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Delegations will find attached document C(2022) 3084 final.

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## COMMUNICATION FROM THE COMMISSION

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#### **I. Introduction**

1. On 25 February 2022, the Council adopted Council Decision (EU) 2022/333 (the ‘Council Decision’) on the partial suspension 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 date of its adoption.
2. A harmonised implementation of the Council Decision by all Member States<sup>2</sup>, as well as clarifications on the procedures and conditions for issuing visas in the Russian Federation, are essential to ensure coherence, clarity and transparency during the visa procedure concerning citizens of the Russian Federation in any given consular location.

#### **II. Guidelines on the implementation of the Council Decision**

3. The Council Decision suspends the application of certain provisions of the Agreement<sup>3</sup> as regards citizens of the Russian Federation who are members of the Russian Federation’s official delegations, members of the Russian Federation’s national and regional Governments and Parliaments, the Russian Federation’s Constitutional Court and the Russian Federation Supreme Court, citizens of the Russian Federation holding valid diplomatic passports issued by the Russian Federation and business people and representatives of business organisations.
4. The application of the following provisions of the Agreement is suspended as from 28 February 2022: Article 4(1), points (a) and (b) on “Documentary evidence regarding the purpose of the journey”, Article 5(1), point (a), Article 5(2), points (a) and (b), and Article 5(3) on “Issuing of multiple-entry visas”, Article 6(1) and Article 6(3), points (b) and (c) on “Fees for processing visa applications”, Article 7 on “Length of procedures for processing visa applications” and Article 11(1) on “Diplomatic passports”.
5. Pursuant to the provisions of the Agreement, the other categories of visa applicants will continue to enjoy the visa facilitations. The Council Decision will not therefore affect ordinary citizens of the Russian Federation, who are not members of the Russian Federation’s official delegations, or members of the Russian Federation’s national and regional Governments and Parliaments, or the Russian Federation’s Constitutional Court and the Russian Federation Supreme Court, or citizens of the Russian Federation holding valid diplomatic passports issued

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<sup>1</sup> OJ L 54, 25.2.2022, p. 1–3.

<sup>2</sup> Since the Visa Facilitation Agreement, including its partial suspension, is applicable to all Member States except Ireland, those Member States that do not yet implement the Schengen *acquis* in full (Bulgaria, Croatia, Cyprus, Romania) should apply this guidance by analogy when processing short-stay visa applications from Russian nationals under their respective national law.

<sup>3</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).

by the Russian Federation or business people and representatives of business organisations.<sup>4</sup>

**a) Documentary evidence regarding the purpose of the journey**

6. The Council Decision suspends the simplified documentary evidence regarding the purpose of the journey to be submitted by the categories of citizens of the Russian Federation listed in Article 4(1), points (a) and (b) of the Agreement. Commission Implementing Decision C(2016) 3347<sup>5</sup> should be applied in respect of these visa applicants, in particular point I. “1) General requirements” and point II. “Travelling for the purpose of business or work” a), c) and d) (Documents to be submitted by members of official delegations, employees travelling on business and self-employed people).<sup>6</sup>

**b) Issuance of multiple-entry visas**

7. The Council Decision suspends the application of Article 5(1) point (a), Article 5(2), points (a) and (b), and Article 5(3) of the Agreement, concerning the issuance of multiple entry visas.
8. For the categories of visa applicants listed in the aforementioned articles, multiple-entry visas should be issued in accordance with the rules set out in Article 24 of the Visa Code<sup>7</sup>. Attention is drawn to Article 24(2a), which specifies that the validity period of the visa issued may be shortened in individual cases, where there is reasonable doubt that the entry conditions will be met for the entire period of validity. This possibility for an individual assessment of the validity period of multiple-entry visas was not possible under the Agreement. Information should be exchanged in local Schengen cooperation to ensure a harmonised application of the rules on issuing multiple-entry visas to the categories of applicants covered by the partial suspension of the Agreement.

**c) Fees for processing visa applications**

9. The Council Decision suspends the waiver of the visa fee for the categories of citizens of the Russian Federation referred to in Article 6(3), points (b) and (c) of the Agreement (i.e., the members of the Russian Federation’s official delegations, members of the Russian Federation’s national and regional Governments and Parliaments, the Russian Federation’s Constitutional Court and the Russian Federation Supreme Court).
10. The Council Decision also suspends the application of Article 6(1) of the Agreement, regarding the visa fee of 35 EUR, in respect of the categories of citizens of the Russian Federation referred to in Article 4(1), point (b), Article 6(3) points (b) and (c) and Article 11(1) of the Agreement (i.e., the members of the Russian Federation’s official delegations, members of the Russian Federation’s national and regional Governments and Parliaments, the Russian Federation’s Constitutional Court and the Russian Federation Supreme Court, citizens of the Russian Federation holding valid diplomatic passports issued by the Russian Federation and business people and representatives of business organisations).

