
Center for Peace, Conversion and Foreign Policy of Ukraine

Public initiative «Europe without barriers»

**DESIGNING A ROADMAP TOWARDS VISA FREE
REGIME
BETWEEN THE EU AND UKRAINE
POLICY & ADVOCACY REPORT**

Supported by European Programme of the International
Renaissance Foundation

Kyiv-2009

УДК
ББК

The publication is aimed to summarize Ukraine's homework needed to be done to achieve visa free regime with the EU. The experience of international campaigns against visa barriers in Europe has been analyzed. Recommendations are provided for the better use of existing mechanisms and opportunities, in particular, the Agreement on the Facilitation of the Issuance of Visas between EU and Ukraine.

Designing a roadmap towards visa free regime between the EU and Ukraine.

Policy & Advocacy Report

Authors and consultants:

Oleksandr Sushko

Oleksiy Vrady

Iryna Sushko

Nataliya Parkhomenko

Translation: Liliya Levandovska, Nataliya Parkhomenko

Publishing: «Vistka» printing house, circulation – 1000 items.

The project and publication have been supported by European Programme of the International Renaissance Foundation

ISBN:

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www.novisa.org.ua

42 Volodymyrska Office 21

Kyiv, 01034, Ukraine

Phone/Fax +38 044 238 68 43

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FOREWORD

There is no simple answer to the question concerning time limits when citizens of Ukraine will start enjoying free travel within Europe.

Visa regime, which is rather complicated in many cases, will be still hampering human contacts for a while. It will also serve as an obvious factor of division of Europe. Moreover, in the nearest future the number of European nations living outside EU visa barrier, will be significantly smaller due to Western Balkan countries; this number will embrace only several post Soviet Eastern European nations, including Ukraine. Such situation does not benefit to optimistic outlooks, it also causes natural disappointment within Ukrainian society, and such disappointment has been accumulating over the last years.

At the same time it is obvious that a certain path consisting of a number of concrete steps should be taken towards visa free regime. At this point the path comprises one of principle components in official political dialogue between Ukraine and European Union, it is also viewed as the real perspective, unlike the situation over the last years when the whole Europe has been considering introduction of visa free regime for Ukrainian citizens only theoretically.

For the first time political commitment concerning the perspective of visa free regime between EU and Ukraine was documented in the Agreement on the Facilitation of the Issuance of Visas between EU and Ukraine signed in June 2007. In September 2008 in accordance with the decision of EU-Ukraine Paris Summit, the parties launched visa dialogue with the final aim of full waiving of visa obligations for the citizens of Ukraine on behalf of EU. The comprehensive document should summarize the outcomes of the first stage of visa dialogue and define concrete priorities and steps which should be taken.

Currently the question is not whether Ukrainians will ever enjoy the right to free movement within Europe but rather when it will happen. The answer to this question is partially in Ukraine and partially in Europe.

The latter part refers to political readiness on behalf of EU to approve the decision on visa free regime for Ukraine. Factors determining such readiness relate both to political situation inside EU (existence of structural problems, level of trust towards EU institutions, migration, labor market issues, etc.) and Ukraine's image within EU – prevailing perception of our state and its citizens in EU Member States. Ukraine can partially influence only the latter factor group by creating reasonable grounds for formation of positive reputation of the state and its political elite, as well as favourable image of its citizens.

However, the subject of this publication covers different dimension, namely the set of issues, solution of which either completely or almost completely depends on Ukraine, policy of its state institutions and concrete actions aimed at meeting standards and criteria for visa free state in terms of its relations with EU.

Obviously visa free regime will be granted for Ukraine neither on the basis of exclusively political reasons, nor fair grounds, nor taking into account other moral categories. This decision will be approved only on the basis of EU positive evaluation of changes in the sphere of security, migration, border protection and corruption fight. These changes will demonstrate strong ability of Ukrainian state to reach European standards in the spheres mentioned above, they can also have significant impact on the level of political will of EU ruling elites to widely open doors for Ukrainian citizens.

Tasks which Ukraine faces generally do not require any heroic efforts or excessive funding, they mainly relate to polit-

ical will, organizational capacity and executive discipline.

