

**GUIDELINES
FOR THE IMPLEMENTATION OF THE
AGREEMENT BETWEEN THE EUROPEAN COMMUNITY
AND UKRAINE
ON THE FACILITATION OF THE ISSUANCE OF VISAS**

25/11/09

The purpose of the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas, which entered into force on 1 January 2008, is to facilitate, on the basis of reciprocity, the procedures for issuing visas for an intended stay of no more than 90 days per period of 180 days to the citizens of Ukraine.

The Agreement establishes, on the basis of reciprocity, **legally binding rights and obligations** for the purpose of simplifying the visa issuing procedures for Ukrainian citizens.

These Guidelines, which will be adopted by the Joint Committee established by the Agreement, aim at ensuring a correct and harmonised implementation of the provisions of the Agreement by the diplomatic missions and consular posts of the Member States. These Guidelines are not part of the Agreement and therefore they are not legally binding. However, it is highly recommended that diplomatic and consular staff consistently follow them when implementing the provisions of the Agreement.

The Guidelines are conceived as a living document, to be updated in the light of the experience on the implementation of the Agreement under the responsibility of the Joint Committee set up by Article 12 of the Agreement.

I. GENERAL ISSUES.

1.1. Purpose and scope of application.

Article 1 of the Agreement stipulates that: "*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.*"

The Agreement applies to all Ukrainian citizens who apply for a short-stay visa, whatever the country in which they reside.

Article 1(2) of the Agreement stipulates that: "*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.*"

According to the decisions taken by the Ukrainian government, as from 1 May 2005 or 1 January 2008 respectively, EU citizens are exempted from the visa requirement when travelling to Ukraine for a period of time not exceeding 90 days or transiting through

the territory of Ukraine. This provision does not affect the right of the Ukrainian government to amend these decisions.

1.2. Scope of the Agreement.

Article 2 of the Agreement stipulates that:

"1. 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.

2. 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."

Without prejudice to Article 10 (which provides for the exemption from the visa requirement for holders of diplomatic passports of Ukraine), the Agreement does not affect the existing rules on visa obligations and visa exemptions. For instance, Article 4 of Council Regulation N°539/2001¹ allows Member States to exempt from the visa requirement civilian air and sea crews among other categories.

In accordance with Decision N°896/2006/EC of 14 June 2006², the Council ruled that the Member States fully implementing the Schengen acquis shall unilaterally recognise the residence permits issued by Switzerland and Liechtenstein. That Decision provides that Ukrainian citizens who legally reside in Switzerland or Liechtenstein do not need a transit visa for transiting through the Schengen area. Since the putting into effect of Switzerland's association to the Schengen Area on 13 December 2008, residence permits issued by Switzerland are recognised as equivalent to Schengen visas for both transit and short stay.

Schengen rules and, where appropriate, national law continue to apply to all issues not covered by the Agreement such as the refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence, the refusal of entry, expulsion measures or the general rule of the personal interview with the applicant. This also applies to the Schengen rules determining the Schengen Member State responsible for processing a visa application. Therefore, a Ukrainian citizen should continue to apply for a visa to the consulate of the Member State of the main destination of his/her travelling; if there is no main destination, (s)he should apply to the consulate of the Member State of first entry into the Schengen area.

Even if the conditions foreseen in the Agreement are met, for example, proof of documentary evidence regarding the purpose of the journey for the categories foreseen in Article 4 is provided by the visa applicant, the issuance of the visa still can be refused if the conditions laid down in Article 5 of the Schengen Borders Code³ are not fulfilled, i.e. the person is not in possession of a valid travel document, an alert in the SIS has been issued, the person is considered a threat for public policy, internal security, etc.

¹ OJ L81 of 21.3.2001, modified by Regulation N°1932/2006/EC, OJ L29 of 29.3.2007.

² OJ L167 of 20.6.2006, p. 8.

³ OJ L 105 of 13.4.2006, p.1.

Other possibilities for flexibility in the issuing of visas allowed in the Common Consular Instructions⁴ (CCI) for issuing visas continue to apply. For instance, multiple-entry visas for a long period of validity- up to five years- can be issued to categories of persons other than those mentioned in Article 5, if the conditions foreseen in the CCI are met (cfr. V.2.2.1). In the same way, the provisions contained in the CCI allowing waiver or reduction of the visa fee will continue to apply (cfr. infra II.2.1.1.).

1.3. Types of visas falling within the scope of the Agreement.

Article 3 (d) of the Agreement defines "visa" as "*an authorisation issued by a Member State or a decision taken by such State which is required with a view to:*

- *entry for an intended stay in that Member State or in several Member States of no more than 90 days in total,*
- *entry for transit through the territory of that Member State or several Member States,"*

The following types of visas are covered by the Agreement:

- "B" visas (transit visas)
- "C" visas (short-stay visas).

The facilitations provided by the Agreement also apply to visas with limited territorial validity (LTV) issued for transit or short-stay.