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<sup>4</sup> For instance, Russian citizens that travel as transport workers (including seafarers) or short-term seasonal workers, who are not covered by the Articles of the Agreement that are suspended, continue to benefit from the facilitations provided for by the Agreement.

<sup>5</sup> Commission Implementing Decision of 6.6.2016 establishing the list of supporting documents to be presented by visa applicants in Iran, Iraq and the Russian Federation, C(2016) 3347 final.

<sup>6</sup> Annexes to the Commission Implementing Decision of 6.6.2016 establishing the list of supporting documents to be presented by visa applicants in Iran, Iraq and the Russian Federation, C(2016) 3374 final.

<sup>7</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).

11. For these categories of visa applicants, the Member States should charge the visa fee of 80 EUR in accordance with Article 16 of the Visa Code.

**d) Length of procedures for processing visa applications**

12. The Council Decision suspends the application of Article 7 of the Agreement in relation to the categories of visa applicants, citizens of the Russian Federation, referred to in Article 4(1), points (a) and (b), Article 6(3) points (b) and (c) and Article 11(1) of that Agreement.
13. For these categories of visa applicants, decision on the application should be taken in accordance with Article 23 of the Visa Code, i.e. normally within 15 days. Therefore consulates have more time to assess applications compared to the processing time of 10 days set out in the Agreement.

**e) Diplomatic passports**

14. The Council Decision suspends the waiver of visas for citizens of the Russian Federation holding valid diplomatic passports issued by the Russian Federation provided for in Article 11(1) of the Agreement.
15. Citizens of the Russian Federation holding a valid diplomatic passports issued by the Russian Federation should apply for a visa in accordance with the rules set out in the Visa Code. Biometric identifiers should be collected in accordance with Article 13 of the Visa Code and a full set of supporting documents should be submitted. A visa fee of 80 EUR should be charged.

**III. Visa facilitations that remain in force and other applicable provisions**

16. The Council Decision does not suspend the application of those provisions of the Agreement providing for visa facilitations for certain categories of citizens of the Russian Federation applying for a visa, namely: drivers conducting international cargo and passenger transportation services, members of train, refrigerator and locomotive crews in international trains persons participating in scientific, cultural and artistic activities, pupils, students, post-graduate students and accompanying teachers, journalists or participants in international sports events and persons accompanying them in a professional capacity, participants in official exchange programmes organised by twin cities, close relatives, disabled persons and the person accompanying them.
17. Article 6(3), point (f) of the Agreement, the application of which is not suspended, provides that fees for processing the visa application are waived for 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. In other cases not covered by Article 6(3), point (f) of the Agreement, the amount of the visa fee to be charged may be waived or reduced, in accordance of 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.<sup>8</sup>

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<sup>8</sup> In accordance with article 19(4) of the Visa Code, a visa application that does not meet the requirements set out in Article 19(1) of the Visa Code may be considered admissible on humanitarian grounds, for reasons of national interest or because of international obligations.

18. The rules set out in Directive 2004/38/EC<sup>9</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>10</sup>

#### **IV. Guidelines on general visa issuance in relation to Russian applicants**

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

19. Member States should take extra care in ensuring that the competence rules of Articles 5 and 6 of the Visa Code are examined and correctly applied regarding each visa application. Guidance in this respect is contained in Part II, Chapter 1 of the Visa Code Handbook I.<sup>11</sup> In case the Member State that received the application is not competent to deal with it, the entire application and all supporting documents should be returned and the visa fee reimbursed. The applicant should be redirected to the consulate of the competent Member State to avoid visa shopping between different consulates.
20. Pursuant to article 6 of the Visa Code, applications should only be examined by the consulate of the competent Member State in whose jurisdiction the applicant legally resides. Therefore, Member States should not routinely accept visa applications from citizens of the Russian Federation that are present in a third country, such as Serbia, Turkey or the United Arab Emirates, for a short stay or for purposes of transit. Such applicants should be directed to the consulate competent for their place of residence, normally in the Russian Federation. Exceptions can be made on the basis of Article 6(2) of the Visa Code and the guidance contained in the Visa Code Handbook I, Part II, section 1.8, notably in cases of hardship and for humanitarian reasons.

