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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**On the fulfilment by Peru of the relevant criteria in view of the negotiation of a visa
waiver agreement between the European Union and Peru**

{SWD(2014) 328 final}

1. INTRODUCTION AND BACKGROUND

European Parliament and Council Regulation No 509/2014¹ (hereinafter the ‘amending Regulation’) amended Council Regulation No 539/2001² and in particular its annexes containing the lists of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Nineteen countries were transferred from Annex I (visa obligation) to Annex II (visa exemption), namely Colombia, Dominica, Grenada, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Peru, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Solomon Islands, Timor-Leste, Tonga, Trinidad and Tobago, Tuvalu, the United Arab Emirates and Vanuatu. The amending Regulation further specified that the exemption from the visa requirement for nationals of these 19 countries should only apply from the date of entry into force of an agreement on visa waiver to be concluded by each of these countries with the European Union.

Recital 5 of the amending Regulation states that before opening negotiations on bilateral visa waiver agreements with Colombia and Peru, the Commission would have to further assess the situation of these two countries with regard to the criteria set out in the amending Regulation. Indeed, the amending Regulation has formalised (by transferring them from a recital to a new article) and enlarged the traditional list of criteria that were being considered until now. The non-exhaustive list of the criteria that henceforth determine, based on a case-by-case assessment, the third countries whose nationals are subject to, or exempt from, the visa obligation, can be found in Article 1(1) of the amending Regulation: *‘illegal immigration, public policy and security, economic benefit, in particular in terms of tourism and foreign trade, and the Union’s external relations with the relevant third countries, including in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence and reciprocity’*.

With this report, and a separate one adopted in parallel covering Colombia, the Commission fulfils the above-mentioned requirement. Both reports are accompanied by Commission staff working documents presenting the detailed data that underpin their conclusions and containing information about the data sources and methodology used to produce the assessment.

In preparing the assessment, the Commission requested and received contributions from three EU agencies: EASO, Europol and Frontex. The EU Delegation in Peru provided a comprehensive report on EU-Peru relations. Spain, as the Member State traditionally most affected by migration from Peru, provided additional information. Peruvian authorities showed a high degree of willingness to cooperate with the Commission during the preparation of the assessment.

¹ OJ L 149, 20.05.2014, p. 67.

² OJ L 81, 21.03.2001, p. 1.

2. ASSESSMENT OF THE CRITERIA

This report broadly reflects the criteria listed in Article 1(1) of the amending Regulation; it also assesses the possible risk scenarios stemming from visa liberalisation, before presenting the conclusions.

2.1. *Migration and mobility*

Schengen visas

Analysis of statistics on Schengen visas applied for and issued in Peru in recent years leads to the following observations:

- More Peruvians are willing to travel to the Schengen area for tourism, business or other types of short stays. The number of Schengen visas issued in Peru has grown by 21 % in the last four years. While in 2010 the number of visas issued was 39914, by 2013 the number had reached 48488. This increase is probably linked to the significant economic growth experienced by Peru in the last decade;
- The vast majority of Peruvian applicants (93.3 % in 2013) are considered to be *bona fide* travellers who pose no risk and therefore obtain a short-stay visa, with the visa refusal rate having decreased significantly in the last four years, from 11.6 % in 2010 to 6.7 % in 2013.

Legal migration

The resident population of Peruvians (not counting those having acquired the citizenship of a Member State) in the EU+³ in 2013 can be estimated to be around 206000, with slightly more Peruvians now residing in Italy than in Spain. The data show that after a period of significant growth, mostly in Spain and Italy, legal migration of Peruvians to the EU is currently at a relatively low level. This is due in part to the economic crisis, meaning fewer jobs and opportunities for migrants in the EU+, thus reducing the pull factors, and to the clear improvement of the economic situation in Peru, which means today Peruvians are looking for local employment and the opportunity to develop successful businesses within the country, thus reducing the push factors. The Peruvian government is at present promoting the return of Peruvians residing abroad through implementation of the 'Law on the economic and social re-integration of the returning immigrant' and its accompanying regulations, which will facilitate the return of Peruvians to the country. The Law provides that returning Peruvians can have easier access to credit for starting up a business, tax exemptions are granted for the import of emigrants' goods, and facilitated access to scholarships for university studies and educational credits as well as to housing loans and to public health insurance is available.

