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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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Subject: COMMUNICATION FROM THE COMMISSION

1. Updating 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; and
2. Providing guidelines on controls of Russian citizens at the external borders

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Delegations will find attached document C(2022) 7111 final.

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Encl.: C(2022) 7111 final



Brussels, 30.9.2022  
C(2022) 7111 final

## **COMMUNICATION FROM THE COMMISSION**

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- 2. Providing guidelines on controls of Russian citizens at the external borders**

## COMMUNICATION FROM THE COMMISSION

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- 2. Providing guidelines on controls of Russian citizens at the external borders**

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 the Russian Federation which replicate the Visa Facilitation Agreement. Following the Council Decision on the full suspension of the application of the Visa Facilitation Agreement, the Associated Countries are expected to suspend their bilateral agreements following their respective national procedures. In line with Council Decision (EU) 2022/1500, Denmark suspended in whole the application of the bilateral Agreement between the Government of the Kingdom of Denmark and the Government of the Russian Federation on the facilitation of the issuance of visas which took effect on 16 September 2022.
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 the Russian Federation 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. The Russian Federation’s unprovoked and unjustified war of aggression against Ukraine has had widespread implications, including an aggravation of the risks and threats to security and public order that the EU is facing. Member State consulates are confronted with 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 experience a significant reduction of their consular capacities following the expulsion of many Member States’ consular and

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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).

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 the Russian Federation's war of aggression against Ukraine, or engage in other subversive activities to the detriment of the EU. Russian visa applicants travelling for essential purposes, including notably family members of EU citizens, dissidents, independent journalists, and civil society representatives, human rights defenders should have the possibility to access the EU. Therefore, in the context of the full suspension of the Visa Facilitation Agreement, the Commission recommends that the Member States take the following considerations into account where examining applications for short-stay visas by Russian nationals.

6. The recent escalation of the war by the Russian leadership, including through military mobilisation and sham 'referenda' in parts of the occupied Ukrainian territories in order to prepare their illegal annexation by the Russian Federation, and dangerous threats to use weapons of mass destruction including nuclear weapons, has resulted in a significant increase in arrivals of Russian citizens to the Union's external borders, as well as in visa applications and inquiries to Member States.
7. Following the mobilisation order, a significant number of conscripts and their families may decide to flee the Russian Federation to the EU. It cannot be excluded that Russian citizens trying to avoid the mobilisation and entering the EU, also constitute a threat to public policy, the internal security or the international relations of a Member State or the Union as a whole. Visa applications lodged by those Russian citizens should be examined by Member States on a case-by-case basis and controls on Russian citizens at the Union's external borders should be carried out paying particular attention to security risks for Member States and the Union, and should be implemented in a coordinated manner.
8. This requires heightened scrutiny when assessing visa applications of Russian citizens as well as particularly thorough checks at the EU external borders. In this respect, it is important to underline that strong and coordinated thorough checks at the EU external borders guarantee not only the security of the Member State concerned but also the integrity of the Schengen area as a whole. Secure external borders are a pre-condition for the functioning of the area without internal border controls, as stressed notably by the Commission in the Schengen Strategy<sup>3</sup>. Also in the present context it should be stressed that reintroducing border checks at internal borders must remain a measure of last resort. Member States are reminded that, within the Schengen area, alternative measures to internal border controls, such as reinforced police cooperation, should be privileged.
9. It is recalled that Schengen visas are issued for short stays of 90 days within any 180-day period and as such cannot provide a long-term solution for Russian citizens seeking to avoid mobilisation by fleeing their country. This is without prejudice to the right of such individuals to seek international protection under the EU asylum legislation or the possibility to apply for national long-stay visas or residence permits
10. These revised guidelines look into the existing possibilities under Regulation 810/2009 ("the Visa Code")<sup>4</sup> and Regulation (EU) 2016/399 ("the Schengen Borders Code")<sup>5</sup> with a view to ensuring the highest degree of security scrutiny by Member States' consulates and border

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<sup>3</sup> Communication from the Commission to the European Parliament and the Council "A strategy towards a fully functioning and resilient Schengen area" (COM 2021/277, 2.6.2021).

<sup>4</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).

<sup>5</sup> 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 (OJ L 77, 23.3.2016, p. 1).

authorities, when carrying out individual assessments of visa applications and controls on the Russian citizens at the Union's external borders.