Thus this publication is devoted to systematization of «homework» for Ukraine which was aimed at acquiring visa free regime with EU.

This publication is another contribution of Ukrainian non-governmental organizations into promotion of European integration of Ukraine. Its content is based on the results of EU policy and practice monitoring which has been carried out by All-Ukrainian Consortium of think tanks in terms of public initiative «Europe without Barriers» coordinated by Center for Peace, Conversion and Foreign Policy of Ukraine with the support of International Renaissance Foundation.

RECOMMENDATIONS FOR APPROVAL AND IMPLEMENTATION OF THE «ROADMAP» TO THE SYMMETRICAL VISA FREE REGIME BETWEEN THE EU AND UKRAINE

As of May 2009 it is obvious that Ukraine and European Union have achieved a common view that some kind of a comprehensive document is needed in order to formulate the methodology of assessment and guidelines towards visa free regime (or «full visa liberalization» as identified in some EU documents). Ukrainian part prefers to get it shaped as the «roadmap» however lack of political will prevents the EU from applying for Ukraine the mechanism identical to that offered to Western Balkans. In Ukraine this situation is considered to be an element of the EU's double standards. At the same time, regardless of the title and political wording the basic document is viewed as the summary of the first stage of «visa dialogue» between Ukraine and EU which was launched in October 2008, shortly after Ukraine-EU Paris Summit.

If the document («Roadmap» by substance, not necessary by the title) is issued, from that moment on, political will and institutional capacity of Ukrainian government will mainly determine the terms for waiving visa obligations for Ukrainian citizens on behalf of the EU. Ukrainian public will be given an additional public control tool – to prove the government's capacity of effective ensuring the right to freedom of movement.

In addition, if the list of tasks will be fully implemented, it will significantly enhance the capacity of the state to confront such threats for national security as corruption, illegal migration, smuggling, human trafficking and other types of cross-border crime; intensify the ability of law enforcement institutions to conduct fruitful international cooperation and will sig-

nificantly promote international reputation of the state in terms of those touchy areas which still face substantial problems.

Documents' security

Ukraine is to introduce a new standard of international passport with biometric data. Such requirement concerns all the countries aspiring visa free regime with EU. That is why regardless certain moral reservations, biometry has no alternative as an element of passport technologies. ICAO documents' standards should be met.

Passport should be fully adapted to the system of electronic scanning applied in EU Member States. Technical sample of the new document has been developed by national EDAPS Consortium. The Consortium claims its readiness to start producing new international passports in 2010. However, as of May 2009 the relevant legislation in Ukraine has not been adopted.

The EU recommends introduction of biometric data into other personal documents, apart from international passport, for example, driver's license.

Introduction of ID cards according to European standards (made of plastic, including digital photo and biometric data) should also be foreseen as after waiving of visa regime in future such cards can actually replace international passports at the entrance to the EU Member States. Relevant legislative changes are necessary in this respect as well.

Ukraine should legally define the categories of persons who may enjoy the right to obtain diplomatic and service passports and these categories should not exceed the range which is common for the EU Member States.

At least the most **visible corruption evidence** should be eliminated **in the sphere of identity documents issuance**. Detecting persons who are bearers of passports with different surnames, first names or other relevant data should be set as criteria for

this task. Numerous relevant facts have been detected so far, and it causes generally low level of trust towards the Ukrainian passport.

Developing and introducing special programs, studies, and trainings in order to lower the level of corruption in the process of passport issuance is a component of general anticorruption activities.

The system for quick informing about the cases when passports or other travel documents are lost or stolen should be introduced in cooperation with Interpol.

After the new passport standards with biometric data are introduced, it is important to adopt the program for complete replacement of old international passports in the nearest 3-4 years, regardless the fact that the validity of international passports generally equals to 10 years.

Risks: Actual monopolization of state procurement in the sphere of identity documents (passports) production on behalf of EDAPS Consortium creates risks for misusing its monopoly status, in particular in terms of spending budget funds.

There is a problem of control over the passport forms storage – according to EU standards they should be kept in the Ministry of Interior rather than in the private company.