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

21. Given the current security situation, 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 which case the visa should be refused. It should be verified in the Schengen Information System (SIS) whether the applicant is a person for whom an alert has been issued for the purpose of refusing entry. Considering the current sensitive security context, if possible and in case of doubt, consulates are advised to be vigilant, for instance by consulting national and Interpol databases and 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.
22. In view of the current economic and political situation in Russia, Member States should give particular consideration to the assessment of whether an applicant presents a risk to the security

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<sup>9</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>10</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>11</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).



of the Member States and determine whether the entry conditions are fulfilled, in accordance with Article 21 of the Visa Code and the guidance contained in the Visa Code Handbook I, Part II, chapter 6. In particular, the following elements should be considered:

- i. **Travel medical insurance:** The consulate is responsible for determining whether the insurance presented by the applicant is adequate in accordance with Article 15 of the Visa Code. Attention is drawn to the provisions of Article 15(5), which requires consulates to ascertain whether claims against the insurance company would be recoverable in a Member State. In the case of policies issued by Russian insurers, such insurance could be considered inadequate due to the EU restrictive measures currently in place. In such cases, Member States may require applicants to present travel medical insurance policies issued by insurers outside of the Russian Federation.
- ii. **Ascertain whether the applicant fulfils the entry conditions and can be expected to do so over the entire duration of the envisaged period of the visa validity:** the economic instability, the restrictive measures and political developments in Russia may increase the likelihood that applicants will no longer fulfil entry conditions over time. In such cases, issuing visas with shorter validity and/or single-entry visas instead of multiple-entry visas should be considered. Attention is drawn to Article 24(2a) of the Visa Code, which provides that the validity period of the visa issued may be shortened on a case-by-case basis where there is reasonable doubt that the entry conditions will be met for the entire period. Article 5(1), point (b), Article 5(2), points (c) through (h), and Article 5(3) of the Agreement continue to apply.
- iii. **Assess the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for, as laid down in Article 21(1) of the Visa Code, without prejudice to the possibility of issuing of a visa with limited territorial validity on humanitarian grounds:** the current situation in Russia may increase the likelihood that applicants envisage overstaying in the EU. In cases of doubt about the intention to leave the territory of the Member States, the visa should be refused, unless the Member State concerned considers necessary to issue a visa (e.g., on humanitarian grounds). In such case, a visa with limited territorial validity must be issued in accordance with Article 25 of the Visa Code.
- iv. **Assess that the applicant possesses sufficient means of subsistence:** it is to be expected that applicants residing in Russia are no longer able to use international credit or payment cards when travelling in the EU. This puts into doubt their ability to possess sufficient means of subsistence, even more so when assets are held in accounts with banks or other entities subject to EU restrictive measures. In such cases, proof of sponsorship and/or private accommodation may constitute evidence of sufficient means of subsistence in accordance with Article 21(5) of the Visa Code.
- v. **When assessing a visa application,** the consulates should take into account whether the applicants are associated with persons or entities subject to EU restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. It could be assessed whether the visa should be refused 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 a complete listing of persons and entities that are subject to the EU restrictive measures.

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

23. Member States are encouraged to exchange information in the context of local Schengen cooperation to ensure, as far as possible and in accordance with Article 48(1) of the Visa Code, a harmonised approach to the examination of visa applications submitted in Russia. Attention is drawn to the guidance contained in Part II of the Visa Code Handbook II<sup>13</sup>, in particular regarding the role of local Schengen cooperation in the assessment of travel medical insurance products on offer.
24. If consulates decide to issue visas to citizens of the Russian Federation, these should in principle be uniform visas valid for all Schengen States. Visas with limited territorial validity should only be issued in the situations enumerated in Article 25(1) and (3) of the Visa Code, i.e. where a visa is issued despite entry conditions not being fulfilled, despite the objection of another Member State in prior consultation, for reasons of urgency where prior consultation could not be carried out, where the applicant has already stayed for 90 days in any 180-day period, or where the travel document of the applicant is not recognised by all Member States.
25. The above considerations on the assessment of visa applications are **without prejudice to articles of the Visa Code containing derogating provisions regarding the issuing of a visa on humanitarian grounds, for reasons of national interest or because of international obligations**, such as Article 16(6) (providing that in individual cases, the amount of the visa fee to be charged may be waived or reduced), Article 19(4) (allowing applications not meeting the requirements to be considered admissible) or Article 25(1) of the Visa Code (issuing a visa 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 that are not controlled by the Government of the Russian Federation and their close family members.

