



2024/2059

2.8.2024

COMMISSION DELEGATED REGULATION (EU) 2024/2059

of 31 May 2024

amending Regulation (EU) 2018/1806 of the European Parliament and of the Council as regards the extension of the temporary suspension of the visa exemption for nationals of Vanuatu

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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⁾, and in particular Article 8(6), point (b), thereof,

Whereas:

- (1) The Republic of Vanuatu is listed in Annex II to Regulation (EU) 2018/1806 among the third countries whose nationals are exempt 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. The exemption from the visa requirement for nationals of Vanuatu is applicable since 28 May 2015, when the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver ⁽²⁾ ('the Agreement') was signed and started to apply on a provisional basis in accordance with Article 8(1) of the Agreement. The Agreement entered into force on 1 April 2017.
- (2) Since 25 May 2015, Vanuatu has been operating investor citizenship schemes by means of which third-country nationals who are otherwise visa-required have the possibility to obtain the citizenship of Vanuatu in exchange for investment, therefore obtaining visa-free access to the Union.
- (3) In accordance with Article 8(2)(d), 8(3) and 8(6) point (a) of Regulation (EU) 2018/1806, the Commission concluded that the granting of citizenship by Vanuatu under its investor citizenship schemes constitutes an increased risk to the internal security and public policy of the Member States and adopted Implementing Regulation (EU) 2022/693 ⁽³⁾ on the temporary suspension of the visa exemption for nationals of Vanuatu. The suspension applied from 4 May 2022 to 3 February 2023.
- (4) Following the start of application of that Implementing Regulation, in accordance with Article 8(6), point (a), third subparagraph of Regulation (EU) 2018/1806, the Commission established an enhanced dialogue with Vanuatu, with a view to remedying the circumstances having led to the temporary suspension of the visa exemption. However, Vanuatu did not engage in a meaningful way during this phase of the dialogue. Therefore, as the circumstances that led to the suspension persisted, in accordance with Article 8(6), point (b) of Regulation (EU) 2018/1806, on 1 December 2022, the Commission adopted Delegated Regulation (EU) 2023/222 ⁽⁴⁾ temporarily suspending the application of Annex II for a period of 18 months for all nationals of Vanuatu. The suspension applies from 4 February 2023 to 3 August 2024.
- (5) Following the entry into force of that Delegated Regulation, the Commission continued the dialogue with Vanuatu, with four meetings held between February 2023 and April 2024, and numerous information exchanges in writing.

⁽¹⁾ OJ L 303, 28.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1806/oj>.

⁽²⁾ OJ L 173, 3.7.2015, p. 48, ELI: http://data.europa.eu/eli/agree_internation/2015/1035/oj.

⁽³⁾ Commission Implementing Regulation (EU) 2022/693 of 27 April 2022 on the temporary suspension of the visa exemption for nationals of Vanuatu (OJ L 129, 3.5.2022, p. 18, ELI: http://data.europa.eu/eli/reg_impl/2022/693/oj).

⁽⁴⁾ Commission Delegated Regulation (EU) 2023/222 of 1 December 2022 on the temporary suspension of the visa exemption for all nationals of Vanuatu (OJ L 32, 3.2.2023, p. 1, ELI: http://data.europa.eu/eli/reg_del/2023/222/oj).

- (6) Most of the concerns related to the investor citizenship schemes operated by Vanuatu that were presented by the Commission in Implementing Regulation (EU) 2022/693 persist. While Vanuatu adopted a number of legislative changes in 2023 aiming to address those concerns, it has failed to provide satisfactory proof that these changes are being implemented and are sufficient to mitigate the security risks of its investor citizenship schemes.
- (7) The investor citizenship schemes operated by Vanuatu still do not contain any requirement of effective residence or physical presence in Vanuatu for the applicants. The application process continues to be managed by specialised agencies located outside Vanuatu whereby the applicant does not need to have any direct contact with Vanuatu's authorities. No interviews with the applicant are held during the application process. The absence of a requirement for a physical interview reduces the opportunities for the authorities of Vanuatu to properly assess the applicant or to corroborate the information provided in the application, including its veracity and credibility.
- (8) The applications continue to be processed within very short deadlines. In particular, the screening and due diligence process of an application takes maximum 14 days, extendable to 30. The rejection rate has continued to be extremely low, thus corroborating the Commission's assessment concerning the low reliability of the screening process. According to information provided by Vanuatu, in 2022 and 2023, Vanuatu has received 1988 applications for citizenship in exchange of investment, out of which only 27 have been rejected.
- (9) In March 2023, Vanuatu amended its Citizenship Act by replacing the institutions and procedures for the screening and due diligence checks of the applications. In particular, the previous Internal Screening Committee appointed by the Prime Minister has been replaced by three institutions: the Vanuatu Police Force, the Financial Intelligence Unit and the Vanuatu Immigration Services. Those institutions carry out the checks, including on Interpol databases, and report to the Secretary-General of the Citizenship Commission. While on the one hand this new procedure appears to mitigate the risk of granting the citizenship to persons who are listed in Interpol databases, on the other hand it does not include other necessary elements to properly assess the absence of security risks of the applicants. In particular, there is no adequate means for the authorities of Vanuatu to verify the veracity of the documents issued by the applicant's country of origin or residence, including identity documents and criminal records, since those authorities do not exchange information with the applicants' country of origin or residence.
- (10) The countries of origin of successful applicants in 2022 and 2023 include mostly countries whose nationals need a visa for short stays in the Union. In 2023, most applications were from nationals of China (519) and Russia (237). Contrary to other third countries operating investor citizenship schemes, Vanuatu has continued accepting and processing applications from Russian nationals following the start of Russia's war of aggression against Ukraine.
- (11) Before 2021, persons who acquired the citizenship of Vanuatu through an investor citizenship programme could also subsequently apply for a name change in Vanuatu. During the dialogue, Vanuatu informed the Commission that in 2021 the relevant legislation was amended providing that persons holding dual citizenship could not have a change of name registered in Vanuatu. However, Vanuatu also informed the Commission that it does not hold any records of name changes since 2019, so it could not provide any information on the number of persons who acquired the citizenship through investment and subsequently changed their name, or on any follow-up checks on those persons.
- (12) While Vanuatu informed the Commission that, based on its case law, it is possible to revoke the citizenship where this has been obtained through fraud or against the law, it has not provided information on actual cases of revocation of citizenship acquired through the investor schemes. Furthermore, Vanuatu has not implemented any structural *ex-post* monitoring mechanism to address the potential security loopholes of the more than 10 000 passports issued before the change of legislation and allegedly more robust screening procedure. In February 2023, Vanuatu established a Commission of enquiry tasked with investigating any alleged wrongdoings committed during the operation of the schemes since their establishment. In April 2024, Vanuatu informed that the Commission of enquiry's investigation were still ongoing and that it could not provide a certain date on the delivery of its findings.