The lack of the legislature which corresponds to European standards in terms of personal data protection bears a threat of insufficient control over preserving and applying biometric data by commercial company.

Fighting Illegal Migration and Readmission

The notion of **Integrated Border Management** should enter Ukrainian legislature and border protection policy. This notion is a milestone in European standards of protecting state borders. This process has been launched by the Presidential Decree dated June 19th, 2006 on the Conception of

Developing State Border Service of Ukraine for the period up to 2015. It stipulates the aim of «creating modern integrated system of state border protection».

National program of Integrated Border Management should be developed and approved taking into account both European standards and Ukrainian peculiarities. The laws of Ukraine «On State Border Service of Ukraine» and «On Changes to Specific Legal Acts of Ukraine due to the Approval of the Law of Ukraine «On State Border System of Ukraine» approved on April 3rd, 2003 comprised an important step forward in the transition from military format based on the Soviet model to the new conception of Border Service as the law enforcement body. Nevertheless, the legislature on border issues requires further development according to the Conception mentioned above and Schengen Border Code.

There is no single standard or imperative requirement on behalf of EU in terms of border management, but the prevailing European practice presupposes concentration of the border protection competencies in the Ministry of Interior. In this case National Coordination Center on the matters of Integrated Border Management can be created under the guidance of the Ministry. The Center will conduct strategic coordination as well as operational cooperation with border crossing points and frontier posts.

Other practical priorities:

- Intensified **border infrastructure development along the perimeter**, primarily with non-EU Member States, providing the staff of crossing points and frontier posts with modern technical equipment (relevant substantial resource support can be received from EU).
- Technological development of a single base of State Border Service (SBS), providing modern electronic communication between central SBS office and all border crossing points.

- Training SBS staff in accordance with European operational standards, in particular Schengen Border Guards Handbook.
- Enhancing cooperation in terms of FRONTEX, as well as bilateral cooperation with border services of neighboring countries, performing activities with relevant services of neighboring EU Member States in order to increase trust.
- Creating unique migration body in the government, legal definition of its competences.
- Approving legislature on national migration policy which will correspond to European practice and introduce efficient migration control mechanisms.
- Harmonization of Ukrainian legislature concerning the rights of refugees and asylum seekers according to European regulations and recommendations of UN Refugee Agency. Establishing and maintaining the Center for temporary residence of asylum seekers (which is not a detention center for illegal immigrants!).
- Ensuring the right of asylum seekers including the mechanism of appeal hearings after the approval of the decision on providing asylum in the institution of original jurisdiction. Organizing trainings for the staff who works in the sphere of providing asylums and refugees matters.
- Effective banishment of persons who are illegally residing on the territory of Ukraine (if they do not fall under clauses stipulated in Ukrainian or European law on refugees).
- Ensuring quality implementation of the Agreement on Readmission between EU and Ukraine which will fully enter into force since January 1, 2009.

Risks: Problems exist in the sphere of allocating budget funding for border infrastructure development along the whole perimeter.

Facts provoking suspicions concerning large scale corruption in the sphere of providing asylum and refugee status have been documented.

Lack of political will leads to problems in adopting modern legislature on migration. Current legislative base in the sphere of migration does not lay the foundation for coherent migration policy of Ukraine. The aim, tasks, mechanisms, instruments for realization and bases for financial provision of migration policy are not defined. There is a great number of executive and departmental orders regulating the procedure of law implementation. On the 1st of April, 2009 the first hearing of draft law on the Conception of State Migration Policy developed by the Cabinet of Ministers, failed in the Parliament. Its further development is indefinite as it was not approved for the next first hearing.

There is a danger of international obligations manipulation in terms of readmission. The draft law on Agreement denunciation has been submitted to Verkhovna Rada of Ukraine (author – Member of Parliament Gennady Moskal, Our Ukraine – People’s Self-Defence faction). Populist campaign on discrediting readmission regime is carried out. It is aimed at creating the false perception of relevant obligations as those that «will turn Ukraine into the settler for illegal migration». Practically, there are attempts to cover up extremely inefficient and sometimes irrelevant funding spending (including EU technical assistance) assigned for maintaining points for temporary detention of illegal migrants. Such points currently do not meet minimum of European criteria.