As long as Peru's economy continues growing at the current rates, averaging more than 6 % GDP growth in the last 10 years, Peruvians will have less of an incentive to emigrate. The current economic situation in the EU, together with geography and established communities, may explain why more Peruvians have been legally emigrating to the United States than to the EU in recent years.

³ Whenever 'EU totals' are presented, they exclude, unless otherwise stated, the United Kingdom and Ireland as these two countries do not participate in the EU's common visa policy. Whenever 'EU+ totals' are presented, these include data for the four Schengen associated countries (Iceland, Liechtenstein, Norway and Switzerland).

Irregular migration

Data on entry refusals, apprehensions and returns show that Peru is not a significant source country of irregular migrants to the EU. Some negative trends recorded years ago have all but disappeared now and the situation has improved markedly in recent years, with decreasing numbers of refusals and apprehensions. The number of Peruvians found to be in an irregular migration situation in the EU+ in 2013 was 1050. Given that the figure for 2008 was 1950, the number of apprehensions has almost halved over that period. Several factors may be at work here: the economic downturn in the EU, and in particular in Spain and Italy (main Member States of destination for Peruvian irregular migrants), means fewer jobs and opportunities, while improved economic conditions in Peru provide Peruvians with the appropriate conditions for obtaining prosperity at home.

The gap between the number of return decisions issued and the number of effected returns to a third country is measured by the so-called 'return ratio'. The return ratio for Peruvians was very low between 2008 and 2011 (less than 20%) but since then it has progressively improved (26.1% in 2012 and 37.3% in 2013), so it is now very similar to the average return ratio worldwide (36.6%). The cooperation on return with the Peruvian authorities is excellent, according to the authorities of the most affected Member State, Spain⁴ – the two countries signed a migration cooperation agreement, covering return, in 2004. Possible causes of the relatively low return ratio are absconding migrants and appeals filed against the return decisions.

According to Frontex, compared to overall irregular migration pressures faced by the EU, the risks arising from a visa waiver for Peruvian citizens are likely to remain fairly modest, although it is also likely that the number of entry refusals will increase, as evidenced by other visa liberalisation cases.

The relatively high asylum flows from Peru in the early 1990s was a short-lived phenomenon. The number of asylum applications has remained at very low levels in the past six years, with just 105 asylum applications from Peruvians recorded in 2013. Most of the asylum decisions were negative over that period. Current low levels are likely to continue, with or without lifting of the visa obligation. A significant increase in unfounded asylum applications, similar to what happened after previous visa liberalisation processes, is an unlikely scenario given the vastly different circumstances. For example, travel costs are much higher in the case of Peru and there is no history of large-scale submission of unfounded asylum applications associated with different economically marginalised groups of Peruvian society. In other words, abusing the visa-free regime for the purpose of requesting asylum is simply not economically viable given that the travel costs for a family are significantly higher than the expected benefits associated with the asylum procedure in the EU.

It is worth noting that any increased risk of irregular migration that may follow the introduction of visa-free travel for Peruvian citizens could be partially offset by reinforced cooperation between the EU and Peru in preventing and combating irregular migration,

⁴ Spain issued 385 return decisions to Peruvians in 2013 ; Italy came next with 205.

including through cooperation on return, and in this regard concluding an EU readmission agreement would be an option to consider.

Security of Peruvian travel documents and document fraud involving Peruvians

Although Peruvian authorities have made efforts to incorporate the required international specifications into their national passports, further improvements could be made by addressing two minor technical issues of Peruvian passports (namely the re-validation page and bar code on bio page). Notwithstanding this, over the last few years the government has increased the security features of the passports and simplified the procedure for issuing them.