11. These guidelines are without prejudice to the applicable legal framework in the area of asylum, including the right to asylum and the principle of non-refoulement and the possibility for Member States to examine asylum claims in a procedure accelerated and/or conducted at the border or in transit zones, in accordance with Article 31(8)j and Article 43 of Directive 2013/32/EU<sup>6</sup>.
12. The Commission will keep the implementation of these guidelines under constant review, to support rapid and coordinated actions at EU level in addressing all emerging challenges. The Commission will report for this purpose in the framework of the IPCR and collect the necessary information via the Blueprint network.

### **I. Updated guidelines on general visa issuance in relation to Russian applicants**

13. 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, to avoid visa shopping between different consulates. Guidance on determining the competent Member State is contained in Part II, Chapter 1 of the Visa Code Handbook I<sup>7</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.

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

14. 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. Following President Putin's military mobilisation order, significant numbers of Russian conscripts have fled to neighbouring and other countries with the aim to avoid their mobilisation in the Russian army. There are widespread expectations that many may seek to obtain Schengen visas in view of continuing their journey inside the EU. Member States should not accept visa applications from citizens of the Russian Federation that are present in a third country, such as Georgia, Armenia, Kazakhstan, Serbia, Turkey, the United Arab Emirates etc. simply 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). In these cases, consulates should also examine whether the visa applicant indeed intends to stay for a maximum of 90 days in any 180-day period in the Schengen area. If a longer stay is planned, as could be likely for persons fleeing the military mobilisation, the case should be treated under the applicable rules for long stay visas. In this context, consulates should take into account

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<sup>6</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (OJ L180, 29.6.2013, p. 60).

<sup>7</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).

whether the protection against refoulement is guaranteed in the third country where the visa application is lodged.

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

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 the Russian Federation, 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:

*(i) Establishing priorities when attributing appointments for the lodging of applications*

15. 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.
16. 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.

*(ii) Timeframe within which a decision on a visa application must be taken*

17. 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.
18. 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, such as 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.

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

19. Notwithstanding the harmonised list of supporting documents to be presented by applicants in the Russian Federation (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 security, public policy, public order and international relations.
20. 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 Visa Information System (VIS) Regulation<sup>8</sup>, ensuring that a durable record of this is visible to all consulates, as is standard practice for all visa refusals.

21. 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 or avoiding military conscription), and if Member States laws allow, issuing of 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>9</sup> (“SIS II Regulation”) for the purpose of refusing entry and stay might be considered.

*(iv) Prior consultation pursuant to Article 22 of the Visa Code*

22. 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).
23. 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 and C(2022) 6596 of 9 September 2022:

24. In view of the current economic and political situation in the Russian Federation, in particular following the considerable outbound movements prompted by President Putin’s mobilisation order, 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:

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<sup>8</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>9</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).

- 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 the Russian Federation 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 the Russian Federation may increase the likelihood that applicants envisage overstaying in the EU. This may be the case in particular for those Russian citizens attempting to avoid the military mobilisation order and their families. In cases of doubt about the intention to leave the territory of the Member States, the visa should be refused. The Visa Code contains sufficient flexibility to allow Member States to cater for particular situations and to derogate on humanitarian grounds from some of the conditions that must be fulfilled to grant a short-stay visa (e.g., for the benefit of dissidents, independent journalists, human rights defenders or other vulnerable categories). Member States should exercise such flexibility taking full account of the need to maintain security and they should carefully assess whether derogations are warranted as they should remain reserved for exceptional cases. Notice for conscription or enlistment and conscientious objection alone should not be considered as a sufficient reason for issuing visas on humanitarian grounds. A visa with limited territorial validity must be issued in accordance with Article 25 of the Visa Code whenever some of the conditions for granting a short-stay visa are not fulfilled (valid for the territory of the issuing Member State or exceptionally of several Member States subject to their consent).
- iv. **Assess that the applicant possesses sufficient means of subsistence:** it is to be expected that applicants residing in the Russian Federation 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, or directed by, or may provide material or immaterial support to persons or entities subject to EU restrictive measures imposed in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of



Ukraine<sup>10</sup>, or in respect of serious human rights abuses in Ukraine<sup>11</sup>. 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>12</sup> is a tool that can provide guidance on the complete listing of persons and entities that are subject to EU restrictive measures.