1.4. Calculation of the length of stay authorised by a visa and in particular the question on how to determine the six months period

"Three months within a six months period"

The first period of six months starts with the date of the very first entry. The next period of six months starts from the next entry following the expiry of a period of six months from the very first entry. This means in practice that the short stay of a person is also legal in the following example: a person enters on 1.1. and stays one day. He exits and comes back on 2.4. and stays until 29.6. He exits on 29.6. and enters again on 1.7. On 1.7. the next period of six months starts and the person can stay legally until 30.9.

1.5. Situation regarding the Member States that joined the European Union in 2004 and 2007, Member States that do not participate in the EU Common Visa Policy and associated countries.

Member States that joined the EU in 2004 (Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic) and 2007 (Bulgaria and Romania) are bound by the Agreement as from its entry into force.

⁴ OJ C 326 of 22.12.2005, p.1

As Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic fully implement the Schengen acquis before 1.1.2008⁵, only Cyprus, Bulgaria and Romania, which do not yet fully implement the Schengen *acquis*, will continue issuing national visas with a validity limited to their own national territory. Once these Member States fully implement the Schengen acquis, they will continue to apply the Agreement.

National law continues to apply to all issues not covered by the Agreement until the date of full implementation of the Schengen acquis by these Member States. As from that date, Schengen rules/national law shall apply to issues not regulated by the Agreement.

As from the full implementation from 21 December 2007 of the Schengen acquis by Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic, only Cyprus still implements Decision N°895/2006/EC of 14 June 2006⁶, which authorises Member States to unilaterally recognise the visas and residence permits issued by Schengen States as equivalent to national visas. This equivalence is valid only for transit which does not exceed five days. The European Parliament and Council Decision N°582/2008/EC of 17 June 2008 extends the scope of the above mentioned Council Decision to Bulgaria and Romania⁷. As from 11 and 18 July 2008 respectively Romania and Bulgaria apply the new rules.

In addition, according to the European Parliament and Council Decision N°896/2006/EC, Schengen States as well as Member States that also apply Decision N°895/2006/EC of 14 June 2006 could recognise residence permits issued by Switzerland and Liechtenstein as equivalent to transit visas. This equivalence is valid only for transit, for a period not exceeding five days. The European Parliament and Council Decision N°586/2008/EC of 17 June 2008 extends the scope of the above mentioned Council Decision to Bulgaria and Romania⁸. As from 11 and 18 July 2008 respectively Romania and Bulgaria apply the new rules. Since the putting into effect of Switzerland's association to the Schengen Area on 13 December 2008, residence permits issued by Switzerland are recognised as equivalent to Schengen visas for both transit and short stay.

The Agreement does not apply to the UK, Ireland and Denmark but comprises joint declarations about the desirability of those Member States to conclude bilateral agreements on visa facilitation with Ukraine.

A bilateral agreement on visa facilitation between Denmark and Ukraine entered into force on 1 March 2009. No negotiations on visa facilitation have taken place between Ukraine and, respectively, the United Kingdom and Ireland.

Although associated to Schengen, Norway, Switzerland and Iceland are not covered by the Agreement.

However, Norway has indicated that a bilateral visa facilitation agreement was signed on 13 February 2008. Norway has fulfilled all procedures for the entry into force of the Agreement and is waiting for confirmation of ratification by Ukraine.

⁵ By Council Decision N° 2007/801/EC it is decided that Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic will fully implement the Schengen acquis as from 21 December 2007.

⁶ OJ L167 of 20.6.2006, p. 1.

⁷ OJ L161 of 20.6.2008, p. 30.

⁸ OJ L162 of 21.6.2008, p. 27.

Switzerland and Iceland have indicated that negotiations with Ukraine have begun.

1.6. Community Agreement/Bilateral agreements.

Article 13 of the Agreement stipulates that "*As from its entry into force, this Agreement shall take precedence over provisions of any bilateral or multilateral agreements or arrangements concluded between individual Member States and Ukraine, insofar as the provisions of the latter agreements or arrangements cover issues dealt with by the present Agreement.*"

As from the date of entry into force of the Agreement, provisions in the bilateral agreements in force between Member States and Ukraine on issues dealt with by the visa facilitation agreement ceased to apply. In accordance with Community law, Member States have to take the necessary measures to eliminate the incompatibilities between their bilateral agreements and the Community Agreement.

Should a Member State have concluded a bilateral agreement or arrangement with Ukraine on issues not covered by the Community Agreement, this exemption would continue to apply after the entry into force of the Community visa facilitation Agreement.

The following Member States have a bilateral agreement with Ukraine providing for the exemption from the visa obligation for holders of service passports: Bulgaria, Cyprus, Lithuania, Hungary, Romania and Slovakia.

The visa exemption for service passport holders granted by a Member State only applies for travelling on the territory of this Member State and not for travelling to the other Schengen Member States.

