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## **COMMUNICATION FROM THE COMMISSION**

**Providing guidelines on general visa issuance in relation to Russian applicants following Council Decision (EU) 2022/1500 of 9 September 2022 on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation**

## COMMUNICATION FROM THE COMMISSION

### **Providing guidelines on general visa issuance in relation to Russian applicants following Council Decision (EU) 2022/1500 of 9 September 2022 on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation**

1. On 9 September 2022 the Council adopted a Decision on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation (the ‘Agreement’).<sup>1</sup> The Council Decision entered into force on the second day following that of its publication in the Official Journal of the European Union and notification to the Russian Federation. This Decision replaced Council Decision (EU) 2022/333.
2. The Council Decision suspends the application of all the provisions of the Agreement as regards citizens of the Russian Federation. The visa facilitations to Russian citizens shall not apply until the suspension is lifted. Consequently, the general rules of the Visa Code<sup>2</sup> will apply by default to Russian nationals applying for short-stay visas.
3. Denmark and the Schengen associated countries – Norway, Iceland, Switzerland and Liechtenstein – have bilateral visa facilitation agreements in force with Russia which replicate the Visa Facilitation Agreement. Following the Council Decision on the full suspension of the application of the Visa Facilitation Agreement, Denmark and the Associated Countries are expected to suspend their bilateral agreements following their respective national procedures.
4. In addition, given the very specific context in which Member States’ consulates are operating and taking into account the overall context of the unprovoked and unjustified military aggression of the Russian Federation against Ukraine, and the need to promote a harmonised approach to the examination of visa applications in Russia as well as common solutions within the Schengen area, it is appropriate and necessary to provide guidance to Member States on the procedures and conditions for issuing visas to Russian applicants. These guidelines are essential to ensure coherence, clarity and transparency during the visa procedure concerning citizens of the Russian Federation in any given consular location.
5. Russia’s unprovoked and unjustified Russian war of aggression against Ukraine has had widespread implications, including an aggravation of the risks and threats of security and public order facing the EU. Member State consulates face greater challenges in verifying the purpose of tourist visits compared with travel for other purposes (e.g. family visits), including in a context where some Member States are confronted with a significant reduction of their consular capacities following the expulsion of many Member States’ consular and diplomatic staff by the Russian authorities. Furthermore, there continues to be a credible risk that persons claiming to travel for tourism purposes could promote propaganda supporting Russia’s war of aggression against Ukraine, or engage in other subversive activities to the detriment of the EU. At the same time, the EU must remain open to Russian visa applicants travelling for essential purposes, including notably family members of EU citizens, dissidents, independent journalists, and civil society representatives. Therefore, in the context of the full suspension of the Visa Facilitation Agreement, the Commission recommends that the Member States take the following

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<sup>1</sup> Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation (OJ L 129, 17.5.2007).

<sup>2</sup> Regulation (EC) 810/2009 of the European Parliament and the Council of 13 July 2009 establishing a Community Code on Visas, (OJ L 243, 15.9.2009, p.1).

considerations into account where examining applications for short-stay visas by Russian nationals.

**a) Competent Member State and consular territorial competence for examining visa applications**

6. Member States should take particular care to ensure that the competence rules of Articles 5 and 6 of the Visa Code are examined and correctly applied regarding each visa application. Guidance on determining the competent Member State is contained in Part II, Chapter 1 of the Visa Code Handbook I.<sup>3</sup> In case the Member State that received the application is not competent to deal with it, the entire application and all supporting documents should be returned and the visa fee reimbursed. The applicant should be redirected to the consulate of the competent Member State to avoid visa shopping between different consulates.
7. Pursuant to Article 6 of the Visa Code, applications should only be examined by the consulate of the competent Member State in whose jurisdiction the applicant legally resides. Therefore, Member States should not routinely accept visa applications from citizens of the Russian Federation that are present in a third country, such as Serbia, Turkey or the United Arab Emirates, for a short stay or for purposes of transit. Such applicants should be directed to the consulate competent for their place of residence, normally in the Russian Federation. Exceptions can be made on the basis of Article 6(2) of the Visa Code and the guidance contained in the Visa Code Handbook I, Part II, section 1.8, notably in cases of hardship and for humanitarian reasons (e.g. family visits due to sudden serious illness of a relative residing in the EU, dissidents, human rights defenders).