**c) Reassessment of multiple-entry visas held by citizens of the Russian Federation under the EU restrictive measures**

26. Restrictive measures<sup>14</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 Schengen Information System (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 it are no longer met, in accordance with Articles 34(2) and 21(3)c of the Visa Code. Information on a revoked visa must be entered into the Visa Information System (VIS) in accordance with Article 13 of the VIS Regulation<sup>15</sup>. The visa holder should be notified of the revocation in accordance with Article 34(6) of the Visa Code.

**d) A common approach on the non-recognition of Russian passports**

<sup>13</sup> Commission Implementing Decision C(2020) 1764 of 25.3.2020 establishing the Handbook for the administrative management of visa processing and local Schengen cooperation (Visa Code Handbook II) and repealing Commission Decision C(2010) 3667.

<sup>14</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 078 17.3.2014, p. 16.; 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

<sup>15</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. 1–10.



27. Member States are reminded that “Guidelines to Member States’ consulates in Ukraine and in the Russian Federation on lodging Schengen visa applications by the residents of Crimea”<sup>16</sup> were issued by the Commission and the European External Action Service in 2014. The aforementioned Guidelines indicate that Member States should continue to apply the rules on visa applications following the illegal annexation of the Crimean peninsula<sup>17</sup>. Moreover, in 2019, the Commission and the European External Action Service prepared “Guidance to the Member States and Schengen Associated Countries’ consulates in the Russian Federation and Ukraine on how to handle visa applications lodged by residents of Ukraine’s Donetsk and Luhansk regions holding ordinary Russian international passports issued after 24 April 2019”<sup>18</sup>.
28. A common approach on the non-recognition of Russian international passports issued to residents of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and on the handling of visa applications is of key importance.<sup>19</sup>
29. Despite the fact that the recognition of travel documents is an exclusive competence of Member States, any decision of non-recognition taken by Member States must be notified to the Commission in accordance with Decision 1105/2011<sup>20</sup>. The list of travel documents is made public and it is regularly updated by the Commission.

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

30. The Visa Regulation<sup>21</sup> lays down a common list of third countries whose citizens must be in a possession of a visa when crossing the external borders of the EU and a list of countries whose citizens are exempt from that requirement. These lists are set out in annexes to the Visa Regulation.
31. In addition, Article 6 (1), point (a) of the Visa Regulation stipulates that “a Member State may provide for exceptions from the visa requirement [...] as regards: (a) holders of diplomatic passports, service/official passports or special passports.” In line with Article 12, Member States must communicate the measures they take pursuant to Article 6 of the Visa Regulation and the Commission publishes these measures for information.
32. In order for the Council Decision on the partial suspension of the application of the Agreement to be effective, Member States should also suspend 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.
33. Member States shall ensure the application and effectiveness of EU restrictive measures even when bilateral visa waiver agreements with the Russian Federation are in force.

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<sup>16</sup> Ref. Ares(2018)4486914 - 31/08/2018.

<sup>17</sup> European Council, Statement of the Heads of State or Government on Ukraine, 6 March 2014; Council conclusions on Ukraine, 23 June 2014 (<https://www.consilium.europa.eu/media/28028/143341.pdf>).

<sup>18</sup> Ref. Ares(2019)6078814 - 01/10/2019.

<sup>19</sup> European Council Conclusions (20 June 2019); EUCO 9/19; and Ukraine: Declaration by the High Representative on behalf of the European Union on the decisions of the Russian Federation further undermining Ukraine’s sovereignty and territorial integrity, 22 February 2022.

<sup>20</sup> Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list, OJ L 287, 4.11.2011, p. 9–12.

<sup>21</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. 39–58.

## **V. Implementation and information to the public**

34. These operational guidelines are meant to assist Member States in dealing with all applications lodged by citizens of the Russian Federation concerned by the partial suspension of the Agreement, irrespective of their place of residence.
35. It would be for Member States' central authorities to share these guidelines with all their consular representations around the world.
36. Member States remain responsible for informing the general public of the partial suspension of the Agreement, cf. the Visa Code, Article 47(1).

## **VI. Follow-up by the local Schengen cooperation**

37. In accordance with Article 48(1) of the Visa Code, Member States should, under the coordination of the EU Delegation within local Schengen cooperation, regularly exchange information on the implementation of these guidelines – and monitor the correct application of the changes resulting from the partial suspension of the Visa Facilitation Agreement, where relevant. Reports of meetings dealing with the implementation of these guidelines should be shared with the Member States' central visa authorities, in accordance with Article 48(5) of the Visa Code, and the Commission.
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