1.7. European Community Declaration on access of visa applicants and harmonisation of information on procedures for issuing short-stay visas and documents to be submitted when applying for short-stay visas.

In accordance with this European Community Declaration annexed to the Agreement, common basic information on access of visa applicants to diplomatic missions and consular posts of the Member States and on the procedures and conditions for applying for visas and on the validity of visas issued has been drafted to ensure that applicants are given coherent and uniform information. This information is available at website of the EC Delegation to Ukraine: <http://www.delukr.ec.europa.eu/>

Diplomatic missions and consular posts are requested to disseminate widely this information (on the information boards, in leaflets, on websites, etc) and to disseminate also precise information on the conditions for issuing visas, representation of Member States in Ukraine and their list of required supporting documentation.

II. GUIDELINES ON SPECIFIC PROVISIONS.

2.1. New rules that apply to all visa applicants

Important: It is recalled that the facilitations mentioned below regarding the visa handling fee, the length of procedures for processing visa applications and the extension of visa in exceptional circumstances apply to all visa applicants.

2.1.1. Visa handling fee.

Article 6(1) of the Agreement stipulates that:

"The fee for processing visa applications of Ukrainian citizens shall amount to EUR 35. The aforementioned amount may be reviewed in accordance with the procedure provided for in Article 14(4)."

In accordance with Article 6(1), the fee for processing a visa application is **35 EUR**. This fee will apply to all Ukrainian visa applicants (including tourists) and concerns transit and short-stay visas, irrespective of the number of entries.

Article 6(2) of the Agreement stipulates that:

"If Ukraine would reintroduce the visa requirement for EU citizens, the visa fee to be charged by Ukraine shall not be higher than EUR 35 or the amount agreed if the fee is reviewed in accordance with the procedure provided for in Article 14(4)."

Article 6(3) of the Agreement stipulates that:

"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. This will not apply to cases pursuant to Article 6(4)(b),(c),(e),(f),(j),(k) and Article 7(3). For categories mentioned in Article 6(4)(a),(d),(g),(h),(i),(l) to (n), the fee in urgent cases is the same as provided for in Article 6(1)."

A ~~€70~~ fee shall be charged for processing visa applications in cases where the visa application and the supporting documents have been submitted by the visa applicant within three working days before his/her envisaged date of departure and the diplomatic mission or consular post has agreed to take a decision on the visa application within three days⁹. Evidence regarding the date of departure is provided in the visa application form.

⁹ In the light of the implementation of the Agreement, a solution has to be found to avoid visa shopping due to differing standard processing times of Schengen partners. Example:
Schengen partner X has a standard processing time of 8 days. A fee of €35 can be charged. As a special service visas can be issued within three days for a fee of 70 Euros.
Schengen partner Y has a standard processing time of less than 3 days and would also charge only €35 (see above). No "special service" is necessary as the processing time is already short.
This means, that Schengen partner X can take advantage of the higher visa fee of €70, Schengen partner Y not, although Schengen partner Y does provide for a better service in general.

In cases where the visa applicant applies for a visa more than three days before departure but is ready to pay the €70 of the "urgent fee" in order to have the visa issued within 3 days - either because (s)he lives far away from the consulate or because (s)he is travelling somewhere before the envisaged trip to a Schengen Member State- €70 will be charged if the Consulate agrees to do so.

The €70 fee will not apply to the following categories of persons mentioned in Article 6(4)(b), (c), (e), (f), (j) and (k) for whom the visa fee is also fully waived when they submit their visa application within three working days before his/her envisaged date of departure:

- (b) *for members of official delegations who, following an official invitation addressed to Ukraine, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations;*
- (c) *members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, in case they are not exempted from the visa requirement by the present Agreement;*
- (e) *disabled persons and the person accompanying them, if necessary;*
- (f) *persons who have presented documents proving the necessity of their travel on humanitarian grounds, including to receive urgent medical treatment and the person accompanying such person, or to attend a funeral of a close relative, or to visit a close relative seriously ill;*
- (j) *journalists;*
- (k) *pensioners;*

In the same way, the €70 fee shall be fully waived for Ukrainian visa applicants whose visa applications are processed in 2 working days or less in urgent cases, in accordance with Article 7(3).

In the same way, the €70 fee shall be fully waived for Ukrainian visa applicants who are family members of EU citizens as defined in Article 5(2) of Directive 2004/38/EC if they submit the visa application and supporting documents within three days of the envisaged date of departure.

In principle, Article 6(3) aims at penalising the visa applicant who has been negligent and has applied for a visa at the last moment, thus disturbing the normal functioning of the diplomatic mission or consular post. Therefore, regarding the derogation from the €70 fee foreseen in Article 6(3) for urgent cases falling under Article 7(3)-i.e. where a decision is taken in 2 working days or less- this derogation cannot apply when the visa applicant himself has been negligent and has delayed the submission of the visa application in order to fall within this category.