The Peruvian Ministry of Foreign Affairs (MFA) has confirmed Peru's commitment to issue biometric passports in the near future. Together with the *Superintendencia de Migraciones*, which is part of the Ministry of the Interior and whose competencies include the issuing of passports to Peruvian citizens, the MFA has drawn up the terms of reference and launched a public tender to identify the company that will be in charge of the process. According to official sources, the public bidding for implementation of the biometric passport will take place in the second half of 2014.

As things stand, there do not seem to be significant risks related to Peruvian nationals engaging in document fraud or to Peruvian travel documents being fraudulently used. However, if Peruvian travel documents afford visa-free entry to their holders in the future, it is likely they will become more attractive to fraudsters. Increased vigilance by border guards will be required to identify this type of fraud.

2.2. Crime and security

Peruvian organised crime groups (OCGs) are present only to a limited extent in the EU. Latin American OCGs favour the Iberian Peninsula as their base of operations due to cultural, linguistic and historical ties. Here, they are particularly involved in the cocaine trade (Colombia and Peru are the world's biggest producers of cocaine) and laundering of criminal proceeds.

Latin American OCGs are mainly active in drugs production and trafficking, predominantly cocaine, as well as euro counterfeiting, trafficking in human beings for sexual exploitation, organised property crime, payment card frauds and money laundering.

Europol has reported that, given the certain increase in passenger flows from Peru, OCGs involved in drug trafficking are very likely to try to take advantage of the growing number of passengers travelling between Peru and the EU+ by increasingly relying on drug and money couriers. Mobile OCGs originating from Peru will be able to enter and leave the EU more freely. Peruvian OCGs may also exploit irregular migrants using facilitation services for the legalisation of long-term stay by recruiting them as cash or drug couriers as payment for their services.

Visa-free regimes tend particularly to facilitate crimes involving persons such as the facilitation of irregular migration and trafficking in human beings (THB). Visa-free travel and easier access to the Schengen area could also enhance the mobility of OCGs and individual criminals by eliminating the filter that the visa obligation currently provides and by enabling them, once in the Schengen area, to pass from one country to another without going through border controls.

Peru has ratified the UN Convention against Transnational Organized Crime and the Palermo Protocol on THB, and has in place a comprehensive legal framework in line with international standards. Peru should continue its efforts towards strengthening the judiciary system, including judicial cooperation in criminal matters, in particular mutual legal assistance.

2.3. *Economy, trade and tourism*

Peru has a population of almost 30 million. The value of its economy in 2012 was estimated by the World Bank to be USD 192.6 billion, making it the 48th biggest economy in the world. The GNI (PPP) per capita in 2012 was USD 10 770, similar to that of Colombia. In the past decade the annual growth of Peru's economy has averaged 6.5%, one of the highest in the world. The percentage of people living under the poverty line decreased from 59% of the population in 2004 to 25.8% in 2012. Unemployment is less than 9% and inflation is stable at around 3%.

The EU is one of the most important trade partners of Peru. The EU is also the largest foreign investor in the country (50% of the total FDI). Trade between the EU and Peru has grown significantly in recent years and its total value reached EUR 8.8 billion in 2013 (14.1% of the total trade of Peru). The EU is Peru's third biggest export market (EUR 5.3 billion, 16.3% of total), mainly composed of raw materials (minerals, fuels, agricultural products), and the EU is the third most important market of origin for Peru's imports (EUR 3.5 billion, 12% of total), which are mainly industrial products (machinery and transport equipment, other manufactured goods, chemicals).

The EU-Peru Trade Agreement has been applied provisionally since 1 March 2013 and trade flows of goods are expected to increase in the coming years. The Agreement will liberalise trade for nearly 98% of goods, and widely opens market access for services, investment and procurement, and establishes common disciplines in all trade-related areas. Furthermore, Peru, together with the EU, is amongst the 23 WTO-members that are negotiating a multilateral ambitious Trade in Services Agreement ("TiSA"), which includes a strong "mode 4" component. In this context, visa-free travel for Peruvian businesspeople could lead to stronger economic ties between Peruvian and European companies, as more frequent participation of Peruvian businesspeople in trade fairs in the EU could for instance result in more orders for products produced by European businesses.

The number of Peruvian tourists in the EU+ has increased in recent years. According to data provided by the Peruvian authorities, between 2010 and 2013 there was a 12.9% increase in Peruvian tourists' departures for EU+ countries. In 2013 the number of Peruvian tourists departing for EU+ countries was 154 349,⁵ up from 136 734 in 2010. In 2013 the main destinations were Spain (93 121), the Netherlands (33 059), France (18 203) and Italy (6 309).⁶

⁵ This number is much higher than the number of Schengen visas issued. The difference may be due to several factors: around 30% of Schengen visas issued in Peru are multiple entry visas; some Peruvians recorded as departing tourists may hold a valid residence permit issued by a Schengen State; etc.

⁶ It must be noted that these figures seem to reflect the first arrival point in European territory and the availability of direct flights between Peru and Spain, the Netherlands and France, and not necessarily the main destination of the trip.

According to information obtained by the EU Delegation in Bogota, which can be applied to the case of Peru, given the similarity in the characteristics of tourist outflows from Peru and Colombia, European airlines flying the routes between Colombia and the Schengen area expect a 10-20% increase in the number of passengers if visa liberalisation becomes a reality. This estimate, similar to the one reported by the Colombian authorities to Frontex (+17%), is mainly based on increases observed in other routes after visa liberalisation.

In any case, tourist flows from Peru are increasing every year, so visa liberalisation would provide an extra boost to tourist flows between Peru and the EU+. Based on these figures and past and estimated future growth rates, it could be realistic to expect between 200 000 and 225 000 Peruvian tourists in 2016 in EU+ countries, assuming that 2016 would be the first full year when visa-free travel becomes a reality between Peru and the Schengen area.

2.4. External relations, in particular with the EU, and human rights issues

External relations

Peru's foreign policy focuses primarily on strengthening good relations with its neighbours on all fronts, developing more intense trade relations with Asia, while preserving good relations with the EU and the US. At regional level, Peru is playing a constructive role.

Peru is a member of the Pacific Alliance composed of four Latin American countries (Peru, Colombia, Chile and Mexico) whose aim is to strengthen economic/trade integration, but also going further by cooperating on migration, education, security and other issues. Peru also participates in the negotiations on the Trans Pacific Partnership Initiative.

After Venezuela's withdrawal from the Andean Community (CAN), the four active members of CAN are Peru, Bolivia, Colombia and Ecuador. CAN is currently in a transition phase and the scope of the organization has been mainly reduced to trade, infrastructure and mobility of citizens.

Peru is one of the European Union's foremost partners in Latin America. The EU is one of the largest aid donors and keeps the highest stock of foreign investments. Bilateral relations are fluid and good and cover *inter alia* high-level policy dialogue, trade and investment, the fight against drug trafficking as well as a still significant development cooperation envelope (EUR 66 million for 2014-2017 just for the bilateral cooperation). EU development cooperation funds are supporting Peru's efforts to modernise the State, strengthen social inclusion, fight against malnutrition and against drugs and drug trafficking, as well as to promote alternative development, product diversification and ecological trade.

The EU has a regular informal policy dialogue with Peru (established under the framework of a Memorandum of Understanding signed in 2009) addressing issues of mutual interest such as good governance, foreign policy, social conflicts and extractive industries, human rights and drugs. Meetings take place every year with the participation of high-level representatives of the Ministry of Foreign Affairs and other competent ministries and EU officials.

Peru shares the EU's vision on many global challenges and has similar strategic interests (democracy, human rights, good governance, environment and climate change, fight against

drugs). Collaboration with Peru in multilateral fora is increasing (such as in the context of the UN Human Rights Council or in respect of climate change – Peru is hosting the COP20 in 2014). In these multilateral fora, Peru has generally been supportive of EU positions.

Human rights

With the participation of civil society, Peru is implementing a medium and long-term policy to enhance the protection of human rights. Peru has established high-level institutions such as the National Human Rights Council and the National Labour and Employment Promotion Council, whose objectives are to promote and defend civil, political, socio-economic and cultural rights, and which have designed and implemented various activities, programmes and strategies, such as the National Strategy for the prevention and eradication of child labour, the National Environmental Action Plan and the Prior Consultation Law. In July 2014, the government adopted the National Plan for Human Rights 2014-16.

