



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 17 July 2012
(OR. en)**

11044/12

**Interinstitutional File:
2012/0137 (NLE)**

**VISA 122
COEST 204
OC 300**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: AGREEMENT between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas

COMMON GUIDELINES

Consultation deadline for Croatia: 18.7.2012

AGREEMENT
BETWEEN THE EUROPEAN UNION
AND UKRAINE
AMENDING THE AGREEMENT
BETWEEN THE EUROPEAN COMMUNITY
AND UKRAINE
ON THE FACILITATION OF THE ISSUANCE OF VISAS

THE EUROPEAN UNION,

of the one part, and

UKRAINE,

of the other part,

hereinafter referred to as 'the Parties',

HAVING REGARD to the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas, which entered into force on 1 January 2008,

DESIRING to further facilitate people to people contacts,

RECOGNISING the importance of the introduction of a visafree travel regime for the citizens of Ukraine in due course, provided that the conditions for well-managed and secure mobility are in place,

TAKING INTO ACCOUNT the entry into force of 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)¹, which, in particular provides for the obligatory motivation of a visa refusal and the right to appeal for applicants in case of refusal,

¹ OJEU L 243, 15.9.2009, p. 1.

TAKING INTO ACCOUNT the Protocol on the Schengen *acquis* integrated into the framework of the European Union and the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and confirming that the provisions of this Agreement do not apply to the United Kingdom and Ireland,

TAKING INTO ACCOUNT the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union and confirming that the provisions of this Agreement do not apply to Denmark,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

The Agreement between the European Community and Ukraine on the facilitation of the issuance of visas, hereinafter referred to as 'the Agreement', shall be amended in accordance with the provisions of this Article:

(1) In the title, the word "Community" shall be replaced by the word "Union".

(2) In Article 1(2), the following first subparagraph shall be inserted:

Ukraine may only reintroduce the visa requirement for citizens or certain categories of citizens of all Member States and not for citizens or certain categories of citizens of individual Member States.

(3) In Article 2(1) and (2), the word "Community" shall be replaced by the words "European Union".

(4) In Article 3 point (e), the word "Community" shall be replaced by the words "European Union".

(5) Article 4(1) shall be amended as follows:

(a) point (c) shall be replaced by the following:

"(c) for drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine:

- a written request from the national association of carriers of Ukraine providing for international road transportation, stating the purpose, duration, destination(s), and frequency of the trips;"

(b) point (e) shall be replaced by the following:

"(e) for journalists and the technical crew accompanying them in a professional capacity:

- a certificate or other document issued by a professional organisation or the applicant's employer proving that the person concerned is a qualified journalist and stating that the purpose of the journey is to carry out journalistic work or proving that the person is a member of the technical crew accompanying the journalist in a professional capacity;"

(c) point (i) shall be replaced by the following:

"(i) for participants in official exchange programmes organised by twin cities and other municipal entities:

- a written request of the Head of Administration/Mayor of those cities or other municipal entities;"

(d) point (j) shall be replaced by the following:

"(j) for close relatives — spouse, children (including adopted), parents (including custodians), grandparents and grandchildren — visiting citizens of Ukraine legally residing in the territory of the Member States or citizens of the European Union residing in the territory of the Member State of which they are nationals:

- a written request from the host person;"

(e) point (m) shall be replaced by the following:

"(m) for visiting for medical reasons and necessary accompanying persons:

- an official document of the medical institution confirming the necessity of medical care in that institution, the necessity of being accompanied and proof of sufficient financial means to pay the medical treatment; "

(f) the following points shall be added:

"(n) for representatives of civil society organisations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes:

- a written request issued by the host organisation, a confirmation that the person is representing the civil society organisation and the certificate on establishment of such organisation from the relevant Register issued by a state authority in accordance with the national legislation;

(o) for members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States:

- a written request from the host organisation confirming that the person concerned is participating in the event;

(p) for representatives of religious communities:

- a written request from a religious community registered in Ukraine, stating the purpose, duration and frequency of the trips;

- (q) for participants in official European Union cross-border cooperation programmes, such as under the European Neighbourhood and Partnership Instrument (ENPI):
 - a written request by the host organisation."