For the above mentioned reasons, in cases where the "standard" processing time for a visa application by a given diplomatic mission or consular post takes 3 days or less, the standard €35 visa fee shall be charged.

For diplomatic missions and consular posts that have an appointment system, the period of time to get an appointment is not counted as part of the processing time (see also point 2.1.2).

In addition, for the categories mentioned in Article 6(4)(a), (d), (g), (h), (i), (l) to (n), the fee in urgent cases is the same as provided for in Article 6(1). This means that for the following categories the visa fee is reduced to €35 when they submit their visa application within three working days before his/her envisaged date of departure:

- (a) *for close relatives – spouses, children (including adopted) parents (including custodians), grandparents and grandchildren – of citizens of Ukraine legally residing in the territory of the Member States;*
- (d) *pupils, students, post-graduate students and accompanying teachers who undertake trips for the purpose of study or educational training;*
- (g) *participants in international sports events and persons accompanying them.*
- (h) *persons participating in scientific, cultural and artistic activities including university and other exchange programmes;*
- (i) *participants in official exchange programmes organised by twin cities;*
- (l) *drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine;*
- (m) *members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;*
- (n) *children under the age of 18 and dependant children under the age of 21.*

For all other visa applicants (not belonging to one of the categories mentioned in Article 6(4) and Article 7(3)) the €70 fee shall be charged if they submit their visa application and supporting documents within three working days before his/her envisaged date of departure.

Article 6(4) of the Agreement stipulates that:

"4. *Fees for processing the visa application are waived for the following categories of persons:*

- (a) *for close relatives – spouses, children (including adopted) parents (including custodians), grandparents and grandchildren – of citizens of Ukraine legally residing in the territory of the Member States;"*

This paragraph regulates the situation of Ukrainian close relatives travelling to the Member States to visit Ukrainian citizens legally residing in the Member States. Ukrainian visa applicants who are family members of a Union citizen, in the sense of Article 5(2) of Directive 2004/38/EC of 29 April 2004¹⁰, shall be issued visas free of charge, as soon as possible and on the basis of an accelerated procedure.

"(b) *for members of official delegations who, following an official invitation addressed to Ukraine, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations;*

¹⁰ Directive 2004/38/EC on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004, p.77.

- (c) *members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, in case they are not exempted from the visa requirement by the present Agreement;*
- (d) *pupils, students, post-graduate students and accompanying teachers who undertake trips for the purpose of study or educational training;*
- (e) *disabled persons and the person accompanying them, if necessary; (N.B. In order to benefit of the waiving of the fee evidence should be provided that both visa applicants fall under this category.)*
- (f) *persons who have presented documents proving the necessity of their travel on humanitarian grounds, including to receive urgent medical treatment and the person accompanying such person, or to attend a funeral of a close relative, or to visit a close relative seriously ill;*
- (g) *participants in international sports events and persons accompanying them; (N.B. accompanying persons are only covered that do so in professional capacity; supporters shall not be considered as accompanying persons.)*
- (h) *persons participating in scientific, cultural and artistic activities including university and other exchange programmes;*
- (i) *participants in official exchange programmes organised by twin cities;*
- (j) *journalists; (N.B. covered are the journalists covered by Article 4(1)(e)).*
- (k) *pensioners; (N.B. In order to benefit of the waiving of the fee from this category, visa applicants have to present evidence proving their pensioner status.)*
- (l) *drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine;*
- (m) *members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;*
- (n) *children under the age of 18 and dependant children under the age of 21. (N.B. in order to benefit of the waiving of the fee from this category, visa applicants have to present evidence proving their age; and –if under the age of 21- in addition their dependency.)*

The fee is fully waived for the above mentioned categories of persons. In addition, the fee is also waived, in accordance with Council Decision 2006/440/EC¹¹ of 1 June 2006 amending Annex 12 to the CCI, for the following category of persons:

- children under 6 years;
- researchers travelling within the Community for the purpose of carrying out scientific research as defined in Recommendation 2005/761/EC of the European Parliament and of the Council of 28 September 2005¹².

Moreover, Ukrainian visa applicants who are family members of a Union citizen in the sense of Article 5(2) of Directive 2004/38/EC of 29 April 2004, shall be issued visas free of charge, as soon as possible and on the basis of an accelerated procedure.

¹¹ OJ L 175 of 29.6.2006, p.77.

¹² OJ L 289 of 3.11.2005, p.23.

Finally, as stated in Rule II.1 of Annex 12 to the CCI, as amended by the above mentioned Council Decision 2006/440/EC, *"in individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons."* This rule can also be applied to waive or reduce the €70 visa fee for processing visas in individual 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.

2.1.2. Length of procedures for processing visa applications.

Article 7 of the Agreement stipulates that:

"1. 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.

2. 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.

3. The period of time for taking a decision on a visa application may be reduced to 2 working days or less in urgent cases."

