EC/Ukraine agreement: facilitation of the issuance of visas

2007/0069(CNS) - 17/04/2007 - Legislative proposal

PURPOSE: to conclude the Agreement between the European Community and Ukraine on the facilitation of issuance of short-stay visas.

PROPOSED ACT: Council Decision.

BACKGROUND: following the authorisation given by the Council to the Commission on 7 November 2005, negotiations with Ukraine on the facilitation of the issuance of short-stay visas were opened in

Brussels on 22 November 2005, back-to-back with the continuation of negotiations on a readmission agreement (see CNS/2007/0071). Four further rounds of negotiations were held and at the last formal round on 10 October 2006, the Commission presented to the Ukrainian side a "package deal" on both agreements. The final texts of the visa facilitation and readmission agreements were initialled on 27 October 2006 at the occasion of the EU-Ukraine Summit in Helsinki.

CONTENT: the proposed decision concerning the conclusion sets out the necessary internal arrangements for the practical application of the Agreement. In particular, it specifies that the European

Commission, assisted by experts from Member States, represents the Community within the Joint Committee set up by Article 12 of the Agreement. Under Article 12(4), the visa facilitation Joint Committee may adopt its own rules of procedure. The Community position in this regard shall be established by the Commission in consultation with a special committee designated by the Council.

The main provisions of the Agreement can be summarised as follows :

Purpose and scope of application: The purpose of this Agreement is to facilitate the issuance of visas for an intended stay of no more than 90 days per period of 180 days to the citizens of Ukraine. If Ukraine would reintroduce the visa requirement for EU citizens or certain categories of EU citizens, the same facilitations granted under this agreement to the Ukrainian citizens would automatically, on the basis of reciprocity, apply to EU citizens concerned.

General clause: The visa facilitations provided in this Agreement shall apply to citizens of Ukraine only insofar as they are not exempted from the visa requirement by the laws and regulations of the Community or the Member States, the present agreement or other international agreements. The national law of Ukraine, or of the Member States or Community law shall apply to issues not covered by the provisions of this Agreement, such as the refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence and the refusal of entry and expulsion measures.

Visa Fees: The fee for processing visa applications of Ukrainian citizens shall amount to **EUR 35** thereby aligning it with the fee charged under the current Schengen system. The Member States shall charge a fee of **EUR 70** for processing visas in cases where the visa application and the supporting documents have been submitted by the visa applicant within three days before his/her envisaged date of departure. A waiving of the fee has been foreseen and applies to: close relatives, officials participating in government activities, students, persons participating in cultural and educational exchange programmes and sporting events.

Length of procedures for processing visa applications: Diplomatic missions and consular posts of the Member States shall take a decision on the request to issue a visa within 10 calendar days of the date of the receipt of the application and documents required for issuing the visa. The period of time for taking a decision on a visa application may be extended up to 30 calendar days in individual cases, notably when further scrutiny of the application is needed. The period of time for taking a decision on a visa application may be reduced to 2 working days or less in urgent cases.

Departure in case of lost or stolen documents: Citizens of the European Union and of Ukraine who have lost their identity documents, or from whom these documents have been stolen while staying in the territory of Ukraine or the Member States, may leave that territory on the grounds of valid identity documents entitling to cross the border issued by diplomatic missions or consular posts of the Member States or of the Ukraine without any visa or other authorisation.

Issuing visas: For certain categories of people the documentation required has been simplified. This provision applies, amongst others, to close relatives, students, journalists and passenger transportation services. For these categories of people, only those documents listed in the Agreement must be provided. No other justification, invitation or validation is required.

Holders of diplomatic passports have been exempted from the visa requirement for short-stays. A Commission Declaration is attached to the Agreement on the motivation of the decision to refuse a visa, making reference to rules on this matter contained in the proposal for a Draft Regulation establishing a Community Code on visas presented by the European Commission on 19 July 2006. Moreover, an EC Declaration is also attached on access of visa applicants to information and harmonisation of information procedures for issuance of short-stay visas.

Simplification of procedures for issuing multiple-entry visas: The criteria for issuing multiple-entry visas has been simplified considerably. This applies to the following category of persons:

a) for members of national and regional governments and parliaments, Constitutional and Supreme Courts, permanent members of official delegations, journalists, business people and spouses and children visiting citizens of the Ukraine legally residing in the Member States: visa valid up to five years (or shorter, limited to the period of the validity of their mandate or authorisation for legal residence).

b) participants in scientific, cultural, official exchange programmes and sport events, and professional drivers and train crews, provided that during the previous two years they have made good use of a 1 year multiple-entry visas and the reasons for requesting a multiple-entry are still valid: visas valid for a minimum of 2 years and a maximum of 5 years are issued;

The total period of stay of persons shall not exceed 90 days per period of 180 days in the territory of the Member States.

Territorial and final measures: The Parties take note that the present Agreement does not apply to the procedures for issuing visas by the diplomatic missions and consular posts of Denmark, the United Kingdom and Ireland. In such circumstances, it is desirable that the authorities of these countries and of Ukraine conclude, without delay, a bilateral agreement on the facilitation of the issuance of visas.

In spite of the close relationship between the European Community and Norway and Iceland, it is also desirable that the authorities of Norway, Iceland and Ukraine conclude, without delay, bilateral agreements on the facilitation of the issuance of visas in similar terms as the Agreement between the European Community and Ukraine.

A protocol was agreed stating that Member States that do not fully apply the Schengen *acquis* yet, may unilaterally recognise Schengen visas and residence permits issued to Ukrainian citizens for the purpose of transit through their territory in accordance with Council Decision N° 895/2006/EC of 14 June 2006.

It has to be noted that on 31 March 2005 President Yushchenko signed the Decree "On Temporary Introduction of the visa-free regime for citizens of the Member States of the European Union and the Swiss Confederation". According to the Decree, a visa-free regime of entry in Ukraine for the citizens of the EU and the Swiss Confederation remains in force from 1 May till 1 September 2005. This visa-free regime was extended after 1st September 2005 and introduced for Iceland and Norway's citizens as from 1st January 2006.

In this respect, the draft agreement on visa facilitation states in Article 1(2) that if Ukraine would reintroduce the visa requirement for EU citizens, the same facilitations granted under the agreement to the Ukrainian citizens would apply automatically, on the basis of reciprocity, to EU citizens.