**b) Procedural aspects for lodging an application in Russia in the current situation**

8. Member States are confronted with an important reduction in their capacities to deal with short-stay visas applications submitted by Russian nationals following the expulsion of many Member States' consular and diplomatic staff by the Russian authorities. In addition, the overall context of Russia's war of aggression (increased military action by Russia, propaganda, heightened risks to the security and public order of Member States) leads to a need to ensure greater scrutiny in respect of Russian nationals or certain categories thereof. Such situation might render it necessary for Member States to adapt their procedures, without prejudice to ensuring a proper examination of each individual application. This could be achieved by:
  - a. *Establishing priorities when attributing appointments for the lodging of applications*
9. Article 9(2) of the Visa Code provides that Member States may require applicants to ask for an appointment. The appointment shall, as a rule, take place within 2 weeks from the moment it has been requested. Currently, this might be very difficult for Member States to ensure due to the staff shortages in most Member States' consulates.
10. Therefore, the Commission considers that Member States should, when attributing appointments, give lower priority to applicants who do not have an essential reason to travel.

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<sup>3</sup> Annex to Commission Implementing Decision C(2020) 395 of 28.1.2020 amending Commission Decision C(2010) 1620 final as regards the replacement of the Handbook for the processing of visa applications and the modification of issued visas (Visa Code Handbook I).

*b. Timeframe within which a decision on a visa application must be taken*

11. Given the current situation, a thorough scrutiny of all applications by Russian nationals is needed. The Commission considers that Member States should make full use, where necessary, of the possibility to extend the period for taking a decision on a visa application to 45 days, in accordance with Article 23(2) of the Visa Code.
12. The Commission also underlines that extending the timeframe for taking a decision on applications for certain categories of applicants, i.e. those who do not have an essential reason to travel, notably those applying for a visa for the purpose of tourism or those whose travel is not urgent, could also allow taking decisions in a shorter timeframe for those who seek to travel for an essential purpose or who can invoke a justified case of emergency as required by Article 23(2a) of the Visa Code, including for humanitarian reasons.

*c. Requesting additional supporting documents or limiting the type of documents that are accepted as a supporting document for the purpose of the visa application.*

13. Notwithstanding the harmonised list of supporting documents to be presented by applicants in Russia (Commission implementing decision of 6.6.2016 [C(2016)3347 final]) and pending its possible amendment, it would be justified in the current situation that Member States' consulates request additional documents during the examination of an application in respect of certain categories of Russian nationals, in order to ensure a high level of scrutiny, in particular as regards possible threats to public policy, public order and international relations.
14. If there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or the veracity of their contents or the reliability of the statements made by the applicant, in particular regarding the purpose of his/her journey, such an application is to be refused in accordance with Article 32(1)(b) of the Visa Code, and registered in VIS in accordance with Article 12 of the VIS Regulation<sup>4</sup>, ensuring that a durable record of this is visible to all consulates, as is standard practice for all visa refusals.
15. Furthermore, if an application is refused on the basis of Article 32(1)(b) of the Visa Code because of reasonable doubts as to the purpose of travel and to the supporting documents or statements made by the applicant (e.g. claiming to be student or going to a funeral while in fact the purpose of travel is tourism), and if Member States laws allow, the Commission recommends issuing an entry ban and entering an alert in the Schengen Information System (SIS) in accordance with Article 24 of Regulation (EC) No 1987/2006<sup>5</sup> for the purpose of refusing entry and stay.