25. In addition to the above-mentioned elements and given the challenging security environment in the Russian Federation and the increase of Russians seeking to enter the EU following the military mobilisation order, the following elements should be considered by the Member States consulates when examining applications lodged by Russian citizens.
26. **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.
27. Consulates should give **particular consideration in respect of certain categories of Russian applicants** as referred to in points 24(v) and 26 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.
28. 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.
29. 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. This is particularly relevant for Russian citizens escaping the military mobilisation order.
30. As far as **Russian citizens 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

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<sup>10</sup> 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); 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. 6–15).

<sup>11</sup> Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (OJ L 410I, 7.12.2020, p. 13–19); Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (OJ L 410I 7.12.2020, p. 1).

<sup>12</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>

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). It should be ascertained whether there are reasonable doubts as to the reliability of the statements made by the applicant or his/her intention to leave the territory of the Member States before the expiry of the visa applied for, in which case the visa applications shall be refused in accordance with article 32(1)b of the Visa Code<sup>13</sup>. 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 the Russian Federation.

31. The rules set out in Directive 2004/38/EC<sup>14</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>15</sup>.
32. 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 independent journalists, dissidents, pupils, students 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.
33. Member States should only apply these derogations after a thorough assessment. It is therefore up to Member States, based on an individual examination, to assess if applications by Russian citizens can qualify as falling under the category “humanitarian grounds”. There is no unique set of documents that would prove that a person qualifies for a visa on humanitarian grounds, because individual circumstances differ too widely and need a case-by-case assessment.
34. The rules set out in Directive 2004/38/EC<sup>16</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>17</sup>.

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<sup>13</sup> A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex VI in the language of the Member State that has taken the final decision on the application and another official language of the institutions of the Union. Applicants who have been refused a visa shall have the right to appeal.

<sup>14</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>15</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>16</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).

#### **d) Revocation and annulment of of valid visas held by Russian citizens**

35. Article 34 of the Visa Code lays down the rules on the annulment and revocation of visas. The annulment is possible if it becomes evident that the conditions for issuing the visa were not met at the time (e.g., if it is ascertained that the visa was obtained in a fraudulent way), and revocation is possible if it becomes evident that the conditions for issuing are no longer met. For instance, a visa must be revoked at the border if the holder of the visa has become the subject of an alert for refusal of entry and stay in the Schengen Information System (SIS), since the visa was issued.
36. Taking into account the current circumstances, Member States should instruct consulates and border guards to exercise increased scrutiny in assessing the validity of already issued visas. In particular for visas that are still valid, Member States are encouraged to reassess them on an individual basis in order to verify whether the conditions for issuing them still exist in light of the current circumstances, or whether a visa, after thorough assessment, should be revoked. The following aspects, among others, should be considered during the assessment:
- Travel medical insurance: whether the claim against a Russian insurance company would be recoverable or not due to the restrictive measures imposed by the EU on certain economic operators (see above para. 23(i) on travel medical insurance);
  - Intention to leave the territory of the Member States before the expiry of the visa: in particular with regard to Russian citizens aged 18-60 who may be called up as reservists and attempt to avoid military mobilisation orders;
  - Security considerations: whether in light of the current circumstances and, in particular, the military mobilisation in the Russian Federation, visas that were issued before the latter and that are still valid, the conditions for issuing them are no longer met, in accordance with Articles 34(2) and 21(3)d of the Visa Code. In case there are grounds for annulment/revocation, such a decision may be taken by the border guard or consulates irrespective of the visa issuing Member State. The authority should inform the issuing Member State accordingly as well as affix the corresponding stamp on the visa sticker and enter the information on the annulment/revocation in the Visa Information System, in accordance with Article 13 of the VIS Regulation.<sup>18</sup> Persons whose visa has been revoked shall have the right to appeal.
37. Restrictive measures<sup>19</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.

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<sup>17</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>18</sup> Regulation (EC) No<sup>o</sup> 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation).

<sup>19</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).

Information on a revoked visa must be entered into the 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.

38. 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.
39. 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**

40. The Visa Regulation<sup>20</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.
41. 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.
42. 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>20</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).

43. 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**

44. 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.

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

46. 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**

47. 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.

**II. Guidelines on controls of Russian citizens at the external borders pursuant to the Schengen Borders Code**

48. It is for the staff of the national border guard authorities, where applicable supported by the Standing Corps of Frontex, to assess all the aspects related to the fulfilment of the entry conditions, on a case-by-case basis, when carrying out controls at the external borders, irrespectively of the place from which a Russian citizen seeking to cross the external border has been travelling.