A decision on the visa application shall be taken, in principle, within 10 calendar days of the date of the receipt of the complete visa application and supporting documents.

This period may be extended up to 30 days when further scrutiny is needed- for example, for consultation of central authorities.

All these deadlines start running only when the application file is complete, i.e. as from the date of reception of the visa application and the supporting documents.

For diplomatic missions and consular posts that have an appointment system, the period of time to get an appointment is not counted as part of the processing time. When setting the appointment, it should be taken into account the eventual urgency claimed by the visa applicant in view of the implementation of Article 7(3). In general, appointments should be fixed within a reasonable period of time. The Joint Committee will monitor this issue carefully.

The decision about the reduced time for taking a decision on a visa application as defined in Article 7(3) is taken by the consular officer.

2.1.3. Extension of visa in exceptional circumstances.

Article 9 of the Agreement stipulates that:

"The citizens of Ukraine who do not have the possibility to leave the territory of the Member States by the time stated in their visas for reasons of force majeure shall have the term of their visas extended free of charge in accordance with the legislation applied by the receiving State for the period required for their return to the State of their residence."

Regarding the possibility of extending the validity of the visa in cases of *force majeure* - for instance, stay in a hospital- where the holder of the visa does not have the possibility to leave the territory of the Member State by the date stated in the visa, the provisions of the Decision of the Executive Committee of 14.12.1993 (SCH/Com-ex (93)21¹³) shall apply as long as they are compatible with the Agreement (for example, the extended visa shall remain a uniform visa, entitling entry to the territory of all the Schengen Member States for which the visa was valid at the time of issue). However, under the Agreement the extension of the visa is done for free in case of *force majeure*.

2.2. New rules that apply to certain categories of visa applicants.

2.2.1. Documentary evidence regarding the purpose of the journey.

For the categories of persons listed in Article 4(1) only the indicated documentary evidence will be required regarding the purpose of the journey. As stated in Article 4(3), no other justification, invitation or validation regarding the purpose of the journey will be required. However, this does not mean a waiver of the requirement, as a general rule, of personal appearance for the submission of the visa application and supporting documents (cf. CCI II.4), which remains unaffected.

If in individual cases doubts remain regarding the real purpose of the journey, the visa applicant shall be called for an additional in depth interview to the embassy/consulate where (s)he can be questioned regarding the actual purpose of the visit or the applicant's intention to return- cfr CCI, III.4. Only in such individual cases, additional documents can be provided by the visa applicant or exceptionally requested by the consular officer. The Joint Committee will closely monitor the issue.

For the categories of persons not mentioned in Article 4, the current rules shall continue to apply regarding documentation proving the purpose of the journey. The same applies to documents regarding parents' consent for travel of children under 18 years old.

Schengen rules or national law shall apply to issues not covered by the provisions of this Agreement, such as recognition of travel documents, travel medical insurance and guarantees regarding return and sufficient means of subsistence (cfr supra I.1.2.). The visa applicant should consult the competent consulate in order to obtain information about the documents required for these other conditions.

In line with the "European Community Declaration on access of visa applicants and harmonisation of information on procedures for issuing short-stay visas and documents to be submitted when applying for short-stay visas" attached to the Agreement, Member States Consulates are asked to ensure that Ukrainian visa applicants are given coherent and uniform basic information and are required to submit, in principle, the same supporting documents.

In principle, the original request or certificate of the document required by Article 4(1) shall be submitted with the visa application. However, the consulate can start processing the visa application with facsimile or copies of the request or certificate of the document. Nevertheless, the consulate may ask for the original document in case of the first application and shall ask for it in individual cases where there are doubts.

¹³ OJ L239 of 22.9.2000, p.152.

Article 4- Documentary evidence regarding the purpose of the journey

"1. For the following categories of citizens of Ukraine, the following documents are sufficient for justifying the purpose of the journey to the other Party:

- (a) for members of official delegations who, following an official invitation addressed to Ukraine, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations:*
- a letter issued by an Ukrainian authority confirming that the applicant is a member of its delegation travelling to the other Party to participate at the aforementioned events, accompanied by a copy of the official invitation;"*

The applicant's name must be indicated in the letter issued by the competent authority confirming that the person is part of the delegation travelling to the territory of the other Party to participate in the official meeting. The name of the applicant must not necessarily also be indicated in the official invitation to participate in the meeting, although this might be the case when the official invitation is addressed to a specific person.

This provision applies to members of official delegations whatever the passport (service or ordinary passport) they hold.

"(b) for business people and representatives of business organisations:

- a written request from a host legal person or company, or an office or a branch of such legal person or company, state and local authorities of the Member States or organising committees of trade and industrial exhibitions, conferences and symposia held in the territories of the Member States;"*

"(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 and frequency of the trips;"*

The competent authorities that provide for the international road transportation and are responsible for stating the purpose, duration and frequency of the trips of the drivers conducting international cargo and passenger transportation services to the territories of the EU Member States in vehicles registered in Ukraine, are:

1. Association of International Road Carriers of Ukraine (AsMAP/"•••••")

The mailing address of the AsMAP is:

11, Shorsa str.