(6) In Article 5, paragraphs 1 to 3, shall be replaced by the following:

"1. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of five years to the following categories of persons:

- (a) members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, national and regional prosecutors and their deputies, if they are not exempted from the visa requirement by the present Agreement, in the exercise of their duties;
- (b) permanent members of official delegations who, following official invitations addressed to Ukraine, shall regularly participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;
- (c) spouses and children (including adopted), who are under the age of 21 or are dependant, and parents (including custodians) visiting citizens of Ukraine legally residing in the territory of the Member States or citizens of the European Union residing in the territory of the Member State of which they are nationals;

- (d) business people and representatives of business organisations who regularly travel to the Member States;
- (e) journalists and the technical crew accompanying them in a professional capacity.

By way of derogation from the first subparagraph, where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, the term of validity of the multiple-entry visa shall be limited to that period, in particular where

- in the case of the persons referred to in point (a), the term of office,
- in the case of the persons referred to in point (b), the term of the validity of the status as a permanent member of an official delegation,
- in the case of the persons referred to in point (c), the period of validity of the authorisation for legal residence of citizens of Ukraine legally residing in the European Union,
- in the case of the persons referred to in point (d), the term of validity of the status as a representative of the business organisation or the work contract,
- in the case of the persons referred to in point (e), the work contract

is less than five years.

2. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of one year to the following categories of persons, provided that during the previous year they have obtained at least one visa, have made use of it in accordance with the laws on entry and stay of the visited State:
- (a) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine;
 - (b) members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;
 - (c) persons participating in scientific, cultural and artistic activities, including university and other exchange programmes, who regularly travel to the Member States;
 - (d) participants in international sports events and persons accompanying them in a professional capacity;
 - (e) participants in official exchange programmes organised by twin cities and other municipal entities;
 - (f) representatives of civil society organisations travelling regularly to Member States for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;

- (g) for participants in official European Union cross-border cooperation programmes, such as under the European Neighbourhood and Partnership Instrument (ENPI);
- (h) students and post-graduate students who regularly travel for the purposes of study or educational training, including in the framework of exchange programmes;
- (i) for representatives of religious communities:
- (j) for members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States;
- (k) persons needing to visit regularly for medical reasons and necessary accompanying persons.

By way of derogation from the first subparagraph, where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, the term of validity of the multiple-entry visa shall be limited to that period.

3. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of a minimum of two years and a maximum of five years to the categories of persons referred to in paragraph 2 of this Article, provided that during the previous two years they have made use of the one year multiple-entry visas in accordance with the laws on entry and stay of the visited State unless the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, in which case the term of validity of the multiple-entry visa shall be limited to that period."

(7) Article 6 shall be amended as follows:

- (a) paragraph 3 shall be replaced by the following:

"3. The Member States shall charge a fee of EUR 70 for processing visas in cases where, based on the distance between the applicant's place of residence and the place where the application has been submitted, the applicant has requested that a decision on the application be taken within three days of its submission, and the consulate has accepted to take a decision within three days.";

- (b) in paragraph 4,

- (i) the introductory words shall be replaced by the following:

"4. Without prejudice to paragraph 5 fees for processing the visa application are waived for the following categories of persons:";

(ii) in point (a) the following words shall be added:

"or citizens of the European Union residing in the territory of the Member State of which they are nationals";

(iii) in point (i) the following words shall be added:

"and other municipal entities";

(iv) in point (j) the following words shall be added:

"and the technical crew accompanying them in a professional capacity";

(v) the following points shall be added:

"(o) representatives of the religious communities;

(p) for members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States;

(q) participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations;

- (r) representatives of civil society organisations undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;
- (s) for participants in official European Union cross-border cooperation programmes, such as under the European Neighbourhood and Partnership Instrument (ENPI).";

(vi) the following subparagraph shall be added:

"The first subparagraph shall apply also where the purpose of the journey is transit.";

(c) the following paragraph shall be added:

"5. If a Member State cooperates with an external service provider in view of issuing a visa the external service provider may charge a service fee. This fee shall be proportionate to the costs incurred by the external service provider while performing its tasks and shall not exceed EUR 30. The Member States shall maintain the possibility for all applicants to lodge their applications directly at their consulates. If applicants are required to obtain an appointment for the lodging of an application the appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested.".

