

COMMISSION IMPLEMENTING REGULATION (EU) 2022/693
of 27 April 2022
on 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 (a) 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) On 3 March 2022, the Council adopted Decision (EU) 2022/366 ⁽³⁾ on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver, in accordance with Article 8(4) of the Agreement. The suspension of the application of the Agreement is limited to ordinary passports issued as of 25 May 2015, when the number of successful applicants under Vanuatu's investor citizenship schemes started to increase significantly.
- (3) Whilst Decision (EU) 2022/366 suspended the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver, it is also necessary to provide for the suspension at the level of Union law.
- (4) According to Article 8(3) and (6) of Regulation (EU) 2018/1806, where the Commission has concrete and reliable information that the circumstances referred to in Article 8(2), point (d) exist, namely 'an increased risk or imminent threat to the public policy or internal security of Member States substantiated by objective, concrete and relevant information and data provided by the competent authorities', the Commission is to adopt an implementing act temporarily and partially suspending the exemption from the visa requirement for a period of nine months.
- (5) By means of Vanuatu's investor citizenship schemes operated by Vanuatu since 25 May 2015, 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.
- (6) The said schemes do not contain any requirement of effective residence or physical presence in Vanuatu for the applicants. The application process is managed by specialised agencies located outside Vanuatu (e.g., in Dubai, Thailand and Malaysia) whereby the applicant does not need to have any direct contact with Vanuatu's authorities. 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. The schemes are commonly advertised as a way to by-pass the Schengen visa procedure and easily obtain visa-free access to the EU ⁽⁴⁾. The attractiveness of Vanuatu's schemes is commercially based on their fast-track screening procedures and their light checks on the origin of the funds.

⁽¹⁾ OJ L 303, 28.11.2018, p. 39.

⁽²⁾ OJ L 173, 3.7.2015, p. 48.

⁽³⁾ Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

⁽⁴⁾ Vanuatu Key Benefits - GCI UNIT Vanuatu (vanuatu-dsp-citizenship.com).

- (7) As confirmed by Vanuatu's authorities, the applications are processed within very short deadlines ⁽⁵⁾. Such short processing periods do not allow for a proper security screening and exchange of information with the applicants' country of origin or main past residence before the granting of the citizenship. Due to this short processing period and to the absence of systematic exchange of information with the applicants' country of origin, Vanuatu had granted the citizenship to persons subject to a criminal investigation, including persons listed on Interpol's databases.
- (8) The rejection rate is extremely low, thus corroborating the Commission's assessment concerning the security failures and the low reliability of the screening process. According to information provided by Vanuatu's Passport Office on 14 June 2021, until March 2021, Vanuatu issued over 10 500 passports in exchange for investment under the schemes and by the end of 2020 the Vanuatu authorities had rejected only one application.
- (9) Furthermore, the countries of origin of successful applicants include some that are typically excluded from other citizenship schemes, such as Iran and Afghanistan, and other countries whose nationals need a visa for short stays in the EU, including Nigeria, Yemen, Syria, Pakistan and Libya.
- (10) The security risks are further exacerbated by the lax legislation on name changes. As confirmed by Vanuatu's authorities during the technical meeting held on 15 April 2021, successful citizenship-by-investment applicants can also apply for an identity change.
- (11) The aforementioned circumstances lead to the conclusion that the citizenship-by-investment schemes of Vanuatu, in their current form and operation, go against the objectives of the Union's visa policy, which provides for a screening of nationals from visa-required third countries against the criteria set out in Article 21 of Regulation (EC) No 810/2009 ⁽⁶⁾ and in equivalent national legislation of those Member States where Regulation (EC) No 810/2009 does not yet apply in full. The relevant case by case verifications are carried out in the light of criteria relating, inter alia, to public policy and security. The manner in which the said schemes are being implemented constitutes a circumvention of the Union short-stay visa procedure and the assessment of security and migratory risks it entails.
- (12) In exchanges between the Commission and Vanuatu's authorities in October 2017, November 2019, June 2020 and March 2021, the Commission expressed serious concerns regarding the granting of citizenship to persons listed in Interpol databases, the absence of physical presence or residence requirements, the schemes' short processing periods and the lack of systematic exchange of information with applicants' countries of origin or past main residence, and warned the government of Vanuatu of the possibility of the visa requirement being reinstated. The explanations provided by Vanuatu were not sufficient to alleviate those concerns.
- (13) Taking account of the aforementioned information and data, reports and statistics, and in accordance with Article 8(2)(d), 8(3) and 8(6) of Regulation (EU) 2018/1806, the Commission concludes 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 has decided that action is needed.
- (14) The increased risk to the public policy and internal security linked to the nationals of Vanuatu having obtained the citizenship under the investor citizenship schemes can be mitigated only by means of a partial suspension of the visa exemption.
- (15) In accordance with Article 8(6) of Regulation (EU) 2018/1806, the Commission should, based on the information available, include categories that are broad enough in order to efficiently contribute to remedying the circumstances while respecting the principle of proportionality. Therefore, since Vanuatu does not differentiate between passports issued under investor citizenship schemes and other passports, the suspension should apply to all ordinary passports issued as of 25 May 2015, date on which Vanuatu started issuing a substantial number of passports in exchange for investment.

⁽⁵⁾ How to get citizenship in Vanuatu - GCI UNIT Vanuatu (vanuatu-dsp-citizenship.com): *A fast-track immigration plan offers citizenship in Vanuatu in just 14 to 45 days.*

⁽⁶⁾ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

- (16) Nationals of Vanuatu who entered the EU before the date of entry into force of this Regulation should be allowed to continue their stay in the EU and exit without a visa. This should not apply for the crossing of temporary external borders between Member States as defined in Article 2, point c of Regulation (EU) No 515/2014 of the European Parliament and of the Council ⁽⁷⁾.
- (17) 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*, which fall within the area referred to in point B of Article 1 of Council Decision 1999/437/EC ⁽⁸⁾.
- (18) 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*, which fall within the area referred to in points B and C of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁹⁾.
- (19) 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*, which fall within the area referred to in points B and C of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽¹⁰⁾.
- (20) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽¹¹⁾; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (21) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (22) The measures provided for in this Regulation are in accordance with the opinion of the committee established in accordance with Article 11(1) of Regulation (EU) 2018/1806,

⁽⁷⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

⁽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).

⁽⁹⁾ 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).

⁽¹⁰⁾ 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).

⁽¹¹⁾ 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).

HAS ADOPTED THIS REGULATION:

Article 1

Temporary suspension of the exemption from the visa requirement

The application of the exemption from the visa requirement, provided for in Article 4(1) of Regulation (EU) 2018/1806, with regard to holders of ordinary passports issued by Vanuatu as of 25 May 2015, is temporarily suspended.

Article 2

Continuation of visa-free stay

Holders of passports issued by Vanuatu falling within the scope of Article 1 and having entered the EU before the date of entry into force of this Regulation may continue their stay in the EU and exit without a visa. This does not apply to the crossing of temporary external borders, as defined in Article 2, point c of Regulation (EU) No 515/2014, after the date of entry into force of this Regulation.

Article 3

Entry into force and period of application

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

It shall apply from 4 May 2022 to 3 February 2023.

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

Done at Brussels, 27 April 2022.

For the Commission
The President
Ursula VON DER LEYEN