- (13) In accordance with Article 8(7) of Regulation (EU) 2018/1806, before the end of the period of validity of Delegated Regulation (EU) 2023/222, the Commission has submitted a report to the European Parliament and to the Council ⁽⁵⁾, describing in detail the dialogue with Vanuatu and concluding that Vanuatu has not remedied the circumstances that led to the suspension. That report is accompanied by a legislative proposal ⁽⁶⁾ to amend Regulation (EU) 2018/1806 in order to transfer the reference to Vanuatu from Annex II to Annex I to Regulation (EU) 2018/1806 and therefore reintroduce permanently the visa requirement for nationals of Vanuatu.
- (14) In accordance with Article 8(6), second subparagraph, of Regulation (EU) 2018/1806, where the Commission has submitted such a legislative proposal, the period of suspension of the exemption from the visa requirement concerning Vanuatu is to be extended by 6 months, and the footnote is to be amended accordingly.
- (15) 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 two's association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾, which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC ⁽⁸⁾.
- (16) 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* ⁽⁹⁾, 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/EC ⁽¹⁰⁾.
- (17) 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* ⁽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 2011/350/EU ⁽¹²⁾.

⁽⁵⁾ Report from the Commission to the European Parliament and the Council on the suspension of the visa exemption for nationals of Vanuatu (COM(2024) 366 final of 31 May 2024).

⁽⁶⁾ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1806 as regards Vanuatu (COM(2024) 365 final of 31 May 2024).

⁽⁷⁾ OJ L 176, 10.7.1999, p. 36, ELI: [http://data.europa.eu/eli/agree_internation/1999/439\(1\)/oj](http://data.europa.eu/eli/agree_internation/1999/439(1)/oj).

⁽⁸⁾ 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, ELI: <http://data.europa.eu/eli/dec/1999/437/oj>).

⁽⁹⁾ OJ L 53, 27.2.2008, p. 52, ELI: [http://data.europa.eu/eli/agree_internation/2008/178\(1\)/oj](http://data.europa.eu/eli/agree_internation/2008/178(1)/oj).

⁽¹⁰⁾ 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, ELI: <http://data.europa.eu/eli/dec/2008/146/oj>).

⁽¹¹⁾ OJ L 160, 18.6.2011, p. 21, ELI: <http://data.europa.eu/eli/prot/2011/350/oj>.

⁽¹²⁾ 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, ELI: <http://data.europa.eu/eli/dec/2011/350/oj>).

- (18) This Regulation does not constitute a development of the provisions of the Schengen *acquis* in which Ireland takes part in accordance with Council Decision 2002/192/EC⁽¹³⁾. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (19) As regards Cyprus, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 3(1) of the 2003 Act of Accession,

HAS ADOPTED THIS REGULATION:

Article 1

Temporary suspension of the exemption from the visa requirement

In Annex II to Regulation (EU) 2018/1806, part 1, the entry concerning Vanuatu is replaced by the following:

‘Vanuatu (*)’

(*) The exemption from the visa requirement for all nationals of Vanuatu is suspended from 4 February 2023 to 3 February 2025.’

Article 2

Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 4 August 2024 to 3 February 2025.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 31 May 2024.

For the Commission
The President
Ursula VON DER LEYEN

⁽¹³⁾ 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, ELI: <http://data.europa.eu/eli/dec/2002/192/oj>).