

The President

Mr Momchil NEKOV  
Member of the European Parliament  
ASP 11G242 - LOW T07.089  
Brussels - Strasbourg

D 318476 20.10.2016

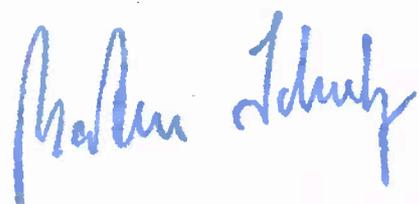
Dear Mr Nekov,

Thank you for your email of 14 July 2016 and for your comments regarding visa reciprocity.

I have transmitted your points of view to the Committee on Civil Liberties, Justice and Home Affairs (LIBE), responsible for the establishment and development of an area of freedom, security and justice, in particular on the measures concerning an integrated management of the common borders, and to the Committee on Legal Affairs responsible for the legal protection of Parliament's rights and prerogatives, including its involvement in actions before the Court of Justice of the European Union, for any appropriate follow-up.

Finally, allow me to inform you that on 12 October 2016, the LIBE Committee held an exchange of views on visa reciprocity with Mr Avramopoulos, Commissioner for Migration, Home Affairs and Citizenship.

Yours sincerely,



**Martin Schulz**

**From:** NEKOV Momchil  
**Sent:** 14 July 2016 11:57  
**To:** SCHULZ Martin, President; MORAES Claude  
**Subject:** Request for initiating legal actions against the European Commission

Dear Mr President,  
Dear Mr Chairman,

I am turning to you with regard to the unlawful actions from the European Commission against five EU member states, which have been demonstrated recently.

On 12 April 2016 expired the deadline until which the authorities of third countries, included in Annex II of Council Regulation (EC) No 539/2001 of 15 March 2001, which still require visas from the citizens of some EU member states, should have informed the European Commission about a roadmap of waiving the visa requirement for the EU member states, whose citizens are still objects of visa discrimination - namely the citizens of Bulgaria, Croatia, Cyprus, Poland and Romania. Until April 12 this measure concerned three countries – Brunei, Canada and the United States of America.

Brunei followed the request of the European Commission and now all EU citizens can travel without a visa to the country. The authorities of Canada and the United States of America, however, decided not to respect the EU policy on visa reciprocity and they still have not offered roadmaps for visa-free regime with all EU member states. This leaves more than 70 million EU citizens in discriminatory and disadvantaged position at times when international treaties, which are supposed to enhance the trade relations between the EU and the countries in question, namely the Transatlantic Trade and Investment Partnership and the Comprehensive Economic and Trade Agreement, are being negotiated and finalised.

On 7 June, the EP Committee on Civil Liberties, Justice and Home Affairs sent a letter to the Commission requesting the Commission to adopt the delegated acts foreseen by the Regulation as soon as possible. Two consecutive presidencies of the Council of the European Union have confirmed that there is no legal way for the consultation proposed by the European commission on 12 April 2016, which also confirms the obligation of the EC to adopt the delegated act in question. On 13 July the European Commission informed in its communication *COM(2016) 481 final* and the accompanying information that the required legal step will not be taken.

This obligation of the European Commission has been confirmed by the Court of Justice of the European Union on 16 July 2015 with its decision regarding case C-88/14.

I find the actions of the Commission from 12 April and respectively from 13 July of not proposing a delegated act for adoption unlawful and unjust and I believe consecutive legal actions need to be taken against the institution, as the European Commission seems not to act on behalf and in the interests of all of EU citizens. This goes against the principle of solidarity, which the European project needs to demonstrate, especially now when the unity of the Union is being challenged.

In this respect, I am turning to both of you in your capacities as President of this house and Chairman of the Committee on Civil Liberties, Justice and Home Affairs with a request to take the respective actions and the legal steps against the unlawful acts of the European Commission by bringing this issue to the Court of Justice of the European Union.

By doing so the European Parliament, which is the only democratically elected institution of the European Union, will show that it speaks with one voice, represents all EU citizens and is eager to act on their behalf.

I remain at your disposal for further information and discussions.

I look forward to hearing from you soon with regard to the legal steps, which you will initiate.

With kind regards,

Momchil NEKOV  
Member of the European Parliament  
ASP 11 G242  
Rue Wiertz 60  
1047 Brussels

**FORM FOR TABLING A QUESTION FOR  
ORAL ANSWER WITH DEBATE (Rule 128)**

**Select only one addressee:**

**COUNCIL**

**COMMISSION**

**AUTHOR(S):** Claude MORAES on behalf of the Committee on Civil liberties, justice and home affairs

**SUBJECT:** Oral question to the Commission regarding its obligations in the field of visa reciprocity in  
(please specify) accordance with Article 1(4) of Regulation 539/01

**TEXT:**

In 2013 the Parliament and the Council adopted Regulation 1289/2013 modifying, among other elements, the so called reciprocity mechanism of Regulation 539/2001. The objective of this mechanism is to ensure that EU citizens should be subject to the same conditions when travelling to a third country than the nationals of that third country are when travelling to the EU. The reciprocity mechanism sets out a procedure with precise timeframes and actions to be taken with a view to ending a situation of non-reciprocity starting with such a situation being notified by a Member State to the Commission. Notifications of five Member States were published by the Commission on 12 April 2014 (OJ C, 12.4.2014, p.1). The mechanism foresees, after intermediary steps, that “if the third country has not lifted the visa requirement within 24 months of the date of publication of the notifications, the Regulation requires the Commission to adopt a delegated act temporarily suspending for 12 months the visa waiver for nationals of that third country” (COM(2016)221, p.3, see letter (f) of Article 1(4) of Article 1(4)).

On 12 April 2016 the Commission has, however, instead of presenting the delegated act as required, decided to present the communication just cited explaining the state of play. This was followed by a further communication on 13 July 2016 (COM(2016)481).

In this context:

1) Does the Commission share the legal assessment according to which it is obliged to adopt a delegated act temporarily suspending the exemption from the visa requirement for the nationals of the third countries which have not lifted the visa requirement for citizens of certain EU Member States within the period of 24 months from the date of publication of the notifications in this regard which ended on 12 April 2016?

2) In case the Commission agrees with the assessment that it is obliged to adopt a delegated act, by when will the Commission present the delegated act?

3) If the Commission does not agree, what are its reasons for not agreeing with that assessment?

Signature(s):

Date: