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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION establishing the position to be taken on behalf of the European Union within the Joint Committee set up under the Agreement between the European Union and Georgia on the facilitation of the issuance of visas, with regard to the adoption of common guidelines for the implementation of that Agreement

COUNCIL DECISION (EU) 2016/...

of ...

**establishing the position to be taken on behalf of the European Union
within the Joint Committee set up under the Agreement
between the European Union and Georgia
on the facilitation of the issuance of visas,
with regard to the adoption of common guidelines
for the implementation of that Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 77(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 12 of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas¹ (the 'Agreement') sets up a Joint Committee (the 'Joint Committee'). It provides that the Joint Committee is, in particular, to monitor the implementation of the Agreement.
- (2) Regulation (EC) No 810/2009 of the European Parliament and of the Council² provides for the procedures and conditions for issuing visas for transit through, or intended stays on, the territory of the Member States not exceeding 90 days in any 180-day period.
- (3) Common guidelines are required to ensure a fully harmonised implementation of the Agreement by the diplomatic missions and consular services of the Member States and to clarify the relationship between the provisions of the Agreement and the provisions of the legislation of the Parties to the Agreement that continue to apply to visa issues not covered by the Agreement.
- (4) It is appropriate to establish the position to be taken on the Union's behalf within the Joint Committee with regard to the adoption of common guidelines for the implementation of the Agreement.

¹ OJ L 52, 25.2.2011, p. 34.

² 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, 15.9.2009, p. 1).

- (5) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC¹; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC²; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

¹ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

² Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

Article 1

The position to be taken on behalf of the European Union within the Joint Committee set up under Article 12 of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas, with regard to the adoption of common guidelines for the implementation of that Agreement, shall be based on the draft Decision of the Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...

For the Council

The President

DRAFT

**DECISION No .../... OF THE JOINT COMMITTEE
SET UP UNDER THE AGREEMENT
BETWEEN THE EUROPEAN UNION AND GEORGIA
ON THE FACILITATION OF THE ISSUANCE OF VISAS**

of

**with regard to the adoption of common guidelines
for the implementation of that Agreement**

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Union and Georgia on the facilitation of the issuance of visas¹ (the 'Agreement'), and in particular Article 12 thereof,

Whereas the Agreement entered into force on 1 March 2011,

HAS ADOPTED THIS DECISION:

¹ OJ L 52, 25.2.2011, p. 34.

Article 1

The common guidelines for the implementation of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas are set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...

For the European Union

For Georgia

ANNEX

COMMON GUIDELINES FOR THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND GEORGIA ON THE FACILITATION OF THE ISSUANCE OF VISAS

The purpose of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas (the 'Agreement'), which entered into force on 1 March 2011, 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 Georgia.

The Agreement establishes, on the basis of reciprocity, legally binding rights and obligations for the purpose of simplifying the procedures for the issuing of visas to the citizens of Georgia.

These Guidelines, adopted by the Joint Committee set up under Article 12 of the Agreement (the 'Joint Committee'), aim at ensuring a harmonised implementation of the Agreement by the diplomatic missions and consular services of the Member States of the Union ('Member States'). These Guidelines are not part of the Agreement and are therefore not legally binding. However, it is highly recommended that diplomatic and consular staff consistently follow them when implementing the Agreement.

These Guidelines are intended to be updated in the light of experience gained in the implementation of the Agreement under the responsibility of the Joint Committee.

In order to ensure the continued and harmonised implementation of the Agreement and in conformity with the rules of procedure of the Joint Visa Facilitation Committee, the Parties agreed to undertake informal contacts between formal meetings of the Joint Committee, in order to deal with urgent issues. Detailed reports about these issues and the informal contacts will be submitted at the subsequent Joint Visa Facilitation Committee meeting.

I. GENERAL ISSUES

1.1. Purpose and scope of application

Article 1(1) of the Agreement provides that:

"1. 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 Georgia."

The Agreement applies to all citizens of Georgia who apply for a short-stay visa, whichever country they reside in.

The Agreement does not apply to stateless persons holding a residence permit issued by Georgia. The rules of the Union visa *acquis* apply to that category of persons.

Article 1(2) of the Agreement provides that:

"2. If Georgia reintroduces the visa requirement for the citizens of all Member States or certain categories of citizens of all Member States, the same facilitations granted under this Agreement to the citizens of Georgia would automatically, on the basis of reciprocity, apply to the citizens of the Union concerned."

As from 1 June 2006, all citizens of the Union and stateless persons holding a residence permit issued by a Member State are exempted from the visa requirement when travelling to Georgia for a period of time not exceeding 90 days per period of 180 days or when transiting through the territory of Georgia.

In order to avoid discriminatory treatment by Georgia of the citizens of one or more Member States or certain categories of such citizens, in a Declaration annexed to the Agreement, the Union announced its intention to suspend the application of the Agreement, in case Georgia reintroduces the visa requirement for the citizens of one or more Member States or for certain categories of such citizens.

1.2. Scope of the Agreement

Article 2 of the Agreement provides that:

- "1. The visa facilitations provided in this Agreement shall apply to citizens of Georgia only in so far as they are not exempted from the visa requirement by the laws and regulations of the Union or the Member States, this Agreement or other international agreements.
2. The national law of Georgia or of the Member States or Union law shall apply to issues not covered by 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."

The Agreement, without prejudice to Article 10, does not affect the existing rules on visa obligations and visa exemptions. For instance, Article 4 of Council Regulation (EC) No 539/2001¹ allows Member States to exempt from the visa requirement, among other categories of persons, civilian air and sea crews. Since the taking of effect of the association of Switzerland and Liechtenstein to the Schengen area on 13 December 2008 and on 7 March 2011 respectively, residence permits issued by Switzerland and Liechtenstein are recognised as equivalent to Schengen visas for both transit and short stay.

Regulation (EC) No 810/2009 of the European Parliament and of the Council² ('Visa Code') applies to all issues not covered by the Agreement, such as the determination of the Schengen Member State responsible for processing a visa application, the motivation of a refusal to issue a visa, the right to appeal against a negative decision and the general rule of a personal interview with the visa applicant. In addition, Schengen rules and, where appropriate, national law continue also to apply to issues which are not covered by the Agreement, such as the recognition of travel documents, proof of sufficient means of subsistence, the refusal of entry into the territory of the Member States and expulsion measures. In that respect, providing accurate information on these issues is necessary³.

¹ Council Regulation (EC) No 539/2001 of 15 March 2001 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 81, 21.3.2001, p. 1).

² 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, 15.9.2009, p. 1).

³ See also point 1.7.

Even if the conditions provided for in the Agreement are met, for example, proof of documentary evidence regarding the purpose of the journey for the categories provided for in Article 4 is provided by the visa applicant, the issuance of the visa can still be refused if the conditions laid down in Article 6 of Regulation (EU) 2016/399 of the European Parliament and of the Council¹ ('Schengen Borders Code') are not fulfilled, i.e. the person is not in possession of a valid travel document, an alert in the Schengen Information System (SIS) has been issued, the person is considered a threat to public policy, internal security, etc.

Other flexibilities in the issuing of visas provided for by the Visa Code 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 of the Agreement, if the conditions provided for in Article 24 of the Visa Code are met. In the same way, the provisions contained in Article 16(5) and (6) of the Visa Code allowing waiver or reduction of the visa fee will continue to apply.

¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

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

Point (d) of Article 3 of the Agreement defines "visa" as "an authorisation issued by a Member State with a view to transiting through or an intended stay in the territory of Member States of a duration of no more than 90 days in any 180-day period from the date of first entry into the territory of the Member States;".

The facilitations provided by the Agreement apply both to uniform visas and to visas with limited territorial validity issued for the purpose of 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-month period

Regulation (EU) No 610/2013 of the European Parliament and of the Council¹ has re-defined the notion of short stay. The current definition of short-stay reads as follows: "no more than 90 days in any 180-day period, which entails considering the 180-day period preceding each day of stay". That definition entered into force on 18 October 2013 and is contained in the Schengen Borders Code.

¹ Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council (OJ L 182, 29.6.2013, p. 1).

The day of entry will be calculated as the first day of stay in the territory of the Member States and the day of exit will be calculated as the last day of stay in the territory of the Member States. The notion of "any" implies the application of a "moving" 180-day reference period, on each day of the stay looking back to the last 180-day period, in order to verify if the 90/180-day requirement continues to be fulfilled. That means that an absence for an uninterrupted period of 90 days allows for a new stay of up to 90 days.

Example of calculation of stay on the basis of the current definition:

A person holding a multiple-entry visa for 1 year (18.4.2010 – 18.4.2011) enters for the first time on 19.4.2010 and stays for three days. Then that person enters again on 18.6.2010 and stays for 86 days. What is the situation on specific dates? When will this person be allowed to enter again?

On 11.9.2010: over the last 180 days (16.3.2010 – 11.9.2010) the person had stayed for three days (19.4.2010 – 21.4.2010) plus 86 days (18.6.2010 – 11.9.2010) = 89 days = no overstay. The person may still stay for up to one day.

As of 16.10.2010: the person might enter for a stay of three additional days (on 16.10.2010 the stay on 19.4.2010 becomes irrelevant (outside the 180-day period); on 17.10.2010 the stay on 20.4.2010 becomes irrelevant (outside the 180-day period; etc.)).

As of 15.12.2010: the person might enter for 86 additional days (on 15.12.2010 the stay on 18.6.2010 becomes irrelevant (outside the 180-day period); on 16.12.2010 the stay on 19.6.2010 becomes irrelevant, etc.).

- 1.5. Situation regarding the Member States that joined the Union in 2004 and 2007 without yet being fully integrated into the Schengen area, Member States that do not participate in the Union common visa policy and associated countries

Only Bulgaria, Croatia, Cyprus and Romania do not yet fully implement the Schengen *acquis*. They will continue issuing national visas with a validity limited to their own national territory. Once those 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 those Member States. As from that date, Schengen rules and/or national law shall apply to issues not covered by the Agreement.

Bulgaria, Croatia, Cyprus and Romania are authorised to recognise residence permits, D visas and short stay visas issued by Schengen Member States and associated countries for short stays on their territory¹.

¹ Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC (OJ L 157, 27.5.2014, p. 23).

In accordance with Article 21 of the Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders¹, all Schengen Member States must recognise long-stay visas and residence permits issued by each other as valid for short stays on each other's territories. Schengen Member States accept residence permits, D visas and short stay visas of associated countries for entry and short stay and vice versa.

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

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

1.6. The Agreement and bilateral agreements

Article 13 of the Agreement provides 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 Georgia, in so far as the provisions of the latter agreements or arrangements cover issues dealt with by this Agreement."

¹ OJ L 239, 22.9.2000, p. 19.

As from the date of entry into force of the Agreement, provisions of the bilateral Agreements in force between Member States and Georgia on issues covered by the Agreement ceased to apply. In accordance with Union law, Member States have to take the necessary measures to eliminate the incompatibilities between their bilateral agreements and the Agreement.

Should a Member State have concluded a bilateral agreement or arrangement with Georgia on issues not covered by the Agreement, for instance, providing for the exemption from the visa obligation for holders of service passports, that exemption would continue to apply after the entry into force of the Agreement.

The following Member States have bilateral agreements with Georgia providing for the exemption from the visa obligation for holders of service passports: Bulgaria, Cyprus, Latvia, Hungary, Romania and Slovakia.

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

1.7. Joint Declaration on the harmonisation of information on procedures for issuing short-stay visas and documents to be submitted when applying for short-stay visas

A Joint Declaration has been annexed to the Agreement referring to the commitment of the Parties to provide coherent and uniform information to the citizens of Georgia on access to diplomatic missions and consular services of the Member States and on the procedures and conditions for applying for visas and on the validity of visas issued. That information is available on the website of the Delegation of the European Union to Georgia:
http://www.eeas.europa.eu/delegations/georgia/travel_eu/visa/index_en.htm.

Article 47 of the Visa Code establishes the obligation of Member States' central authorities and consulates to provide the general public with all relevant information in relation to the application for a visa.

Diplomatic missions and consular services of the Member States are requested to disseminate widely that information (on the information board of consulates, in leaflets, on websites, etc.) and to also disseminate precise information on the conditions for issuing visas, representation of Member States in Georgia and their list of required supporting documentation.

1.8. Information provided by the Georgian authorities on the Agreement

In order to correctly inform the citizens of Georgia about the advantages of the Agreement and the diplomatic missions and consular services of the Member States where visa applications can be submitted, the Ministry of Foreign Affairs of Georgia has created a special link where that information is available. The address of the web page:

http://mfa.gov.ge/index.php?lang_id=GEO&sec_id=95&info_id=13448

II. SPECIFIC PROVISIONS

2.1. Rules that apply to all visa applicants

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

2.1.1. Visa fee

The first subparagraph of Article 6(1) of the Agreement provides that:

"1. The fee for processing visa applications of citizens of Georgia shall amount to EUR 35.".

In accordance with Article 6(1) of the Agreement, the fee for processing a visa application is 35 EUR. That fee applies to all Georgian visa applicants (including tourists) and concerns short-stay visas, irrespective of the number of entries.

Article 6(2) of the Agreement provides that:

"2. When Member States cooperate with an external service provider, an additional service may be charged. The service fee shall be proportionate to the costs incurred by the external service provider while performing his tasks and shall not exceed EUR 30. The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates."

Regarding the modalities of the cooperation with external services providers, Article 43 of the Visa Code provides detailed information concerning their tasks.

Article 6(3) of the Agreement provides that:

"3. The fees for processing the visa application are waived for the following categories of citizens:

(a) pensioners;" (N.B. In order to benefit from the fee waiver for this category, visa applicants must present evidence proving their pensioner status. The fee waiver is not justified in cases where the purpose of the journey is a paid activity.);

"(b) children below the age of 12;" (N.B. In order to benefit from the fee waiver for this category, visa applicants must present evidence proving their age.);

"(c) members of national and regional governments and of Constitutional and Supreme courts, in case they are not exempted from the visa requirement by this Agreement;" (N.B. In order to benefit from the fee waiver for this category, visa applicants must present evidence from the Georgian authorities proving their position.);

"(d) disabled persons and the persons accompanying them, if necessary;" (N.B. In order to benefit from the fee waiver for this category, evidence should be provided that both visa applicants fall under this category.).

In order to benefit from the fee waiver for this category, visa applicants must present a "Georgian Disabled certificate" (first or second degree) issued by the Georgian Ministry of Health, Labour and Social Affairs or a certificate issued by public or private hospitals or clinics. In cases where the disability of the visa applicants is obvious (blind persons, one leg missing) the visual recognition at the consular service is acceptable. In principle, no additional documents are required from accompanying persons.

In justified cases the visa application may be submitted by a representative or the guardian of the disabled person.

"(e) close relatives – spouse, children (including adopted), parents (including custodians), grandparents or grandchildren – who are visiting citizens of Georgia legally residing in the territory of the Member States;"

Point (e) of Article 6(3) of the Agreement regulates the situation of Georgian close relatives travelling to the Member States to visit citizens of Georgia legally residing in the territory of the Member States.

"(f) members of official delegations who, following an official invitation addressed to Georgia, are to participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;

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

(h) journalists and accredited persons accompanying them in a professional capacity;" (N.B. In order to benefit from the fee waiver for this category, visa applicants must present evidence proving that they are members of professional journalistic or media organisations.);

"(i) participants in international sport events and persons accompanying them in a professional capacity;" (N.B. Supporters will not be considered as accompanying persons.);

- "(j) representatives of civil society organisations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;
- (k) persons participating in scientific, cultural or artistic activities including university and other exchange programmes;
- (l) 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 seriously ill close relative."

The fee is waived for the above-mentioned categories of persons. In addition, the fee is also waived in accordance with Article 16(4) of the Visa Code.

As stated in Article 16(6) of the Visa Code "in individual cases, the amount of the visa fee to be charged may be waived or reduced when to do so serves to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons."

Article 16(7) of the Visa Code provides that the visa fee is to be charged in euro, in the national currency of the third country or in the currency usually used in the third country where the application is lodged, and is not refundable except in the case of an inadmissible application or if the consulate is not competent.

When the fee is charged in a currency other than in euro, the amount of the visa fee charged in that currency will be determined and regularly reviewed in application of the euro foreign exchange reference rate set by the European Central Bank. The amount charged may be rounded up and consulates will ensure under local Schengen cooperation that they charge similar fees.

In order to avoid discrepancies which could lead to visa shopping, diplomatic missions and consular services of the Member States in Georgia should ensure similar visa fees for all Georgian visa applicants when charged in foreign currencies.

Georgian visa applicants will be given a receipt for the visa fee paid in accordance with Article 16(8) of the Visa Code.

2.1.2. Length of procedures for processing visa applications

Article 7 of the Agreement provides that:

- "1. Diplomatic missions and consular services of the Member States shall take a decision upon the request to issue a visa within 10 calendar days starting from the date of the receipt of the application and documents required for issuing visas.
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 review 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 will be taken, in principle, within 10 calendar days of the date of the lodging of a visa application which is admissible.

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

All those deadlines start running only when the visa 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 services of the Member States that have an appointment system, the period of time to get an appointment is not counted as part of the processing time. The general rules set out in Article 9 of the Visa Code are applicable to this issue as well as to other practical modalities for lodging a visa application. In particular, when an appointment is required for the lodging of a visa application, it will, as a rule, take place within a period of two weeks from the date when the appointment was requested.

When setting the appointment, the possible urgency claimed by the visa applicant should be taken into account. The decision about the reduced time for taking a decision on a visa application as defined in Article 7(3) of the Agreement is taken by the consular officer.

In line with the Handbook for the processing of visa applications and the modification of issued visas (Part 2, point 3.2.2), the capacity of Member States' consulates in Georgia to handle visa applications should be adapted so as to respect the two-week deadline for an appointment provided for in the Visa Code, including during peak seasons.

In justified cases of urgency (where the visa could not have been applied earlier for reasons that could not have been foreseen by the visa applicant), an appointment (in accordance with Article 9(3) of the Visa Code) should be given immediately or direct access for submitting the application should be allowed.

In addition, a consulate may decide to establish a "fast track" procedure for the submission of visa applications in order to receive certain categories of visa applicants.

2.1.3. Extension of visa in exceptional circumstances

Article 9 of the Agreement provides that:

"The period of validity and/or duration of stay of an issued visa of a citizen of Georgia shall be extended when the competent authority of a Member State considers that the visa holder has provided proof of *force majeure* or humanitarian reasons preventing him from leaving the territory of the Member States before expiry of the period of validity of or the duration of stay authorised by the visa. Such an extension shall be granted free of charge."