Kyiv, 03150, Ukraine

Officials entitled to sign the requests are:

- Kostiuhenko Leonid – President of the AsMAP of Ukraine;*
- Dokil' Leonid – Vice-President of the AsMAP of Ukraine;*

- Kuchynskiy Yurii – Vice-President of the AsMAP of Ukraine.

2. *State Enterprise "Service on International Road Carriages (SE "SIRC")*

The mailing address of the SE "SIRC" is:

57, av. Nauka

Kyiv, 03083, Ukraine

Tel. +38 044 524 21 01

Fax +38 044 524 00 70

Officials entitled to sign the requests are:

- Tkachenko Anatolij – Director of the SE "SIRC";
- Neronov Oleksandr – First Deputy Director of the SE "SIRC".

3. *Ukrainian Road Transport and Logistics Union*

The mailing address of the Ukrainian Road Transport and Logistics Union is:

28, Predslavinska str.

Kyiv, 03150, Ukraine

Tel./fax +38 044 528 71 30 / +38 044 528 71 46 / +38 044 529 44 40

Official entitled to sign the requests is:

Lypovskiy Vitalij – President of the Union

4. *All-Ukrainian Association of Automobile Carriers (AAAC)*

The mailing address of the AAAC is:

139, Velyka Vasylkivska str.

Kyiv, 03150, Ukraine

Tel./ fax: +38044-538-75-05, +38044-529-25-21

Officials entitled to sign the requests are:

- Reva Vitalii () - President of the AAAC
- Glavatskyi Petro - Vice President of the AAAC

e-mail: vaap@i.com.ua

Taking into account the current problems with this category of visa applicants the Joint Committee shall closely monitor the implementation of this provision.

"(d) for members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States:

- *a written request from the competent railway company of Ukraine stating the purpose, duration and frequency of the trips;"*

The competent authority in the field of the rail transportation of Ukraine is the State Administration of Railway Transport of Ukraine ("Ukrzaliznytsia"/").

The mailing address of "Ukrzaliznytsia" is:

5-7 Tverskaya str.

Kyiv, 03680, Ukraine

According to the responsibility allocation in the leadership of "Ukrzaliznytsia", the officials in charge responsible for providing the information concerning the purpose, duration and frequency of the trips of the members of train, refrigerator and locomotive crews in international trains traveling to the territories of the EU Member States are:

- Naumenko Petro – Director-General of Ukrzaliznytsia (phone: +38 044 465 00 00);
- Lukhanin Mykola – First Deputy Director-General of Ukrzaliznytsia (phone: +38 044 465 00 08);
- Fedyushyn Yuriy – First Deputy Director-General of Ukrzaliznytsia (phone: +38 044 465 00 01);
- Serhienko Mykola – Deputy Director-General of Ukrzaliznytsia (phone: +38 044 465 00 03);
- Slobodyan Anatoliy – Deputy Director-General of Ukrzaliznytsia (phone: +38 044 465 00 03);
- Ivaschuk Volodymyr – Acting Deputy Director-General of Ukrzaliznytsia (phone: +38 044 465 00 02);
- Matviiv Igor – Head of the Department of International Relations of Ukrzaliznytsia (phone: +38 044 465 04 02).

"(e) for journalists:

- *a certificate or other document issued by a professional organisation proving that the person concerned is a qualified journalist and a document issued by his/her employer stating that the purpose of the journey is to carry out journalistic work;"*

This category does not cover free-lance journalists.

The certificate or document proving that the applicant is a professional journalist and the original document issued by his/her employer stating that the purpose of the journey is to carry out a journalistic work must be presented.

The competent Ukrainian professional organisation proving that the person concerned is a qualified journalist is:

1. *National Union of Journalists of Ukraine (NUJU) ("*
"), ••••).

NUJU issues to the qualified mass-media employees the national professional journalist's cards and international press-cards of the standard pattern set by the International Federation of Journalists.

The mailing address of the NUJU is:

27-a Khreschatyk str.

Kyiv, 01001, Ukraine

The authorized person of the NUJU is:

Lubchenko Igor Fedorovych – President of the NUJU

Phone: +38044-234-52-09; +38044-234-49-60

e-mail: administrator@nsju.org

2. *Independent Media Union of Ukraine*

The mailing address is:

Office 1,

54 Velyka Vasylkivska Str.,

Kyiv, 03150, Ukraine

The authorized persons are:

1) _____ – Head of the IMUU

2) _____) – First Deputy Head of the IMUU

Phone: +38044-537-20-03; +38044-234-49-60; +38044-289-71-97

e-mail: golova@profspilka.org.ua, info@profspilka.org.ua

3.

The mailing address is:

App.19, 5 Nemirovych-Danchenko Str.,

Kyiv, 01011, Ukraine.