*d. Prior consultation pursuant to Article 22 of the Visa Code*

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<sup>4</sup> Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) No 603/2013, (EU) 2016/794, (EU) 2018/1862, (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the Visa Information System (OJ L 248, 13.7.2021, p. 1)

<sup>5</sup> Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4)

16. Member States could, on grounds of threats to public policy, internal security or international relations, ask to be consulted on the issuance of visas to Russian nationals or certain categories thereof and object, in individual cases, to the issuance of a visa valid for the entire Schengen area. In this case, in accordance with Article 25(1)(a)(ii) of the Visa Code, if the Member State with which the application was lodged still decides to issue a visa, this must be a visa with limited territorial validity (valid for the territory of the issuing Member State or exceptionally of several Member States subject to their consent).
17. A Member State asking to be consulted must notify the Commission accordingly pursuant to Article 22(3) of the Visa Code.

c) **Assessment of visa applications lodged by citizens of the Russian Federation or in Russia**

It is important to recall the following elements already included in the guidelines C(2022)3084 adopted on 5 May 2022:

18. In view of the current economic and political situation in Russia, Member States should give particular consideration to the assessment of whether an applicant presents a risk to the security of the Member States and determine whether the entry conditions are fulfilled, in accordance with Article 21 of the Visa Code and the guidance contained in the Visa Code Handbook I, Part II, chapter 6. In particular, the following elements should be considered:
  - i. **Travel medical insurance:** The consulate is responsible for determining whether the insurance presented by the applicant is adequate in accordance with Article 15 of the Visa Code. Attention is drawn to the provisions of Article 15(5), which requires consulates to ascertain whether claims against the insurance company would be recoverable in a Member State. In the case of policies issued by Russian insurers, such insurance could be considered inadequate due to the EU restrictive measures currently in place. In such cases, Member States may require applicants to present travel medical insurance policies issued by insurers outside of the Russian Federation.
  - ii. **Ascertain whether the applicant fulfils the entry conditions and can be expected to do so over the entire duration of the envisaged period of the visa validity:** the economic instability, the restrictive measures and political developments in Russia may increase the likelihood that applicants will no longer fulfil entry conditions over time. In such cases, issuing visas with shorter validity and/or single-entry visas instead of multiple-entry visas should be considered. Attention is drawn to Article 24(2a) of the Visa Code, which provides that the validity period of the visa issued may be shortened on a case-by-case basis where there is reasonable doubt that the entry conditions will be met for the entire period. Due to the worsening conditions, Member States should refrain from issuing multiple entry visas with long validity as it is not certain whether Russian citizens would continue to meet entry conditions, especially when the stated purpose of the journey is tourism.
  - iii. **Assess the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for, as laid down in Article 21(1) of the Visa Code, without prejudice to the possibility of issuing of a visa with limited territorial validity on humanitarian grounds:** the current situation in Russia may increase the likelihood that applicants envisage overstaying in the EU. In cases of doubt about the intention to leave the territory of the Member States, the visa should be refused, unless the Member State concerned considers it necessary to issue a visa (e.g., on humanitarian grounds, for the

benefit of dissidents, journalists, human rights defenders or other vulnerable categories). In such case, a visa with limited territorial validity must be issued in accordance with Article 25 of the Visa Code.

- iv. **Assess that the applicant possesses sufficient means of subsistence:** it is to be expected that applicants residing in Russia are no longer able to use international credit or payment cards when travelling in the EU. This puts into doubt their ability to possess sufficient means of subsistence, even more so when assets are held in accounts with banks or other entities subject to EU restrictive measures.
- v. **When assessing a visa application,** the consulates should take into account whether the applicants are associated with persons or entities subject to EU restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. If so, it should be assessed whether to refuse the visa on the basis of Article 32(1)(a)(vi) of the Visa Code. In cases of doubt, the EU Sanctions Map<sup>6</sup> is a tool that can provide guidance on a complete listing of persons and entities that are subject to the EU restrictive measures.