Human rights are guaranteed by the Peruvian Constitution and external observers confirm that the situation over the last years has improved. Civil society organisations focus mainly on cases of judicial harassment against environmentalist organisations and human rights defenders who are often part of social protests against extractive industries. There are also reports of excessive use of force by the police against protesters in social conflicts.

The most relevant human rights issues in Peru are as follows:

- a) The debate about the Truth and Reconciliation Committee's final report assessing the causes and consequences of the political violence between 1980 and 2000 is still a source of polarisation in Peru. Another pending issue connected with the post-internal conflict has to do with the judicial prosecution of human rights offenders (during the internal conflict). In addition, reparation to victims is generally considered insufficient.
- b) Social and economic rights: poverty and extreme poverty rates have fallen by 11.5% and 4.9% over the last five years but the rates at rural level remain relatively high. However, it is to be noted that social policies are an important pillar of President Humala's government programme and several new social initiatives targeting the poorest sections of society have been launched nationwide.
- c) Prior consultation of indigenous communities: Immediately after his election, President Humala approved the pending Prior Consultation Law implementing ILO Convention N° 169 in order to guarantee the rights of indigenous populations to be consulted on any decision that may impact on their territory and livelihood. The current challenge is to implement the law, especially where it concerns the rights of indigenous peoples vis-à-vis investment interests.
- d) Women's rights: Even if Peru has subscribed to all UN Conventions relating to women's rights, women are still weakly represented at the higher levels of decision-making, their average rate of analphabetism remains higher than for men, fewer women form part of the formal economy and their average salary is significantly lower than that of men. Protection of the health and reproductive rights of women needs to be improved and the rates of violence against women and girls, including rape, domestic abuse and sexual, physical and mental abuse remain a serious problem.

e) Children's rights: in the rural, mountain and Amazonian areas, many children's rights are not respected, in particular in terms of identity/registry, education, malnutrition, child labour, violence and sexual abuse/exploitation.

f) There is still significant gender and racial discrimination, especially against women, indigenous peoples, disabled people, the LGBTI community and people affected by HIV/AIDS.

2.5. Regional coherence

Taking Latin America as the region of reference, Peru is in the minority of countries whose citizens require a visa.⁷ The past history of internal conflict and violence, drug production/trafficking and the resulting migratory and security risks explain why a visa has traditionally been required from Peruvian citizens. Peru has however made significant advances in tackling these problems, as shown in other sections of this report. While few countries in Peru's neighbourhood can be considered to be entirely risk-free, most of them have traditionally enjoyed visa-free status for the Schengen area. It might therefore seem incongruous to keep the visa requirement for Peruvians while exempting the citizens of most of the other countries in the region.

2.6. Reciprocity

Most EU citizens have traditionally been exempted from the visa obligation to enter Peru. Today, all EU citizens are exempted from the visa requirement to enter Peru for stays of up to six months. Therefore, Peru already complies with, and even goes beyond, the reciprocity conditions. Notwithstanding this, any future visa waiver agreement between the EU and Peru would need to confirm reciprocal visa-free travel.

3. RISK SCENARIOS

Given all the trends, events and developments described above, it is possible to imagine at least two risk scenarios for the Schengen area following the abolition of the visa requirement for Peruvian citizens.

3.1. Low risk scenario

Under this scenario, visa-free travel for Peruvians would not produce any undesirable consequences for the EU+. This scenario assumes that the Peruvian economy will continue to grow at a healthy pace, leading to higher salaries and lower unemployment and poverty rates. Criminal groups' activities would decrease, as would the importance of drug production and trafficking. Democracy and fundamental rights would be further consolidated. Peru would then fulfil its development potential.

⁷ Six countries, namely Cuba, Dominican Republic, Colombia, Ecuador, Peru and Bolivia. The remaining 13 Latin American countries are visa-free: Mexico, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Venezuela, Brazil, Argentina, Uruguay, Paraguay and Chile.