PUBLIC ORDER AND SECURITY

The key challenges for Ukraine in this respect comprise effective combating organized crime, in particular human trafficking, smuggling and other types of cross-border crime, as well

as fighting corruption. Ukraine should evidently show **increasing efficiency and institutional capacity of the agencies**, responsible for anticorruption activities and fighting organized crime.

Practical priorities:

- Introduction of changes into Criminal and Criminal and Procedural Code, Code on Administrative Offences. Establishing responsibility for breaking EU laws, in particular laws on migration.
- Adopting state programs and plans supported by appropriate funding, that will attest sincere efforts of the state to fight organized crime.
- Carrying out state policy on assisting the victims of human trafficking, supporting NGOs working in this sphere, carrying out public information campaigns on fighting human trafficking.
- Ratification of *Council of Europe Convention on fighting human trafficking* which was approved in 2005 and entered into force on February 1st, 2008.
- Full implementation of anti corruption recommendations developed by GRECO.
- Further improvement of national legislature on fighting money laundering and financing terrorism according to international standards and EU *Acquis*.
- Changing the methodology of evaluation of successful anti-corruption activities – not according to the number of cases but according to the share of cases which were presented in court and court decisions which entered into force. Steady positive dynamics according to these parameters should be reached.
- Continuation of the process of signing and ratification of European and international Conventions relating to mutual legal assistance and extradition. For example, 2nd *Additional Protocol of the European Convention of Mutual*

Legal Assistance in Criminal Matters dated 08.11.2001. (Ukraine has signed this Protocol but it has not been ratified yet).

- Preparation and conclusion of the Agreement on Cooperation with EUROJUST – EU agency which deals with fighting organized crime.
- Setting the practice of state interior institution activities in accordance with international (European) standards. Holding relevant trainings for Ministry of Interior staff. Setting systematic cooperation between Ministries of Interior of Ukraine and EU Member States as well as EUROPOL.
- Approving the Law of Ukraine on Personal Data Protection according to European regulations.

Risks: Practically all relevant spheres are under risk. However these issues are not specific (in terms of this analysis) and were continuously discussed in other available analytical materials.

EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS

Ukraine will face relevantly less problems in this sphere comparing with the previous issues, but nevertheless we should pay attention to the following issues:

- Strengthening requirements for persons acquiring Ukrainian citizenship according to European regulations. For example, regulating (significant limitation) the practice of providing Ukrainian citizenship to persons who are permanently residing outside Ukraine. It primarily concerns the residents of Transnistrian region in the Republic of Moldova.
- Preventing xenophobia and national prejudice.
- Providing integration or at least non-discrimination policy towards Roma population, Crimean Tatars and other national minorities.

HOW TO MAKE EFFECTIVE USE OF THE AGREEMENT ON THE FACILITATION OF THE ISSUANCE OF VISAS BETWEEN UKRAINE AND THE EU?

Over 1,5 years of its implementation the Agreement on the Facilitation of the Issuance of Visas (VFA) between Ukraine and the EU has attracted the attention of Ukrainian mass media and public. It was mainly due to unfulfilled expectations concerning quick solutions for the majority of problems which Ukrainian applicants face during Schengen visa application procedure. Summarizing the events of 2008 popular weekly «Korespondent» even gave the Agreement the title «*disappointment of the year*» underlining significant differences in the expectations and the real state of affairs over the first year of VFA implementation.

Certain VFA clauses have actually been deficiently implemented by EU Consular establishments and we have discussed these facts in our previous publications. At the same time investigations on numerous cases of unrealized expectations enabled conclusions that in most cases low efficiency of the VFA is caused by low level of applicants' preparedness to make competent use of the possibilities the Agreement offers.

Visa Facilitation Agreement is not a panacea or a magic stick, it is a tool. Most advantages of this tool are revealed only if used efficiently and it requires certain knowledge and skills.

The most important aspects, in our opinion, are presented below.

First of all, people should understand that though the Agreement introduces a number of preferences, it does not lift the limitations. Such limitations are not directly listed in the Agreement; they are defined by Schengen law.