In addition to the above-mentioned elements and given the challenging security environment in Russia, the following elements should be considered by Member States consulates when examining applications lodged by Russian nationals:

19. **It is important that consulates thoroughly verify whether applicants could be considered to be a threat to public policy, internal security or to the international relations of any of the Member States.** In this case, the visa should be refused. It should be verified in the SIS whether the applicant is a person for whom an alert has been issued for the purpose of refusing entry. If possible and in case of doubt, consulates are advised to be highly vigilant, for instance by consulting national and Interpol databases and, in addition to the SIS, in accordance with each Member State's national legislation. Furthermore, consulates should keep in mind that several Member States require the consultation of their central authorities during the examination of all applications lodged by citizens of the Russian Federation, in accordance with Article 22 of the Visa Code.
20. Consulates should give **particular consideration in respect of certain categories of Russian applicants** as referred to in points 18(v) and 21 during the examination of an application for a Schengen visa for whom the probability of a potential risk is considered as high, whilst basing decisions on an individual assessment.
21. Member States could in particular consider that for certain categories of Russian applicants, it is highly likely that they **could be a potential threat to the international relations of any Member State.** Member States should examine whether Russian visa applicants whose stated purpose of travel is tourism could be connected to or otherwise support the regime and therefore constitute an increased risk in terms of promoting propaganda for the war and/or lobbying for the interests of the Russian government.
22. Member States could adopt an expansive approach to determining the factors that could result in an individual being identified as **potential threat:** this could mean, in practice, that based on an examination of the individual situation in the current geopolitical context, a possible threat could lead to the visa being refused.

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<sup>6</sup> <https://www.sanctionsmap.eu; https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions?locale=en>

23. As far as **Russian nationals travelling for tourism** are concerned, having a very strict approach is justified as it is more difficult to assess the justification for the journey, as compared to other purposes (business trip, family visits or medical appointment). Moreover, the person concerned might have no connections with a person present in the territory of the Member States (contrary for instance to family visits, business trips, or medical appointments).
24. Member States are encouraged to **intensify the exchange of information** in the context of local Schengen cooperation to ensure, as far as possible and in accordance with Article 48(1) of the Visa Code, a harmonised approach to the examination of visa applications submitted in Russia.
25. It must be recalled that the Visa Code contains derogatory provisions allowing for the issuing of a **visa on humanitarian grounds, for reasons of national interest or because of international obligations**. The amount of the visa fee to be charged may be waived or reduced, in accordance with Article 16(6) of the Visa Code when to do so serves to promote cultural or sporting interests, interests in the field of foreign policy, development policy and other areas of vital public interest, or because of international obligations. Such provisions could be relied upon to **facilitate the travel of journalists, dissidents, pupils, student and researchers** as these categories of travellers will now have to pay a visa fee of EUR 80 instead of EUR 35 - unless the fee is waived or reduced in accordance with Article 16(2), (4) or (5) of the Visa Code. Article 19(4) allows for acceptance of applications not meeting the requirements to be considered admissible and Article 25(1) of the Visa Code allows visas to be issued with limited territorial validity despite the entry conditions not being fulfilled. This is relevant, for instance, in case of visa applications lodged by **dissidents, independent journalists, human rights defenders and representatives of civil society organisations and their close family members**, that are not controlled by the government of the Russian Federation and their close family members.
26. The rules set out in Directive 2004/38/EC<sup>7</sup> on the rights of Union citizens and their family members to move freely and reside within the territory of the Member States, continue to apply<sup>8</sup>.

#### **d) Reassessment of valid visas held by citizens of the Russian Federation**

27. Restrictive measures<sup>9</sup> on the prohibition to enter into, or transit through, territories of Member States by citizens of the Russian Federation were adopted. In this context, the SIS contains alerts on such citizens subject to EU restrictive measures, who are prohibited from entering into or staying in the Schengen Area. Member States should **revoke visas** that were issued to such citizens before the entry into force of the travel ban and that are still valid, as the conditions for issuing them are no longer met, in accordance with Articles 34(2) and 21(3)c of the Visa Code. Information on a revoked visa must be entered into the VIS in accordance with Article 13 of the

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<sup>7</sup> Directive 2004/38/EC of 29 April 2004 on the rights of Union citizens and their family members to move freely within the territory of the Member States (OJ L 158 30.4.2004, p. 77).