With regard to the possibility of extending the validity of the visa in cases of justified personal reasons, where the holder of the visa does not have the possibility to leave the territory of the Member State by the date indicated on the visa sticker, the provisions of Article 33 of the Visa Code shall apply as long as they are compatible with the Agreement. However, under the Agreement the extension of the visa is carried out free of charge in case of *force majeure* or humanitarian reasons.

2.2. 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) of the Agreement, only the indicated documentary evidence proving the purpose of the journey will be required. As stated in Article 4(3) of the Agreement, no other justification, invitation or validation concerning the purpose of the journey will be required. However, this does not mean a waiver of the general requirement of personal appearance for the submission of the visa application and supporting documents with regard to the means of subsistence, which remains unaffected.

If in individual cases doubts remain regarding the authenticity of the document proving the purpose of the journey, the visa applicant may be called for an additional in depth interview to the embassy/consulate where that applicant can be questioned regarding the actual purpose of the visit or the applicant's intention to return (in accordance with Article 21(8) of the Visa Code). 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 that issue.

For the categories of persons not mentioned in Article 4(1) of the Agreement (for example tourists), the general rules regarding documentation proving the purpose of the journey continue to apply. The same applies to documents regarding parents' consent for travel of children under 18 years of age.

Schengen rules and national law shall apply to issues not covered by the Agreement, such as recognition of travel documents and guarantees regarding return and sufficient means of subsistence.

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

Article 4(1) of the Agreement provides that:

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

(a) for close relatives – spouse, children (including adopted), parents (including custodians), grandparents, grandchildren – who are visiting citizens of Georgia legally residing in the territory of the Member States:

– a written request from the host person;"

Point (a) of Article 4(1) of the Agreement regulates the situation of Georgian close relatives travelling to the Member States to visit the citizens of Georgia legally residing in the territory of the Member States. This facilitation does not apply to citizens of the Union living in the Union who invite Georgian relatives.

The authenticity of the signature of the inviting person must be proven 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 that person's status, such as a photocopy of the residence permit and a document confirming the family ties.

That 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 prove legal residence and family ties.

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

The name of the visa applicant 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 visa applicant need not necessarily be indicated in the official invitation to participate in the meeting, although this might be necessary when the official invitation is addressed to a specific person.

That provision applies to members of official delegations irrespective of the type of passport (service or ordinary passport) they hold.

"(c) for pupils, students, post-graduate persons 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 is only accepted as justification of the purpose of the journey if it has been issued by the host university, college or school where the studies or educational training are going to take place.

"(d) for persons travelling for medical reasons and necessary accompanying persons:

- an official document of the medical institution confirming necessity of medical care in this institution, the necessity of being accompanied and proof of sufficient financial means to pay for the medical treatment;"

The document from the medical institution confirming the three elements (the necessity of medical care in that institution, the necessity of being accompanied and the proof of sufficient financial means to pay for the medical treatment) must be submitted.

"(e) for journalists and accredited persons accompanying them in a professional capacity:

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

This category does not cover freelance journalists and their assistants.

The certificate or document proving that the visa applicant is a professional journalist or an accredited accompanying person in a professional capacity and the original document issued by that person's employer stating that the purpose of the journey is to carry out journalistic work or assist in such work must be presented.

Currently, no professional media associations, centres, institutions, unions or other similar organisations exist in Georgia which would represent the interest of a group of journalists or accredited accompanying persons in a professional capacity and could issue certificates proving that the person is a professional journalist or an accredited accompanying person in a professional capacity in a specific area. Until such organisations are established, the consulates may accept a certificate from the employer and press accreditation to one of the Member States' organisations.

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

- a written request from the host organisation, competent authorities, national sport federations or national Olympic committees of the Member States;"

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

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

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

The National Agency of Public Registry will issue a document confirming the existence of the business organisations.

- "(h) for members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held on the territory of the Member States:
- a written request from the host organisation confirming that the person concerned is participating in the event;
- (i) for representatives of civil society organisations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes:
- a written request issued by the host organisation, a confirmation that the person is representing the civil society organisation and the certificate on establishment of such organisation from the relevant register issued by a state authority in accordance with the national legislation;"

A document from the civil society organisation confirming that the visa applicant is representing that organisation must be presented.

