



2020/2605(RSP)

24.4.2020

DRAFT MOTION FOR A RESOLUTION

further to Question for Oral Answer B9-0000/2020

pursuant to Rule 136(5) of the Rules of Procedure

on obligations of the Commission in the field of visa reciprocity in accordance
with Article 7 of Regulation (EU) 2018/1806
(2020/2605(RSP))

Juan Fernando López Aguilar

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

European Parliament resolution of XX on obligations of the Commission in the field of visa reciprocity in accordance with Article 7 of Regulation (EU) 2018/1806 (2020/2605(RSP))

The European Parliament,

- having regard to 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 ¹, in particular Article 7 thereof (‘the reciprocity mechanism’),
 - having regard to the European Parliament resolution of 2 March 2017 on obligations of the Commission in the field of visa reciprocity in accordance with Article 1(4) of Regulation (EC) No 539/2001 (2016/2986(RSP));
 - having regard to the Commission communications on situations of non-reciprocity of 12 April 2016 (COM(2016) 0221), 13 July 2016 (COM(2016) 0481), 21 December 2016 (COM(2016) 0816), 2 May 2017 (COM(2017) 227), 20 December 2017 (COM(2017) 813), 19 December 2018 (COM(2018) 855) and the latest Commission communication of 23 March 2020 entitled “State of play as regards the situation of non-reciprocity in the area of visa policy” (COM(2020) 119);
 - having regard to Article 17 of the Treaty on European Union (TEU) and Articles 80, 265 and 290 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to its debate on ‘Obligations in the field of visa reciprocity’ held on xx,
 - having regard to the question to the Commission on obligations of the Commission in the field of visa reciprocity in accordance with Article 7 of Regulation (EU) 2018/1806,
 - having regard to the motion for a resolution of the Committee on Civil Liberties, Justice and Home Affairs,
 - having regard to Rules 136(5) and 132(2) of its Rules of Procedure,
- A. whereas the criterion of visa reciprocity as one of the criteria guiding the EU’s visa policy is generally understood to imply that EU citizens should be subject to the same conditions when travelling to a third country as the nationals of that third country are when travelling to the EU;
- B. whereas the purpose of the visa reciprocity mechanism is to achieve such visa reciprocity; whereas the EU’s visa policy prohibits individual Member States from introducing a visa requirement for nationals of a third country if this country is listed in Annex II to Regulation (EU) 2018/1806 (countries whose nationals are exempt from the visa requirement for short stays);

¹OJ L 303, 28.11.2018, p. 39–58

- C. whereas the reciprocity mechanism was revised in 2013, with Parliament acting as co-legislator, as it needed to be adapted in the light of the entry into force of the Treaty of Lisbon and of the case-law of the Court of Justice of the European Union on secondary legal bases and ‘to provide for a Union response as an act of solidarity, if a third country listed in Annex II to Regulation (EC) No 539/2001 applies a visa requirement for nationals of at least one Member State’ (Recital 1 of Regulation (EU) No 1289/2013);
- D. whereas the reciprocity mechanism sets out a procedure starting with a situation of non-reciprocity with precise timeframes and actions to be taken with a view to ending a situation of non-reciprocity; whereas its inherent logic entails measures of increasing severity vis-à-vis the third country concerned, including ultimately the suspension of the exemption from the visa requirement for all nationals of the third country concerned (‘second phase of application of the reciprocity mechanism’);
- E. whereas ‘in order to ensure the adequate involvement of the European Parliament and of the Council in the second phase of application of the reciprocity mechanism, given the particularly sensitive political nature of the suspension of the exemption from the visa requirement for all the nationals of a third country listed in Annex II to Regulation (EC) No 539/2001 and its horizontal implications for the Member States, the Schengen associated countries and the Union itself, in particular for their external relations and for the overall functioning of the Schengen area, the power to adopt acts in accordance with Article 290 of the Treaty of the Functioning of the European Union [was] delegated to the Commission in respect of certain elements of the reciprocity mechanism’ including the suspension of the exemption from the visa requirement for all nationals of the third country concerned;
- F. whereas ‘the European Parliament or the Council may decide to revoke the delegation’ (Article 290(2)(a) TFEU);
- G. whereas a delegated act ‘may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act’ (Article 290(2)(b) TFEU);
- H. whereas the Commission contested the choice of delegated acts in the second phase of application of the reciprocity mechanism before the Court of Justice of the European Union, and whereas the Court considered however the choice of the legislator to be correct (Case C-88/14);
- I. whereas the mechanism thereby clearly assigns obligations and responsibilities to Parliament and the Council and to the Commission in the different phases of the reciprocity mechanism;
- J. whereas the issue at stake is therefore one of solidarity between EU Member States and an institutional one in which the Parliament and the Council are currently deprived of their prerogative of an “adequate involvement [...] in the second phase of application of the reciprocity mechanism”;
- K. whereas the Commission should not be left in a situation where its delays and refusal to implement EU legislation could lead to weakening its credibility as guardian of the treaties but be recalled of its institutional and legal obligations;

1. Repeats its consideration that the Commission is legally obliged to adopt a delegated act – temporarily suspending the exemption from the visa requirement for nationals of third countries which have not lifted the visa requirement for citizens of certain Member States – within a period of 24 months from the date of publication of the notifications in this regard, which ended on 12 April 2016;
2. Calls on the Commission, on the basis of Article 265 TFEU, to adopt the required delegated act within two months from the date of adoption of this resolution at the latest;
3. Instructs its President to forward this resolution to the Commission, the European Council, the Council and the national parliaments.