The authorized person of the KIMU is:

Mykhailyna Skoryk (• ••••) – Head of the KIMU.

Phone: +38044-229-74-51

e-mail: profpres@ukr.net, knmp@ukr.net

4.

The mailing address is:

16/12 Vavilovyh Str.,

Office 112,

Kyiv, 04060, Ukraine

The authorized person of the AUP is:

Phone: + 38044-440-95-35

e-mail: info@aup.com.ua

5.

•••••)

The mailing address is:

3 Pecherskyi Uzviz

Office 404

Kyiv, 01601, Ukraine

The authorized person of the RPDI is:

– President of the RPDI

Phone: +38044-289-07-25, +38044-458-44-40

e-mail: oleg.khomenok@gmail.com

6. *Trade Union of the Workers of Culture of Ukraine*

The mailing address is:

2, Independence Square

Kyiv, 01012, Ukraine

The authorized person of the Trade Union is:

Olena Trubaychuck – Deputy Head on International Relations

Phone: +38044-279-44-88, +38044-279-44-16

Fax: +38044-279-45-15

e-mail: ck_cultura@fpsu.org.ua

"(f) for persons participating in scientific, cultural and artistic activities, including university and other exchange programmes:

– *a written request from the host organisation to participate in those activities;"*

"(g) for pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including in the framework of exchange programmes as well as other school related activities:

– *a written request or a certificate of enrolment from the host university, college or school or student cards or certificates of the courses to be attended;"*

A student card can only be accepted as justification of the purpose of the journey when it is issued by the host university, college or school where the studies or educational training is going to take place.

"(h) for participants in international sports events and persons accompanying them in a professional capacity:

- a written request from the host organisation: competent authorities, national sport Federations and National Olympic Committees of the Member States;"*

The list of accompanying persons in case of international sports events will be limited to those accompanying the sportsman/woman in a professional capacity: coaches, masseurs, manager, medical staff and head of the sports club. Supporters shall not be considered as accompanying persons.

"(i) for participants in official exchange programmes organised by twin cities:

- a written request of the Head of Administration/Mayor of these cities;"*

The Head of Administration/Mayor of the city competent to issue the written request is the Head of Administration/Mayor of the host city where the twinning activity is going to take place. This category only covers official twinings.

"(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:

- a written request from the host person;"*

This paragraph regulates the situation of Ukrainian close relatives travelling to the Member States to visit Ukrainian citizens legally residing in the Member States. This facilitation does not apply to EU nationals living in the EU who invite Ukrainian relatives.

The authenticity of the signature of the inviting person must be proved by the competent authority according to the national legislation of the country of residence.

It is also necessary to prove the legal residence of the inviting person and the family tie; for example providing together with the written request from the host person, copies of documents explaining his/her status, such as a photocopy of the residence permit and confirming the family ties.

This provision also applies to relatives of staff working in diplomatic missions and consulates travelling for a family visit of up to 90 days to the territory of the Member States except for the need to proof legal residence and family ties.

"(k) relatives visiting for burial ceremonies:

- an official document confirming the fact of death as well as confirmation of the family or other relationship between the applicant and the buried;"*

The Agreement does not specify which country's authorities should issue the above mentioned official document: the country where the burial ceremony will take place or the country where resides the person who wants to visit the burial ceremony. It should be accepted that the competent authorities of both countries could issue such official document.

The above mentioned official document confirming the fact of death as well as the family or other relationship between the applicant and the deceased must be presented; e.g. birth and/or marriage certificates.

"(l) for visiting military and civil burial grounds:

- an official document confirming the existence and preservation of the grave as well as family or other relationship between the applicant and the buried;"*

The Agreement does not specify whether the above mentioned official document should be issued by the authorities: of the country where the burial ground is located or those of the country in which the person who wants to visit the burial ground resides. It should be accepted that the competent authorities of both countries could issue such official document.

The above mentioned official document confirming the existence and preservation of the grave as well as of the family or other relationship between the applicant and the buried must be presented.

In accordance with the Declaration annexed to the Agreement, as a rule, short-stay visas for persons visiting military and civil burial grounds shall be issued for a period of up to 14 days.

"(m) for visiting for medical reasons:

- an official document of the medical institution confirming necessity of medical care in this institution and proof of sufficient financial means to pay the medical treatment."*

The document of the medical institution confirming the necessity of medical care in this institution and the proof of sufficient financial means to pay for the medical treatment, shall be submitted.

Important: The Agreement does not create any new liability rules for the physical or legal persons issuing the written requests. The respective EC/national law applies in case of false issuance of such requests.

2.2.2. Issuance of multiple-entry visas.

In cases where the visa applicant needs to travel frequently to the territory of the Member States, short-stay visas may be issued for several visits, provided that the total length if these visits does not exceed 90 days per period of 180 days.