The competent Georgian state authority issuing the certificate on establishment of a civil society organisation is the National Agency of Public Registry.

The Register in which the certificates on establishment of civil society organisations are registered is the National Agency of Public Registry. The Ministry of Justice and the National Agency of Public Registry are working with local authorities on developing an electronic database of NGOs which, upon completion, would be available via the website of the Ministry of Justice: <https://enreg.reestri.gov.ge/main.php>.

Members as such of the civil society organisations are not covered by the Agreement.

- "(j) for persons participating in scientific, cultural or artistic activities, including university and other exchange programmes:
 - a written request from the host organisation to participate in the activities;
- (k) for drivers conducting international cargos and passenger transportation services to the territories of the Member States in vehicles registered in Georgia:
 - a written request from the national company or association of carriers of Georgia providing for international road transportation, stating the purpose, duration and frequency of the trips;"

Currently, two national associations of carriers of Georgia competent for providing the written request to professional drivers exist in Georgia: the Georgian International Road Carriers Association (GIRCA) and the Georgian Association of Carriers of Passengers by Road (GACPR). Carriers which are not members of those associations may present a request issued by the Land Transport Agency, Ministry of Economy and Sustainable Development of Georgia. In the case of well-known carriers, consulates may accept a written request from the Georgian carrier / transport company employing the driver. The request must state the purpose, duration and frequency of the trips.

- "(l) for participants of the official exchange programmes organised by twin cities:
- a written request of the Head of Administration/Mayor of these cities or municipal authorities;"

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

"(m) 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 may issue such an 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 visa applicant and the buried must be presented.

The Agreement does not create any new liability rules for the natural or legal persons issuing the written requests. The respective Union and / or 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 of those visits does not exceed 90 days per period of 180 days.

Article 5 of the Agreement provides that:

- "1. Diplomatic missions and consular services of the Member States shall issue multiple-entry visas with the term of validity of up to 5 years to the following categories of citizens:
- (a) spouses, children (including adopted) who are under the age of 21 or are dependent, or parents visiting citizens of Georgia 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;
 - (b) members of national and regional governments and of Constitutional and Supreme courts if they are not exempted from the visa requirement by this 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;
 - (c) permanent members of official delegations who, following an official invitation addressed to Georgia, are to participate regularly in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;"

Taking into account the professional status of those categories of persons, or their family relationship with a citizen of Georgia who is legally residing in the territory of the Member States, it is justified to grant them a multiple-entry visa with a term of validity of up to five years, or limited to the term of office or to their legal residence if they are less than five years.

Persons falling under point (a) of Article 5(1) of the Agreement, must present proof regarding the legal residence of the inviting person.

As regards persons falling under point (b) of Article 5(1) of the Agreement, confirmation should be given regarding their professional status and the duration of their term of office.

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

Persons falling under point (c) of Article 5(1) of the Agreement must present proof regarding their permanent status as a member of the official delegation and the need to participate regularly in meetings, consultations, negotiations or exchange programmes.

- "2. Diplomatic missions and consular services of the Member States shall issue multiple-entry visas with the term of validity of up to 1 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 Member State and that there are reasons for requesting a multiple-entry visa:
- (a) members of official delegations who, following an official invitation, are to participate regularly in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;
 - (b) representatives of civil society organisations travelling regularly to Member States for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;
 - (c) members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events who regularly travel to the Member States;
 - (d) persons participating in scientific, cultural or artistic activities, including university and other exchange programmes, who regularly travel to Member States;
 - (e) students and post-graduate persons who regularly travel for the purposes of study or educational training, including in the framework of exchange programmes;

