EU/Ukraine Visa Facilitation Agreement: amendments and additions

2012/0138(NLE) - 17/07/2012 - Legislative proposal

PURPOSE: to conclude an Agreement between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas.

PROPOSED ACT: Council Decision.

BACKGROUND: the Visa Facilitation Agreement between the European Community and Ukraine has been in force since 1 January 2008.

Article 12 of the Visa Facilitation Agreement establishes a Joint Committee tasked *inter alia* with monitoring the implementation of the Agreement and suggesting amendments and additions thereto. The Joint Committee, at its 6th meeting on 5 May 2011 in Brussels endorsed suggestions for amendments and additions to the Visa Facilitation Agreement.

At political level, at the 8th EU-Ukraine Ministerial Meeting on Justice, Freedom and Security on 9 June 2010, the Parties looked forward to constructive negotiations on possible amendments to the Visa Facilitation Agreement.

On that basis the Commission presented on 29 October 2010 a recommendation to the Council in order to authorise the Commission to open negotiations with Ukraine on an Agreement amending the Visa Facilitation Agreement.

Following the authorisation given by the Council on 11 April 2011, the negotiations with Ukraine on an Agreement amending the Visa Facilitation Agreement were opened in Brussels on 6 May 2011. Three further rounds of negotiations took place on 11 July 2011 in Kiev and on 9 November 2011 and 14 December 2011 in Brussels. The final text of the amending Agreement was initialled in February 2012 by the chief negotiators.

Member States have been regularly informed and consulted in the relevant Council Working Groups at all stages of the negotiations.

In accordance with a Council Decision, the Agreement was signed, subject to its conclusion.

It is now necessary to approve this Agreement on behalf of the European Union.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 77(2a), in conjunction with Article 218 (6)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposed Decision hereby aims to conclude the Agreement between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas. It amends the 2008 Agreement as follows:

(1) simplified requirements for documents to be presented regarding the purpose of the journey for the following categories of applicants:

- drivers conducting international cargo and passenger transportation services and journalists: have been reviewed.
- members of the technical crew accompanying journalists, participants in official exchange programmes organised by municipal entities other than twin cities, close relatives of EU citizens residing in the territory of the Member State of which they are nationals, persons accompanying persons visiting for medical reasons, representatives of civil society organisations undertaking trips for the purposes of educational training, seminars, conferences, members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events, representatives of religious communities, and participants in official EU cross-border cooperation programmes: have been introduced;

(2) clarification of the provisions on the period of validity of multiple-entry visas for the following categories of applicants:

- the categories listed in Article 5(1) of the Visa Facilitation Agreement as well as national and regional prosecutors and their deputies, spouses, children and parents visiting citizens of the European Union residing in the territory of the Member State of which they are nationals, and the technical crew accompanying journalists in a professional capacity:
- in principle, multiple-entry visas valid for five years shall be issued. Multiple-entry visas with a shorter period of validity shall only be issued where the expiry date of the travel document requires this or where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period;
- the categories listed in Article 5(2) of the Visa Facilitation Agreement as well as participants in official exchange programmes organised by municipal entities other than twin cities, representatives of civil society organisations travelling regularly to Member States for the purposes of educational training, seminars, conferences, participants in official EU cross-border cooperation programmes, students and postgraduate students who regularly travel for the purposes of study or educational training, representatives of the religious communities, members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States, persons needing to visit regularly for medical reasons and necessary accompanying persons:
- in principle, multiple-entry visas valid for one year shall be issued. Multiple-entry visas with a shorter period of validity shall only be issued where the expiry date of the travel document requires this or where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period;

(3) the possibility of charging a fee of EUR 70 in case of urgent applications:

- is abolished for cases, where the visa application and supporting documents are submitted by the visa applicant without justification only three days or less before his/her departure;
- is introduced for 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;

(4) a full waiving of the visa fee for the following additional categories of applicants:

close relatives of citizens of the European Union residing in the territory of the Member State of which they are nationals, participants in official exchange programmes organised by other municipal entities than twin cities, the technical crew accompanying journalists in a professional capacity, representatives of the religious communities, members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events, participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations, representatives of civil

society organisations undertaking trips for the purposes of educational training, seminars, conferences, participants in official EU cross-border cooperation programmes;

(5) the possibility for an external service provider, with whom a Member State cooperates in view of issuing a visa, to charge a service fee of up to EUR 30, while maintaining the possibility of all applicants to lodge their applications directly at a consulate;

(6) the requirement that appointments for lodging an application, where required, shall, as a rule, take place within a period of two weeks from the date when the appointment was requested;

(7) the exemption from the visa requirement for short stays for the citizens of Ukraine who are holders of biometric service passports.

It should be noted that a European Union declaration on the provision containing this exemption from the visa requirement is attached to the amending Agreement. The amending Agreement clarifies that this does not affect the applicability of provisions of existing bilateral Agreements or arrangements between individual Member States and Ukraine on the exemption of the holders of non-biometric service passports from the visa requirement for short stays.

Replying to a specific request formulated by Ukraine, a European Union Declaration is attached to the amending Agreement on:

- documents to be submitted when applying for short stay visas;

- facilitations for family members not covered by the legally binding provisions of the Visa Facilitation Agreement.

Territorial applications: the specific situations of Denmark, Ireland and the United Kingdom are reflected in the preamble. The association of Switzerland and Liechtenstein to the implementation, application and development of the Schengen acquis is reflected in a Joint Declaration to the amending Agreement.

BUDGETARY IMPLICATION: this proposal has no implications for the EU budget.