Article 5 of the Agreement stipulates that:

- "1. *Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of up to five years to the following categories of persons:*
- (a) *members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts if they are not exempted from the visa requirement by the present Agreement, in the exercise of their duties, with a term of validity limited to their term of office if this is less than 5 years;*
 - (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 with the term of validity limited to the duration of the validity of their authorisation for legal residence.*
 - (d) *business people and representatives of business organisations who regularly travel to the Member States;*
 - (e) *journalists."*

For these categories of persons, taking into account their professional status or the family relationship with a Ukrainian citizen legally residing in the territory of the Member States, it is justified to issue a multiple-entry visa with a validity of up to five years, or limited to the term of office or to the legal residence if these are less than 5 years.

For persons falling under Article 5(1)(a), confirmation should be given regarding their professional status and the duration of their mandate.

This provision will not apply to persons falling under Article 5(1)(a) if they are exempted from the visa requirement by the Agreement, i.e. if they are holders of a diplomatic passport.

For persons falling under Article 5(1)(b), proof must be presented regarding their permanent status as a member of the delegation and the need to participate regularly in meetings, consultations, negotiations or exchange programs.

For persons falling under Article 5(1)(c), proof must be presented regarding the legal residence of the inviting person (cfr. supra II.2.2.1).

For persons falling under Article 5(1)(d) and (e), proof must be presented regarding their professional status and the duration of their activities.

- "2. *Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of up to 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 and that there are reasons for requesting a multiple-entry visa:*
- (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.*
3. *Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of a minimum of 2 years and a maximum of 5 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 and that the reasons for requesting a multiple-entry visa are still valid.*
4. *The total period of stay of persons referred to in paragraphs 1 to 3 of this Article shall not exceed 90 days per period of 180 days in the territory of the Member States."*

In principle, multiple-entry visas valid for one year shall be issued to the above mentioned categories if during the previous year (12 months) the visa applicant has obtained at least one visa (i.e. a Schengen visa or a visa issued by a Member State that joined the EU in 2004 or in 2007) and has made use of it in conformity with the laws on entry and stay of the State(s) visited (for instance, the person has not overstayed) and if there are reasons for requesting a multiple-entry visa. In cases where it is not justified to issue a visa valid for one year, (for instance, if the duration of the exchange programme is of less than one year or the person does not need to travel for a full year) the validity of the visa will be of less than one year, provided that the other requirements for issuing the visa are met.

Multiple-entry visas valid from 2 years up to 5 years shall be issued to the categories mentioned under Article 5(2), provided that during the previous two years (24 months) they have made use of the 1 year multi-entry visas (i.e. Schengen visa or a visa issued by a Member State that joined the EU in 2004 or 2007) in accordance with the laws on entry and stay in the territory(ies) of the visited State(s) and that the reasons for requesting a multi-entry visa are still valid. It has to be noted that a visa with a validity from 2 to 5 years, shall only be issued if the visa applicant has been issued two visas valid for one year -and not less- during the previous two years, and if (s)he has used these visas in accordance with the laws of entry and stay in the territory(ies) of the visited State(s). Diplomatic missions and consular posts shall decide, on the basis of the assessment of each visa application, the period of validity of these visas- i.e. from 2 to 5 years.

Regarding the definition of the criteria in Article 5(2): "*provided that...there are reasons for requesting a multiple-entry visa*", and Article 5(3): "*provided that...the reasons for requesting a multiple-entry visa are still valid*", the criteria set up in the CCI for issuing these type of visas shall apply: i.e. that the person needs to travel frequently to one or several Member States, for example on business.

There is no obligation to issue a multiple-entry visa if the applicant did not make use of a previous visa. Nevertheless, such a visa can be issued if the non-use of the previous

visa is due to circumstances independent of the will of the applicant; for instance, a long absence from his job of a lorry driver due to illness.

Cfr II.2.2.1. regarding documents justifying the purpose of the journey for issuing multiple-entry visas for the categories mentioned in Article 5.

2.2.3. Holders of diplomatic passports.

Article 10 of the Agreement stipulates that:

- "1. Citizens of Ukraine, holders of valid diplomatic passports can enter, leave and transit through the territories of the Member States without visas.*
- 2. Persons mentioned in paragraph 1 of this Article may stay in the territories of the Member States for a period not exceeding 90 days per period of 180 days."*

The posting of diplomats in the Member States is not regulated by the Agreement. The usual accreditation procedure applies.

III. STATISTICS

In order to allow the Joint Committee set up by the Agreement to monitor effectively the Agreement, diplomatic missions and consular posts of the Member States must submit statistics to the Commission, every three months during the first year of implementation of the Agreement and every six months as from the second year, regarding in particular, where possible, and specifying by month:

- types of visas issued to the different categories covered by the Agreement;
- the number of visa refusals for the different categories covered by the Agreement;
- percentages of applicants called for a personal interviews per categories of persons;
- five year multiple-entry visas issued for Ukrainian nationals (by country).