For example, a person who was previously refused a visa, deported or committed offence on the territory of EU Member States cannot count on all the preferences even though he or she falls under special categories stipulated in the Agreement. The most important preferences do not apply to persons travelling to Schengen zone for the first time. If you possess a new international passport while previous visas were stamped into the old one, and you cannot present it at the Consulate (in some cases copied visas are not considered as sufficient evidence), you will be considered as an applicant who travels for the first time. First of all it pertains to the right to obtain long term and multi entry visas (see below).

Your relatives, even the closest ones, can not claim your preferences if they do not personally fall under preferential categories. It also concerns children whose pictures are stamped into your international passport.

Certain Consular establishments do not always inform the applicants about all possible preferences at their disposal. It is especially common in the cases of applying via Visa Centers. Foremost it pertains to the right to obtain free of charge visas.

Visas Free of Charge.

Article 6 of the Visa Facilitation Agreement

This preference often depends on personal competence of the applicants. That is why before visiting the Consulate we recommend to clarify whether you fall under those 14 categories of persons who are able to obtain free of charge visas and whether your case corresponds to special conditions defined in the Agreement¹.

For example, certain categories can obtain free of charge visas in all cases of visa issuance for short stays (up to 90 days) which do not presuppose employment. All pensioners, dis-

abled people and children under 18 years old belong to such preferential categories.

At the same time most preferential categories defined in the Agreement can obtain free of charge visas only if the trip is directly connected with relevant professional activities. For example, preferences for journalists, drivers, sportsmen, researchers, students, artists, members of official delegations, state officials and members of parliament (apart from bearers of diplomatic passports who do not need visas) are applicable only if their **trips are connected with performing relevant professional functions** (mass media tasks, sport competitions, scientific and student exchanges, official visits, etc.). On the contrary, if a journalist, student and sportsman travels with touring purpose or visits friends, the relevant preferences are not applied and they have to pay for a visa like other applicants.

The same rule is applied to close relatives of persons, legally residing on the territory of EU Member States – the right for preferences is realized only when the purpose of the trip comprises visiting these relatives (and they have appropriate invitation). The category of close relatives includes only parents (and guardians), children (including adopted), spouses, grandparents and grandchildren.

In order to confirm affiliation to the category enabling the right to free of charge visas, a person should provide the Consular establishment with the original and copy of the rele-

1 *Fees for processing visa applications are waived for close relatives of Ukrainian citizens legally residing on the territory of Member States; members of official delegations; members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts; pupils, students, post-graduate students and accompanying teachers who undertake trips for the purpose of study or educational training; disabled persons and the person accompanying them; 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 close relative seriously ill; participants in international sports events and persons accompanying them; persons participating in scientific, cultural and artistic activities; participants in official exchange programmes organised by twin cities; journalists; pensioners; drivers and members of train crew conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine; children under the age of 18 and dependant children under the age of 21.*

vant documents – student or pensioner ID, invitation, program of the visit or exchange, etc.

At the stage of document submission the applicant should **independently state his or her affiliation to the relevant preferential category** referring to the Agreement. The Consulate officer will verify whether the submitted documents are sufficient in order to confirm the right to the preference and attest that the visa will be issued free of charge in this case.

If a Consular officer states that the right to preference is not applicable or the submitted documents are not sufficient, the applicant should clarify the grounds for such decision and try to eliminate them. In most cases Consular establishments doubt only the purpose of the journey, for example, if the submitted documents testify to slightly different purpose of the trip than those stated under the preferential categories, or if the purpose seems too unclear.

Taking into account the above mentioned facts we **recommend avoiding declarations of double or multiple purpose of the journey**, for example, touring and journalist research, or visiting friends and participating in the conference. In such cases you can not only lose your right to free of charge visas but also provoke doubts concerning false information about the real purpose of the trip, and it may even result in visa refusal.

It is important to be aware that **waiving of visa payments is applied only to Consular fees (35 Euro)**, while services of Visa Centers are not free of charge for all applicants. It concerns, in particular, the majority of applicants to Belgium, Italy, Spain, Netherlands and several other Western European countries who generally pay 25 Euro for intermediary services.