49. Pursuant to Article 8(3) of the Schengen Borders Code, cross-border movement at external borders by third-country nationals must be subject to thorough checks by border guards to verify that the third-country nationals fulfil the entry conditions laid down in Article 6(1) of the same Code. In the particular context of the illegal aggression of the Russian Federation against Ukraine, it is essential that border guards at all the border crossing points at the external borders assess in a coherent fashion whether a Russian citizen crossing the external border fulfils the entry conditions into the Schengen area, to avoid that an applicant who has been denied entry by a Member State is admitted by another one.

50. In the case where border guards conclude, following an individual assessment, that the Russian citizen does not fulfil all of the entry conditions, entry into the Schengen area should be refused in accordance with Article 14 of the Schengen Borders Code.

51. Pursuant to Article 6(1)(e) of the Schengen Borders Code, one of the entry conditions for third-country nationals is that the person is not considered to be a **threat to public policy, internal security or the international relations of any of the Member States**. In light of the current geopolitical situation, the military mobilisation in the Russian Federation and the impact of these events on the stability and security of the Union and its Member States, border authorities should exercise intensive individual scrutiny of the potential heightened security risk that the entry of a citizen of a country waging war in Europe into the Schengen area poses. With a view to carrying out such an individual assessment, border guards should notably conduct a thorough

interview with a Russian citizen seeking to enter the Schengen area. In addition to a check on the basis of travel document data, a systematic check using fingerprints in the Schengen Information System should be carried out, to also detect alerts on persons using false or unknown identities.

52. In this context, taking into account the geopolitical context, border guards should also take into account whether allowing a Russian citizen to enter the Schengen area at a time when their country of origin is engaging in an illegal military aggression against an EU candidate country, could seriously harm the international relations of one or more Member States. In light of the additional workload this reinforced scrutiny will lead to, Member States are encouraged to transfer additional staff to the border guards force located at the external borders concerned.
53. However, the heightened scrutiny must not lead to denying entry to persons that have a legitimate interest to leave the Russian Federation and enter the Schengen area. In particular, Member States' border guard authorities should pay special attention to Russian citizens that are human right defenders, dissidents or independent journalists and present themselves at an external border crossing point. The border guard authorities are encouraged to assess the requests for entry of these persons also in the light of Article 6(5)(c) of the Schengen Borders Code that gives the possibility to authorise entry of third-country nationals on humanitarian grounds, even where these third-country nationals do not fulfil one or more of the conditions laid down in Article 6(1). The same should apply to Ukrainian citizens that have been imposed Russian nationality following the occupation of their region, where they can prove their previous Ukrainian citizenship.
54. If the entry of a Russian citizen is refused on the grounds that they are considered to pose a threat to the public policy or internal security of the Member States, the refusing Member State might consider also, based on a separate individual assessment, to adopt a decision under national law on prohibiting entry and stay and enter an alert for that purpose in the Schengen Information System in accordance with Article 24 of the SIS II Regulation. The duration of the entry ban adopted under national law should be commensurate to the threat. Entering the alert in the SIS prevents the person who is considered a threat to public policy or internal security from entering the Schengen area through another border-crossing point of the same or a different Member State. The full set of biographic data of the person, as well as the person's fingerprints and photographs must be entered in the alert.

### **Carriers Liability**

55. Under Article 26 of the Convention Implementing the Schengen Agreement and Directive 2001/51<sup>21</sup>, the carriers (i.e. any natural or legal person whose occupation it is to provide passenger transport by air, sea or land) are obliged to immediately assume responsibility for third-country nationals who are refused entry into the territory of one of the Member States and were brought by them to the external border. In addition, the carriers bringing travellers by air or sea or overland by coach are obliged to take all the necessary measures to ensure that a third-country national is in possession of the travel documents required for entry into the territories of the Member State, subject to possible fines where the verification of such documents has been insufficient.

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<sup>21</sup> Article 26 of the Convention Implementing the Schengen Agreement and (OJ L 239, 22.9.2000, p. 1) and Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45).

56. It is therefore important that carriers remain vigilant when verifying the presence of travel documents required for entry. The Member States are encouraged to offer practical support to the carriers in this regard, with a view to limiting the number of Russian citizens arriving without such travel documents.
57. Where a valid visa is revoked and the traveller is being refused entry for that reason or, despite the visa presented upon boarding still being valid, because of the overall assessment of the entry conditions, the carriers remain liable to return the person from which they were transported or to the country that issued the travel document or another third country.