- (f) participants in official exchange programmes organised by twin cities or municipal authorities;
 - (g) persons needing to visit regularly for medical reasons and necessary accompanying persons;
 - (h) journalists and accredited persons accompanying them in a professional capacity;
 - (i) business people and representatives of business organisations who regularly travel to Member States;
 - (j) participants in international sports events and persons accompanying them in a professional capacity;
 - (k) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Georgia.
3. Diplomatic missions and consular services 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 2 years they made use of the 1-year multiple-entry visas in accordance with the laws on entry and stay of the host Member 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 will be issued to the above-mentioned categories of visa applicants if during the previous year (12 months) the visa applicant has obtained at least one visa and has made use of it in accordance with the laws on entry and stay in the territory(ies) of the visited Member State(s) (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 with a validity of two to five years will be issued to the categories of visa applicants referred to in Article 5(2) of the Agreement, provided that during the previous two years (24 months) they have made use of the two one year multiple-entry visas in accordance with the laws on entry and stay in the territory(ies) of the visited Member State(s) and that the reasons for requesting a multiple-entry visa are still valid. It has to be noted that a visa with a validity of two to five years will only be issued if the visa applicant has been issued two visas valid for at least one year during the previous two years, and if that person has used those visas in accordance with the laws of entry and stay in the territory(ies) of the visited Member State(s). Diplomatic missions and consular services of the Member States will decide, on the basis of the assessment of each visa application, the period of validity of those visas, i.e. from two to five years.

Regarding the definition of the criteria in Article 5(2) of the Agreement: "provided that ... there are reasons for requesting a multiple-entry visa", and Article 5(3) of the Agreement: "provided that ... the reasons for requesting a multiple-entry visa are still valid", the criteria set out by the Visa Code for issuing multiple-entry visas shall apply. Consequently, the person must prove the need to travel frequently to one or several Member States, for example for business purposes.

There is no obligation to issue a multiple-entry visa if the visa applicant has not made use of a previously issued visa.

2.2.3. Holders of diplomatic passports

Article 10 of the Agreement provides that:

- "1. Citizens of Georgia who are holders of valid diplomatic passports may 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 Member States for a period not exceeding 90 days per period of 180 days."

The procedures regarding posting of diplomats in the Member States are not covered by the Agreement. The usual accreditation procedure applies.

III. COOPERATION ON DOCUMENT SECURITY

In a Joint Declaration annexed to the Agreement, the Parties agreed that the Joint Committee should evaluate the impact of the level of security of the respective travel documents on the functioning of the Agreement. To that end, the Parties agreed to regularly inform each other about the measures taken for avoiding the proliferation of travel documents, developing the technical aspects of travel document security as well as regarding the personalisation process of the issuance of travel documents.

IV. STATISTICS

In order to allow the Joint Committee to monitor effectively the implementation of the Agreement, diplomatic missions and consular services of the Member States shall submit statistics to the Commission every six months specifying by month, in particular and where possible:

- the number of multiple-entry visas issued;
- the number of visas issued without fees.

V. EUROPEAN UNION DECLARATION ON FACILITATIONS FOR FAMILY MEMBERS

Although the Agreement does not include legally binding rights and obligations for facilitating the movement of a wider number of citizens of Georgia who are family members of the citizens of Georgia legally residing in the territories of Member States, the Union takes note of the suggestion of Georgia to give a wider definition to the notion of family members that should benefit from visa facilitation as well as of the importance that Georgia attaches to the simplification of movement of that category of persons.

Therefore, in order to ease the mobility of an extended number of persons who have family links (in particular sisters and brothers and their children) with the citizens of Georgia legally residing in the territories of Member States, in a Declaration annexed to the Agreement, the Member States' consular offices are invited to make full use of the existing possibilities in the *acquis* for facilitating the issuance of visas to that category of persons, including, in particular, the simplification of documentary evidence requested for the applicants, exemptions from handling fees and, where appropriate, the issuing of multiple entry visas.
