**Follow up to the European Parliament non-legislative resolution on obligations
of the Commission in the field of visa reciprocity in accordance
with Article 7 of Regulation (EU) 2018/1806**

1. **Resolution tabled pursuant to Rule 112(2) and (3) of the European Parliament's Rules of Procedure**
2. **Reference numbers:** 2020/2605 (RSP) / B9-0339/2020 / P9\_TA-PROV(2020)0283
3. **Date of adoption of the resolution:** 22 October 2020
4. **Competent Parliamentary Committee:** Committee on Civil Liberties, Justice and Home Affairs (LIBE)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The resolution calls upon the Commission to adopt within two months 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. This refers in practice to the United States, as citizens of Bulgaria, Croatia, Cyprus, and Romania are still required to have a visa when travelling to this country.

The Commission's obligation to adopt a delegated act, in case of a persistent lack of visa-waiver reciprocity, is set out under the visa reciprocity mechanism provided in Regulation (EC) No 539/2001, now codified as Regulation (EU) 2018/1806[[1]](#footnote-1). The resolution is an immediate follow up on an oral question tabled by the LIBE Committee on 22 July 2020[[2]](#footnote-2), which was debated in plenary on 19 October 2020. The resolution calls upon the Commission, on the basis of paragraph 2 of Article 265 of the Treaty on the Functioning of the European Union, as calling upon the Commission to act. In accordance with to this provision, if within two months the Commission has not defined its position (22 December 2020), action may be brought by the European Parliament before the Court of Justice within a further period of two months (22 February 2020).

The resolution recalls previous calls made by the Parliament on this issue by way of a resolution adopted on 2 March 2017 on obligations of the Commission in the field of visa reciprocity[[3]](#footnote-3).

Pursuant to Article 7 first paragraph point (f) of Regulation (EU) 2018/1806 the Commission shall adopt the delegated act temporally suspending the exemption from the visa requirement if a third country has not lifted the visa requirement within 24 months from the publication of the non-reciprocity notifications. In the case of the United States, this 24-month period expired on 12 April 2016. Nevertheless, the regulation also requires that the Commission take into account the consequences of the suspension of the visa waiver for the external relations of the EU and its Member States[[4]](#footnote-4). The Commission adopted one Communication in April 2016[[5]](#footnote-5) and six follow-up Communications (in July[[6]](#footnote-6) and December[[7]](#footnote-7) 2016, in May[[8]](#footnote-8) and December[[9]](#footnote-9) 2017, in December 2018[[10]](#footnote-10) and in March 2020[[11]](#footnote-11)). These Communications have provided an overview of the outreach by the Commission and relevant developments as well as an assessment of the consequences of the suspension and updated the co-legislators regarding the state of play of efforts to achieve full visa reciprocity and possible ways forward to reach progress. The Communication of April 2016 already highlighted the importance of full involvement of the European Parliament and of the Council in the application of the visa reciprocity mechanism, given the particularly sensitive political nature of the suspension of the visa waiver.

The Commission cooperates closely with the Member States concerned by a lack of reciprocity in its efforts to rectify this situation with US. The Commission in its Communication adopted on 22 December 2020[[12]](#footnote-12), which defines the position of the Commission following the European Parliament resolution of 22 October 2020, committed again to continuing to work closely with both the European Parliament and the Council to achieve full visa-waiver reciprocity, and to report back on further developments by December 2021.

**Response to the requests and overview of the action taken, or intended to be taken, by the Commission:**

The Commission remains committed to achieving full visa reciprocity for all Member States as a matter of priority. As regards the US, the Commission remains engaged in a results-oriented process towards full visa reciprocity, in close coordination with the Member States concerned.

As noted above, the Commission regularly reports on efforts to achieve full visa-waiver reciprocity. As expressed in the latest Communication on visa reciprocity, adopted on 22 December 2020, in light of the entry of Poland into the US Visa Waiver Program in November 2019, the extraordinary context stemming from the COVID-19 pandemic, which has negatively impacted travel and the overall implementation of visa policies worldwide, and the continued progress made by the other Member States concerned, the Commission’s position remains that temporarily suspending the visa waiver for US citizens would be counterproductive, especially at this point in time. It would not serve to achieve the objective of visa-free travel for all EU citizens to the US, and may endanger visa-free travel to the United States for all other EU citizens. The results achieved show that tangible progress towards full visa waiver reciprocity can be achieved through continued engagement and joint diplomatic contacts.

In implementing the reciprocity mechanism[[13]](#footnote-13), the Commission must take into account outcome of the measures taken by the Commission and the Member States and the possible consequences for the external relations of the EU and its Member States. The Commission has therefore assessed on the one hand, the positive results of the actions undertaken at EU and at national level, notably the fact that Poland achieved visa-free access in 2019, as well as the continued progress made by the other Member States concerned; and on the other hand, the expected negative consequences of visa suspension in a wide range of policy areas and sectors, as well the adverse effects to trans-Atlantic cooperation and our external relations with a strategic partner, and for the visa reciprocity objective in particular. For as long as the Commission continues to see sustained progress through its engagement with the US, it considers that full visa reciprocity for all EU nationals can be best achieved through continued diplomatic cooperation with the US.

The Commission will continue to work closely with the European Parliament and with the Council to achieve full visa-waiver reciprocity with the US and will keep the European Parliament and the Council informed on the further developments. As stated in the latest Communication on visa reciprocity, adopted on 22 December 2020, the Commission will report on further developments to the European Parliament and the Council by December 2021.

1. The obligation is now provided for by Article 7 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 (codification), OJ L 303, 28.11.2018, p. 39, which codified Regulation 539/2001 [↑](#footnote-ref-1)
2. O-000049/2020 [↑](#footnote-ref-2)
3. OJ C 263, 25.7.2018, p. 2 [↑](#footnote-ref-3)
4. Article 7, point (d) of Regulation (EU) 2018/1806 [↑](#footnote-ref-4)
5. COM(2016) 221 final of 12 April 2016 [↑](#footnote-ref-5)
6. COM(2016) 481 final of 12 July 2016 [↑](#footnote-ref-6)
7. COM(2016) 816 final of 21 December 2016 [↑](#footnote-ref-7)
8. COM(2017) 227 final of 2 May 2017. This Communication defined the position of the Commission following the European Parliament resolution of 2 March 2017 on obligations of the Commission in the field of visa reciprocity and reported on the progress achieved [↑](#footnote-ref-8)
9. COM(2017) 813 final of 20 December 2017 [↑](#footnote-ref-9)
10. COM(2018) 855 final of 19 December 2018 [↑](#footnote-ref-10)
11. COM(2020) 119 final of 23 March 2020 [↑](#footnote-ref-11)
12. COM(2020) 851 final [↑](#footnote-ref-12)
13. Article 7, point (d) of Regulation (EU) 2018/1806 [↑](#footnote-ref-13)