



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 October 2010**

**15161/10**

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**Interinstitutional File:  
2010/0192 (COD)**

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**NOTE**

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from:	Presidency
to:	Visa Working Party - JHA Counsellors
No. Cion. prop.:	11916/10 VISA 178 ASIE 44 CODEC 663 COMIX 487 (COM (2010) 358 final)
Subject:	Draft Council Regulation 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 - Taiwan

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The Commission transmitted the above proposal to the Council on 5 July 2010. The main purpose of the proposal is to transfer Taiwan from Annex I (visa requirement - negative list) to Annex II (no visa requirement - positive list) of Regulation (EC) No 539/2001. The proposal also provides for the deletion of the Northern Mariana Islands from Annex I, having in mind the status of the Islands as a commonwealth in political union with the United States.

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament is expected to adopt its report on the proposal on 25-26 October 2010 with a view to the adoption of the position of the European Parliament on 10-11 November 2010. The Committee on Foreign Affairs (AFET) has in its opinion of 6 October 2010 called on the LIBE Committee to propose approval of the Commission proposal. The proposal has so far been met with positive reactions in the LIBE Committee.

The proposal was first discussed in the Visa Working Party on 15 September 2010 and was most recently examined on 23 September 2010 at a meeting of the JHA Counsellors.

At the meeting on 23 September 2010, JHA Counsellors agreed to the proposal, subject to the following:

- It should be provided that the exemption from the visa requirement does not apply to holders of passports issued by Taiwan which do not include an identity card number.

This has been done in the revised text of the draft Regulation set out in Annex I.

- It should be confirmed in writing by the Taiwanese authorities that:
  - Taiwan will lift its visa requirement for nationals of Romania, Bulgaria and Cyprus.
  - Taiwan will extend the maximum period of stay for EU citizens under the visa free regime from at present 30 days to 90 days, having in mind that a Schengen visa allows for 90 days stay in the Schengen area in a 6 months period.

This has been done in the letter of 11 October 2010 to the Commission with copy to the Presidency, as set out in Annex II.

The Presidency will on this basis use the text of the proposal of the Commission resulting from the meeting on 23 September 2010 as set out in Annex I for the purpose of contacts on the file with the European Parliament. If the LIBE Committee adopts this text, the Presidency will invite Coreper to agree that the European Parliament is informed that the Council agrees.

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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 of Member States and those whose nationals are exempt from that requirement**

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,<sup>1</sup>

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The composition of the lists of third countries and territories in Annexes I and II to Council Regulation (EC) No 539/2001<sup>2</sup> should be, and should remain, consistent with the criteria laid down in recital (5) thereto. Third countries or territories for whom the situation has changed as regards these criteria, should be transferred from one Annex to the other.
- (2) The imposition of the visa requirement on the citizens of Taiwan is no longer justified, as in particular the territory does not represent any risk of illegal immigration or public policy for the EU and in the light of external relations, in accordance with the criteria set out in recital 5 of the Regulation. Consequently this territory should be transferred to Annex II.
- (3) A reference to Northern Mariana should be deleted from Annex I of Regulation (EC) No 539/2001, as the citizens of the territory in question are, as holders of US passports, citizens of the United States which is listed in Annex II.
- (4) 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<sup>3</sup>, which falls within the area referred to in Article 1, point (B), of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement<sup>4</sup>.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ L 81, 21.3.2001, p. 1.

<sup>3</sup> OJ L 176, 10.7.1999, p. 36.

<sup>4</sup> OJ L176, 10.7.1999, p. 31.

- (5) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded 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>1</sup>, which fall within the area referred to in Article 1, point (B) and (C), of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>2</sup>.
- (6) 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 Article 1, point (B) and (C) of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC<sup>3</sup>.
- (7) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with 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<sup>4</sup>. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (8) 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 of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis<sup>5</sup>. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (9) This Regulation constitutes a development of the Schengen acquis, in accordance with the Protocol integrating the Schengen acquis into the framework of the European Union, as defined in Annex A to Council Decision 1999/435/EC of 20 May 1999 concerning the definition of the Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis<sup>6</sup>,

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<sup>1</sup> OJ L53, 27.2.2008, p.52.

<sup>2</sup> OJ L53, 27.2.2008, p. 1.

<sup>3</sup> OJ L83, 26.3.2008, p. 3.

<sup>4</sup> OJ L 131, 1.6.2000, p. 43.

<sup>5</sup> OJ L 64, 7.3.2002, p. 20.

<sup>6</sup> OJ L 176, 10.7.1999, p. 1–16.

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 539/2001 is hereby amended as follows:

1. Annex I shall be amended as follows:

(a) in Part I, the reference to Northern Mariana shall be deleted;

(b) in Part II, the reference to Taiwan shall be deleted.

2. In Annex II the following Part 4 is added:

"4. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED  
AS STATES BY AT LEAST ONE MEMBER STATE:

Taiwan\*".

*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*

**\* The exemption from the visa requirement does not apply to holders of passports issued by Taiwan which do not include an identity card number.**

**TAIPEI REPRESENTATIVE OFFICE**

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BC/99/0798

October 11, 2010

Mr. Stefano Manservigi  
Director General for  
Home Affairs  
European Commission

**COPIE**

Dear Mr. Director General,

I have the honor to inform you that my government has decided to lift visa requirement for the citizens of Romania, Bulgaria and Cyprus to enter Taiwan, up to 30 days per entry. This measure will come into effect from November 11, 2010.

Moreover, I wish to inform you that we will extend the visa waiver, based on the principle of reciprocity, to all citizens of the Schengen member states, including Romania, Bulgaria and Cyprus, for short stays from the current practice of 30 days to 90 days per entry, as soon as Schengen visa exemption is granted to Taiwan's citizens.

Sincerely yours,



David Lin  
Representative

c.c.

The Hon. Juan Fernando López Aguilar, Chairman of the Civil Liberties, Justice and Home Affairs Committee, European Parliament

H.E. Jean De Ruyt, Permanent Representative of the Kingdom of Belgium to the European Union

H.E. Boyko Kotzev, Permanent Representative of the Republic of Bulgaria to the European Union

H.E. Mihnea Motoc, Permanent Representative of the Republic of Romania to the European Union

H.E. Andreas D. Mavroyiannis, Permanent Representative of the Republic of Cyprus to the European Union