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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**ON THE EFFECTIVENESS OF THE VISA SUSPENSION MECHANISM AND ON
THE DELEGATION OF POWER UNDER SUCH MECHANISM**

I. INTRODUCTION

The present report stems from the obligation of the Commission to report to the European Parliament and to the Council on the effectiveness of the visa suspension mechanism¹ and on the use of delegated acts under such mechanism². The Visa Regulation requires the Commission to submit, if necessary, a legislative proposal to amend the visa suspension mechanism.

The timing of adoption of the present reports has been adjusted to take account of the findings of the Fourth Report under the Visa Suspension Mechanism³.

II. REPORT ON THE EFFECTIVENESS OF THE VISA SUSPENSION MECHANISM

1. Purpose and functioning of the visa suspension mechanism

The Visa Regulation provides for a mechanism that allows for the temporary reintroduction of a visa requirement in emergency situations, where an urgent response is needed to solve the difficulties faced by at least one Member State, taking into account the overall impact of that situation on the Union as a whole⁴.

The suspension mechanism can be triggered if one or more Member States notify the Commission that at least one of the following circumstances are met:

- a) a substantial increase (more than 50%) of irregular stays or refusals of entry;
- b) a substantial increase (more than 50%) of applications for international protection with a low recognition rate (around 3-4%);
- c) a decrease of cooperation on readmission, notably in case of an increasing refusal rate for readmission applications; or
- d) an increased risk or imminent threat to the public policy or internal security of Member States, in particular a substantial increase (more than 50%) in serious criminal offences linked to the nationals of a particular third country⁵.

The Commission can also trigger the mechanism on its own initiative if the above-mentioned conditions are met⁶, or if the report under the visa suspension mechanism concludes that certain visa liberalisation benchmarks are no longer fulfilled⁷.

2. Use of the visa suspension mechanisms

¹ Article 9(2) of 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 ('the Visa Regulation'), OJ L 303, 28.11.2018, p. 39.

² Article 10(3) of the Visa Regulation.

³ COM(2021) 602.

⁴ Recital 18 of the Visa Regulation.

⁵ Article 8(2) of the Visa Regulation.

⁶ Article 8(3) of the Visa Regulation.

⁷ Article 8(4) of the Visa Regulation.

Although the visa suspension mechanism has been triggered once, it has not resulted in the suspension of any visa exemption. The existence of the suspension mechanism has effectively contributed to the compliance of visa-free third countries with the criteria set out in Article 1 of the Visa Regulation, which were used to assess the appropriateness of granting visa exemptions.

On 2 June 2019, the Netherlands notified the Commission that it faced circumstances that could lead to suspending the short-stay visa exemption with regards to Albania. The concerns expressed in the notification were predominantly linked to public order and security, but also to irregular migration and unfounded asylum applications lodged by Albanian nationals.

In accordance with the Visa Regulation, the Commission examined carefully the content of the notification. Based on the available information and the relevant data, the Commission considered that the conditions for suspending the visa exemption laid down by the Visa Regulation were not met. On 1 July 2019 the Commission replied to the Netherlands and on 5 July 2019 informed the European Parliament and the Council of the results of its examination.

The notification of June 2019 provided a first test of the initial procedural steps of the mechanism, including as regards the substantive test, the fact-finding methodology and the legal deadlines. The Commission examined the notification, replied to the Netherlands and informed the European Parliament and the Council of the results of its examination within one month of receiving the notification.

This procedure showed that the deadline of one month as laid down in the Visa Regulation⁸ is very tight, taking into account the thorough examination required and the possibility of the adoption of an implementing act within the same period. However, this time limit is justified by the nature and the purpose of the mechanism, which aims at addressing emergency situations.

3. The impact of the visa suspension mechanism on visa-free regimes

Even though the mechanism has not resulted in the suspension of any visa exemption, its existence has prompted important reforms in visa free third countries in the area of migration management, security, rule of law and human rights. The Fourth report under the Visa Suspension Mechanism⁹ shows that this effect has been particularly relevant in the Western Balkans and the Eastern Partnership, where progress under the visa liberalisation benchmarks and the follow-up to the Commission recommendations has continued beyond the successful completion of the visa liberalisation dialogues and long after the acquisition of the visa exemption.

Although this progress cannot be solely attributed to the visa suspension mechanism, the Commission considers that, to a certain extent, the mechanism has provided an additional incentive.

⁸ Article 8(6) of the Visa Regulation.

⁹ COM(2021) 602.

The possibility of a swift temporary and partial re-introduction of the visa requirement has possibly also deterred third countries from continuing to implement policies that might pose a risk of a negative impact on EU visa-free regimes. This includes, for instance, investor citizenship schemes¹⁰. Moldova terminated its investor citizenship scheme in 2020 and Montenegro has decided not to extend its scheme beyond the end of 2021.

This is also visible in the reforms and cooperation by certain visa-free third countries in particular in the areas of migration and security. This refers for example to cooperation in the fight against terrorism, tighter checks at border crossing points, or to the organisation of awareness-raising campaigns on the rights and obligations of visa-free travel in order to prevent abuses of the visa-free regime.

III. REPORT ON DELEGATED ACTS UNDER THE VISA SUSPENSION MECHANISM

According to Article 10(3) of the Visa Regulation, the power to adopt delegated acts under the visa suspension mechanism shall be conferred on the Commission for a period of five years from 28 March 2017 and the Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The Commission hereby reports that it has not used this power to date.

IV. CONCLUSIONS

The suspension mechanism has triggered a number of reforms in visa-free countries, in particular in those countries that obtained a visa exemption as a result of a visa liberalisation dialogue. To a certain extent, the existence of this mechanism has also had a preventive effect in cases where a third country has considered adopting policies that could have an impact on the visa-free regime.

Although no delegated act has been adopted to date under Article 8(6), the deadlines and procedures of the suspension mechanism as provided by the Visa Regulation have been successfully tested in its first phases. The short deadlines of the procedure are justified by the purpose and the nature of the mechanism as an emergency procedure.

Therefore, the Commission does not consider necessary to submit a legislative proposal to amend the Visa Regulation with regards to the visa suspension mechanism. In order to maintain the possibility for the Commission and the Member States to respond to emergency situations when the circumstances for triggering the suspension mechanism are met, the Commission recommends a tacit extension of the delegation of power for another period of five years, as of March 2022, in accordance with the Visa Regulation¹¹.

¹⁰ See also the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union (COM(2019) 12 final).

¹¹ Article 10(3) of the Visa Regulation.

