate was established.

In 2009, Kosovo was included in part 2 of Annex I to Regulation (EC) No 539/2001, entailing that holders of passports issued by Kosovo were required to be in possession of a visa when crossing the external borders of the Member States. Since then, the situation has evolved. The Commission launched a visa liberalisation dialogue with Kosovo on 19 January 2012. On 14 June 2012, it presented to Kosovo a roadmap, which identified all the legislation and other measures that Kosovo needed to adopt and implement to advance towards visa liberalisation. This dialogue was successfully concluded, and on that basis, on 4 May 2016, the Commission presented a proposal³ to transfer Kosovo to Annex II of Regulation (EC) No 539/2001.

¹ Council Regulation (EC) No 1244/2009 of 30 November 2009 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 (OJ L 336, 18.12.2009, p. 1–3).

² 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. 1–7).

* *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.*

³ COM/2016/0277 final.

This proposal was finally agreed and adopted on 19 April 2023. Regulation (EU) 2023/850⁴ amended Regulation (EU) 2018/1806⁵ (that in the meantime had replaced Regulation (EC) No 539/2001), by transferring Kosovo from Part 2 of Annex I to Part 4 of Annex II to that Regulation. As in the case of all previous successfully concluded visa liberalisation dialogues, it was decided that the exemption from the visa requirement should apply only to holders of biometric passports. Furthermore, it was decided that the exemption should not apply until the date from which the European Travel Information and Authorisation System (ETIAS), established by Regulation (EU) 2018/1240 of the European Parliament and of the Council⁶, starts operations or until 1 January 2024, whichever date comes first. Due to the fact that ETIAS will not enter into operation before 1 January 2024, the visa exemption for Kosovo passport holders will apply as from 1 January 2024.

Following the adoption of Regulation (EU) 2023/850, holders of Serbian passports issued by the Serbian Coordination Directorate would remain the only citizens in the Western Balkan region required to be in possession of a visa when travelling to the EU for short stays.

With the entry into force of the visa exemption for Kosovo passport holders, the Commission considers that the reasons behind the exclusion of holders of Serbian passports issued by the Serbian Coordination Directorate from that visa exemption no longer exist, and that all citizens of the Western Balkan region should benefit from visa-free travel to the Schengen area. For this reason, the Commission proposes to amend Regulation (EU) 2018/1806 to exempt holders of Serbian passports issued by the Serbian Coordination Directorate from the requirement to be in possession of a visa when crossing the external borders of the Member States for stays of no more than 90 days in any 180-day period.

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

Regulation (EU) 2018/1806 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. Regulation (EU) 2018/1806 is applied by all Member States – with the exception of Ireland. It is also applied by Iceland, Liechtenstein, Norway and Switzerland. The Regulation is part of the EU's common visa policy for short stays of up to 90 days in any 180-day period.

Since the launching of the first visa liberalisation dialogues in 2008, there has been an overall objective to grant the whole Western Balkan region visa-free access to the Schengen area. Visa requirements for Montenegro, North Macedonia and Serbia were abolished in 2009, for Albania and Bosnia and Herzegovina in 2010 and for Kosovo in 2023. In this context, removing the exclusion from the visa exemption concerning the holders of Serbian passports

⁴ Regulation (EU) 2023/850 of the European Parliament and of the Council of 19 April 2023 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 (Kosovo (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.)) (OJ L 110, 25.4.2023, p. 1–4).

⁵ 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).

⁶ 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. 1–71).

issued by the Serbian Coordination Directorate would ensure that the whole Western Balkan region is subject to the same visa regime.

- **Consistency with other Union policies**

The proposed inclusion of holders of Serbian passports issued by the Serbian Coordination Directorate within the exemption from the visa requirement concerning Serbia is consistent with the EU efforts to accelerate the integration of the Western Balkan region into the EU.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal is point (a) of Article 77(2) of the Treaty on the Functioning of the European Union (TFEU). The proposed regulation will constitute a development of the Schengen *acquis*.

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

The necessary amendment to Regulation (EU) No 2018/1806 is to be done by means of a regulation. Member States cannot act individually to achieve the policy objective. No other (non-legislative) options to achieve the policy objective are available.

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

- **Stakeholder consultations**

The current situation of exclusion of Kosovo Serbs from the visa-free regime has been discussed with Serbia and Kosovo.

- **Impact assessment**

No impact assessment was deemed necessary for this proposal.

- **Fundamental rights**

This proposal has no negative consequences for the protection of fundamental rights in the European Union.

4. BUDGETARY IMPLICATIONS

This proposal has no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The amended Regulation will be directly applicable from the date of its entry into force and will be implemented immediately by Member States. No implementation plan is necessary.

- **Detailed explanation of the specific provisions of the proposal**

Annex II to the Regulation 2018/1806 will be amended, by including the holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava)' within the reference to Serbia.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/1806 as regards holders of Serbian passports issued by the Serbian Coordination Directorate (Koordinaciona uprava)

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 Council⁷ lists the third countries whose nationals are to be in possession of visas when crossing the external borders of the Member States and those whose nationals are exempt from that requirement for stays of no more than 90 days in any 180-day period.
- (2) Serbia was transferred to the list of countries whose nationals are exempted from the visa requirement by Council Regulation (EC) No 1244/2009⁸. That Regulation included an exclusion to the visa exemption concerning Kosovo Serbs holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava).
- (3) Following the adoption of Regulation (EU) 2023/850 of the European Parliament and of the Council⁹ transferring Kosovo to Part 4 of Annex II to Regulation (EU) 2018/1806, holders of Serbian passports issued by the Serbian Coordination

⁷ 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).

⁸ Council Regulation (EC) No 1244/2009 of 30 November 2009 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 (OJ L 336, 18.12.2009, p. 1–3).

⁹ Regulation (EU) 2023/850 of the European Parliament and of the Council of 19 April 2023 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 (Kosovo (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.)) (OJ L 110, 25.4.2023, p. 1–4).

Directorate would remain the only citizens of the Western Balkan region required to be in possession of a visa for the crossing of Member States' external borders.

- (4) In order to ensure that the whole Western Balkan region is subject to the same visa regime, holders of Serbian passports issued by the Serbian Coordination Directorate should thus be included in the reference to Serbia in Annex II to Regulation (EU) 2018/1806.
- (5) 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 latter's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC¹⁰.
- (6) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed 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, which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC¹².
- (7) 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*¹³, which fall within the area referred to in Article 1, points B and C, of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU¹⁴.

¹⁰ 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).

¹¹ OJ L 53, 27.2.2008, p. 52.

¹² 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).

¹³ OJ L 160, 18.6.2011, p. 21.

¹⁴ 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).

- (8) 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/EC¹⁵; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (9) As regards Cyprus, and Bulgaria and Romania, 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 and Article 4(1) of the 2005 Act of Accession,

HAVE ADOPTED THIS REGULATION:

Article 1

In part 1 of Annex II to Regulation (EU) 2018/1806:

‘Serbia (excluding holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava)) (7)’

is replaced by

‘Serbia (including holders of Serbian passports issued by the Serbian Coordination Directorate (in Serbian: Koordinaciona uprava)) (*)’

(*) 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).

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
The President

For the Council
The President

¹⁵ 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).