



EUROPEAN COMMISSION

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RESTREINT UE

RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

in order to authorise the Commission to open negotiations for the conclusion of an Agreement between the European Union and the Russian Federation, amending 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

EXPLANATORY MEMORANDUM

1. INTRODUCTION

1.1. General background

The Visa Facilitation Agreement between the European Union and the Russian Federation¹ (hereafter Russia) has been in force since 1 June 2007, together with the Readmission Agreement between the Parties². Since then, the EU and Russia have further developed their cooperation in the field of freedom, security and justice, in particular through biannual meetings of the EU-Russia Permanent Partnership Council (PPC) on Freedom, Security and Justice. Since September 2007, the EU and Russia have moreover pursued an examination of the conditions for visa-free travel as a long-term perspective.

Article 13 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. At its 5th and 6th meetings on 12 March and 10 December 2009 respectively, the Joint Committee examined possible amendments to the Agreement, taking into account the result of the monitoring of the implementation of the Agreement by the Joint Committee, the Commission services' evaluation of the implementation of the European Union's visa facilitation agreements with third countries³, Russia's proposals to amend the Agreement, as well as legislative changes to the Parties' *acquis* on visas, in particular the European Union's Visa Code⁴ applicable since 5 April 2010.

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¹ Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visa to the citizens of the European Union and the Russian Federation, OJ L129/1, 17.5.2007.

² Agreement between the European Community and the Russian Federation on readmission, OJ L129/38, 17.5.2007.

³ SEC(2009) 1401 final, 15.10.2009

⁴ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243/1, 15.9.2009.

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At political level, at the 12th meeting of the EU-Russia PPC on Freedom, Security and Justice on 25-26 May 2010, the Parties welcomed the suggestions of the Joint Committee on possible modifications and additions to the agreement and lent their support to the forthcoming constructive negotiations. An improved and expanded Visa Facilitation Agreement would also

represent a significant yet gradual step towards the longer-term goal of a reciprocal visa-free travel regime.

The present recommendation to the Council in order to authorise the Commission to open negotiations with Russia on an Agreement amending 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 aims at responding to the commitments expressed at political level and is based on the abovementioned suggestions of the Joint Committee.

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2. PURPOSE AND LEGAL BASIS

This recommendation has been submitted to the Council in order to conclude an Agreement with the Russian Federation amending the existing Visa Facilitation Agreement between the European Union and the Russian Federation, that contains, on the basis of reciprocity, additional clear and unambiguous legally binding rights and obligations necessary to further improve the facilitated issuance of visas to citizens of the Russian Federation and the EU.

Like the existing Agreement, the subject matter of the new Agreement is related to the issuance of visas for an intended stay of no more than three months, which falls under Union competence and is regulated by Article 77(2)(a) of Title V of the Treaty on the Functioning of the European Union, which is the basis for the establishment of legislation concerning, inter alia, procedures and conditions for issuing visas by the Member States.

In accordance with the requirements of Article 4(3) of the Treaty on European Union, Member States bound by these negotiation directives refrain from negotiating bilaterally with the Russian Federation on the subject matters covered by these directives. In cases where such bilateral negotiations are already ongoing, Member States suspend these as long as the Union has not concluded its negotiations with the Russian Federation.

The existing Agreement does not bind the United Kingdom, Ireland and Denmark or Norway, Iceland and Switzerland, the countries associated to the development of the Schengen *acquis*.

However, in order to ensure a common approach towards the Russian Federation on the issue of facilitation of issuance of short-stay visas, covering all Member States and the countries associated with the implementation and further development of the Schengen *acquis*, Joint Declarations attached to the Agreement state the desirability that similar Agreements on visa facilitation be concluded between the Russian Federation and each of these Member States and associated countries.⁵ As the new Agreement will not bind these countries either, it would therefore be appropriate to provide similar Joint Declarations.

3. APPLICABILITY TO THE MEMBER STATES THAT DO NOT FULLY APPLY THE SCHENGEN ACQUIS

Cyprus, Bulgaria and Romania do not issue Schengen visas yet. Until the Council Decisions provided for in their respective Acts of Accession have been taken, each of these Member States continues to issue national visas, the validity of which is limited to its own territory. Nevertheless, like the existing Agreement, the new Agreement will bind these Member States, even if, for a transitional period, the visas to be issued by their authorities, will be national visas with limited territorial validity.

RECOMMENDATION

In light of the above considerations, the Commission recommends:

- that the Council authorises the Commission to negotiate with the Russian Federation with a view to concluding an Agreement amending 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;
- that, since in accordance with the Treaty, the Commission will conduct these negotiations on behalf of the European Union, the Council appoints a special Committee to assist it in its task, and;
- that the Council issues the appended negotiating directives.

⁵ Denmark, Norway and Switzerland concluded such bilateral visa facilitation agreements with the Russian Federation.

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