(8) Article 10 shall be amended as follows:

(a) the title shall be replaced by the following:

"Diplomatic and service passports";

(b) in paragraph 2, which shall be renumbered 3, the words "in paragraph 1" shall be replaced by the words "in paragraphs 1 and 2";

(c) a new paragraph 2 shall be inserted as follows:

"2. Citizens of Ukraine who are holders of valid biometric service passports can enter, leave and transit through the territories of the Member States without visas."

(9) Article 12(1) shall be amended as follows:

(a) in the first sentence the word "Community" shall be replaced by the word "Union";

(b) in the second sentence, the word "Community" shall be replaced by the words "European Union" and the words "Commission of the European Communities" by the words "European Commission."

(10) Article 13 shall be amended as follows:

- (a) the existing paragraph shall be numbered as paragraph 1;
- (b) the following paragraph shall be added:

"2. The provisions of bilateral Agreements or arrangements between individual Member States and Ukraine concluded before the entry into force of this Agreement providing for the exemption of the holders of non-biometric service passports from the visa requirement shall continue to apply without prejudice to the right of the Member States concerned or Ukraine to denounce or suspend these bilateral agreements or arrangements."

ARTICLE 2

This Agreement shall be ratified or approved by the Parties in accordance with their respective procedures and shall enter into force on the first day of the second month following the date on which the last Party notifies the other that the procedures referred to above have been completed.

Done at ..., on the ... day of ... in the year two thousand and twelve, in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian languages, each of those texts being equally authentic.

For the European Union

For Ukraine

EUROPEAN UNION DECLARATION
ON DOCUMENTS TO BE SUBMITTED
WHEN APPLYING FOR SHORT-STAY VISAS

The European Union will establish a harmonised list of supporting documents, in accordance with Article 48(1) (a) of the Visa Code, in order to ensure that applicants from Ukraine are required to submit, in principle, the same supporting documents.

EUROPEAN UNION DECLARATION
ON FACILITATIONS FOR FAMILY MEMBERS

The European Union takes note of the suggestion of Ukraine to give a wider definition to the notion of family members that should benefit from visa facilitation as well as of the importance that Ukraine attaches to the simplification of movement of this category of persons.

In order to ease the mobility of an extended number of persons which have family links (in particular sisters and brothers and their children) with citizens of Ukraine legally residing in the territories of Member States or with citizens of the European Union residing in the territory of the Member State of which they are nationals, the European Union invites the Member States' consular offices to make full use of the existing possibilities in the Visa Code for facilitating the issuance of visas to this category of persons, including in particular, the simplification of documentary evidence requested for the applicants, exemptions from handling fees and, where appropriate, the issuing of multiple-entry visas.

EUROPEAN UNION DECLARATION
ON ARTICLE 10 (2) OF THE AGREEMENT

The European Union may invoke a partial suspension of the Agreement and in particular of Article 10(2), in accordance with the procedure set up by Article 14(5) of the Agreement, if the implementation of Article 10(2) is abused by Ukraine or leads to a threat to public security. If the implementation of Article 10(2) is suspended, the European Union shall initiate consultations in the framework of the Committee set up by the Agreement with a view to solving the problems that led to the suspension.

JOINT DECLARATION
CONCERNING SWITZERLAND AND LIECHTENSTEIN

The Parties take note of the close relationship between the Union and Switzerland and Liechtenstein, particularly by virtue of the Agreement of 26 October 2004 concerning the association of these countries with the implementation, application and development of the Schengen *acquis*.

In such circumstances, it is desirable that the authorities of Switzerland and Liechtenstein and Ukraine conclude, without delay, bilateral agreements on the facilitation of the issuance of short-stay visas in similar terms as the amended Agreement.