Continued economic growth would eliminate the only existing push factors that influence irregular migration to the EU+. Trade with and tourism towards the EU+ would be likely to increase, bringing tangible economic benefits.

3.2. *Medium risk scenario*

Under this scenario, Peru's economy continues growing, albeit at a much slower pace; crime levels increase; the country's mechanisms of protection of human rights would become weaker which may lead to abuses, thus necessitating close monitoring of the human rights situation.

These problems could become factors that would push some Peruvians to abuse the visa-free regime and enter the EU+ territory legally while intending to stay irregularly after the legal period of short stay (90 days). Criminal networks could also prosper in an unstable Peru and export their criminal activities to the EU+ more easily.

Should these negative developments occur and lead to significant threats to the Union in terms of migration, security or other areas, the Union must be able to react quickly to any worsening situation. The visa waiver agreement to be negotiated with Peru should include in its final provisions the possibility for each Contracting Party to suspend and terminate the agreement. This will guarantee that, if a situation becomes worrying, quick remedying action will be possible. In addition, the possibility of reinforcing cooperation with Peru on facilitated return of irregular migrants and failed asylum applicants could be considered as outlined above in order to compensate for a possible rise in irregular immigration. Such cooperation would further reduce any need for suspension or termination of the visa waiver agreement.

4. CONCLUSIONS

The information contained in this report, demonstrating the significant improvement of the Peruvian economic and social situation in recent years, provides justification that Peruvians should be granted visa-free entry into the Schengen area, as is already the case for citizens of most Latin American countries.

This report has shown that trust in Peruvian visa applicants is on the rise; irregular migration is at very low levels; Peruvian travel documents are secure enough; security threats have receded; Peruvian organised crime groups (OCGs) are currently not assessed as a significant threat to the EU (with the exception of those involved in drug trafficking); economic opportunities, including greater trade and touristic flows, are expanding in parallel with significant growth of the Peruvian economy; human rights and fundamental freedoms are now much better protected and respected in Peru than in the past; reciprocity will be ensured as Peru already exempts all EU citizens from the visa obligation; and the relationship between the EU and Peru is strong and stable.

These positive developments do not mean that eliminating the visa requirement for Peruvian citizens is an entirely risk-free exercise. Although the impact of visa liberalisation on serious organised crime is considered to be limited and it is unlikely that the establishment of a visa-free regime with Peru will lead to a notable increase in the activities of OCGs originating from this country in the EU, Peruvian OCGs continue to act as traffickers of cocaine to Europe and visa liberalisation may facilitate their activities. While the bulk of cocaine is smuggled to the EU by sea using containers on commercial routes, the use of drug couriers is still an important *modus operandi*. An increase in passenger flows resulting from the introduction of visa-free travel will allow OCGs to intensify their use of individual couriers.

There is also a risk of an increase in trafficked people and in the number of Peruvians who enter the EU+ legally but intend to overstay, thus becoming irregular migrants.

These risks are nevertheless considered to be manageable. Most of them could be minimised by reinforced cooperation on return as mentioned above, and by ensuring that border controls are correctly implemented, with reinforced resources if necessary, at the airports through which most Peruvians reach the Schengen area's external borders, given that with increasing numbers of arrivals from Peru in the event of visa-free travel becoming a reality, vetting of travellers will shift from consulates to border control authorities.

In any case, the visa waiver agreement to be negotiated with Peru will contain the necessary safeguards to suspend or terminate the agreement should this be required to avoid security or migration risks for the Union. In order to keep track of any negative developments, the Commission will set up a post-visa liberalisation monitoring mechanism focusing on potential migratory and security threats, and their causes.

As a consequence of the positive assessment of Peru contained in this report, and while special consideration should be given to the need for, and modalities of, engaging Peru in reinforced cooperation on return, the Commission intends to present to the Council soon, once this report has been discussed in the appropriate committees and groups of the European Parliament and the Council, a recommendation for a decision to authorise the Commission to open negotiations for the conclusion of a short-stay visa waiver agreement between the EU and Peru.