<sup>8</sup> In particular, a visa refusal to a beneficiary of free movement is to be considered as a restriction to free movement. It must therefore comply with the requirements of Chapter VI of Directive 2004/38/EC, especially the procedural safeguards laid out in this Chapter.

<sup>9</sup> Please see in particular: Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, (OJ L 78, 17.3.2014, p. 16) and Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ L 78, 17.3.2014, p. 6).

VIS Regulation. The visa holder should be notified of the revocation in accordance with Article 34(6) of the Visa Code.

28. Member States should also adopt a strict approach with respect to reassessing visas already issued to any citizen of the Russian Federation, similarly to the principles applied when assessing new visa applications lodged by citizens of the Russian Federation: greater scrutiny in respect of Russian nationals, based on a **re-examination of the individual situation in the current geopolitical context, could result in an individual being identified as a potential threat**. If it becomes evident that the conditions for issuing a visa are no longer met, Member States should revoke visas that were issued to such citizens and that are still valid, in accordance with Articles 34(2) and 21(1) of the Visa Code. Information on a revoked visa must be entered into the Visa Information System (VIS) in accordance with Article 13 of the VIS Regulation. The visa holder should be notified of the revocation in accordance with Article 34(6) of the Visa Code. A visa shall in principle be revoked by the competent authorities of the Member State which issued it. A visa may be revoked by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such revocation. For example, the visa should be revoked at the border if the holder of the visa has become the subject of an alert in the SIS since the visa was issued. Persons whose visa has been revoked have the right to appeal such a decision.
29. In addition, it must be recalled that in accordance with Article 30 of the Visa Code, **the mere possession of a visa does not confer an automatic right of entry into the Schengen area**. Therefore, presentation of a valid visa already issued to a citizen of the Russian Federation has no bearing on the obligation on Member States to carry out comprehensive border checks with a view to verifying fulfilment of the conditions of entry laid down in Article 6 of the Schengen Borders Code and ensuring that entry is refused where such conditions are not fulfilled.

**e) Bilateral visa waiver agreements in force with the Russian Federation**

30. The Visa Regulation<sup>10</sup> lays down a common list of third countries whose citizens must be in a possession of a visa when crossing the external borders of the EU and a list of countries whose citizens are exempt from that requirement. These lists are set out in annexes to the Visa Regulation.
31. In addition, Article 6 (1), point (a) of the Visa Regulation stipulates that “a Member State may provide for exceptions from the visa requirement [...] as regards: (a) holders of diplomatic passports, service/official passports or special passports.” In line with Article 12, Member States must communicate the measures they take pursuant to Article 6 of the Visa Regulation and the Commission publishes these measures for information.
32. In order for the Council Decision on the full suspension of the application of the Agreement to be effective, Member States are required to suspend the application of bilateral visa waiver agreements with the Russian Federation, which provide for visa-free travel for the holders of the Russian Federation’s service and special passports and to report to the Commission such suspensions.

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<sup>10</sup> Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39)



33. Member States shall ensure the application and effectiveness of EU restrictive measures even when bilateral visa waiver agreements with the Russian Federation are in force.

**f) Implementation and information to the public**

34. These operational guidelines are meant to assist Member States in dealing with all applications lodged by citizens of the Russian Federation, irrespective of their place of residence.

35. It would be for Member States' central authorities to share these guidelines with all their consular representations around the world.

36. Member States remain responsible for informing the general public of the full suspension of the Agreement, (Article 47(1) of the Visa Code).

**g) Follow-up by the local Schengen cooperation**

37. In accordance with Article 48(1) of the Visa Code, the EU Delegation within local Schengen cooperation will coordinate and organise regular exchanges of information on the implementation of these guidelines and monitor the correct application of the changes resulting from the full suspension of the Agreement. Reports of meetings dealing with the implementation of these guidelines should be shared with the Member States' central visa authorities, in accordance with Article 48(5) of the Visa Code, and the Commission.

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