For your information, in 2008 Consulates of Schengen Member States issued about 25-35% of free of charge visas and some Consulates issued even more than 40% out of general

visa number. Thus this preference is actually widely applied and its effective use mostly depends on the applicants.

Long term and multiple entry visas.

Article 5 of the Visa Facilitation Agreement

Article 5 defines 10 categories of persons who have the right to obtain long term (valid for from 1 up to 5 years) visas². Preference in terms of obtaining long term and multi entry visas is more complicated in its application, i.e. the possibility to make use of such preference includes numerous conditions and the applicants are not always aware about them. Comparing to obtaining free of charge visas this issue pre-determines impact of higher level of subjectivity, treatment on behalf of Consular offices, previous visa history and the content of supporting documents including listed details, which are not obvious at first sight.

Firstly, it is rather difficult to make use of this preference if over the last years you were refused a Schengen visa and your passport contains relevant stamp.

Secondly, chances to obtain multiple entry visa (and it is stipulated in the Agreement) are small if over the last two years you did not make use of two single entry or one multiple entry Schengen visa. If you have a new international passport and it does not contain any visas yet, it is advisable to submit previous passport with Schengen visas to the Consulate if you still

2 *The right to obtain long term/ multi entry visas valid for one or up to five years is given to the following categories of the citizens: members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts; permanent members of official delegations; one of the spouses and children (including adopted), who are under the age of 21 and are visiting citizens of Ukraine legally residing in the territory of the Member States; business people and representatives of business organisations who regularly travel to the Member States; journalists; drivers and members of train crews conducting international cargo and passenger transportation services; persons participating in scientific, cultural and artistic activities, including university and other exchange programmes who regularly travel to the Member States; participants in international sports events; participants in official exchange programmes organised by twin cities*

have it. In other case you can submit copies of your previous passport with stamped visas, however copies are not always considered to be sufficient.

Please, pay attention to the fact that according to the VFA Consulates take into account only those Schengen visas which were issued over the last two years. Visas issued by new Schengen States before December 2007 (before their accession into the Schengen zone) are not viewed as grounds for preferences.

Thirdly, if you have not previously obtained long term Schengen visas, as a rule, the Consulate will offer a visa, valid for a shorter term than the maximum period of stay stipulated in the Agreement (one-three-five years) – one-three months, half a year the most. Only after you made use of such visa, next time you will have the possibility to claim the right to obtain actual long term visa.

Most importantly, **the documents you submit should clearly demonstrate your need for regular, multiple visits to EU Member States**, preferably to the country you apply to.

If the invitation serves as the confirmation of the purpose of the visit, it should clearly and distinctly state:

- Your affiliation to one of the specific categories stipulated in the VFA with the reference to the relevant paragraph of Article 5;
- The necessity for multiple trips determined by the affiliation to the relevant category;
- Time limits: for example, if you apply for a visa valid for one year, the invitation (or other basic supporting document) should list approximate dates of the trips during the whole year.

Sample of the invitation for the visa requested to the whole year 2010:

*As Mr. (Ms) is a **researcher** taking part in joint research project, he (she) requires regular **travels** to (name of the coun-*

*try or countries of the Schengen zone). We plan to conduct **working meetings** (conferences, seminars, etc) in terms of this scientific project in **January, June and December 2010**. Taking into account the above mentioned facts on the basis of paragraph 2.c. of Article 5 of the Agreement on the Facilitation of the Issuance of Visas between European Community and Ukraine we kindly ask you to issue a multi entry Schengen visa **valid for one year for the period from January 1st to December 31st, 2010** for Mr. (Mrs) ...*

As your foreign partners (and not you) compose the invitation, and they may not be aware about all the possibilities of visa practice conducted by their country, you should primarily address them with the request to include those statements into the invitation which will allow making effective use of the preferences stipulated in the Agreement and will be most efficient for your visa application (the example is given above).

Another reasoning document may include the contract or cooperation agreement signed between your organization and partner institutions in EU Member States. Such agreement should include all the details stated above testifying to your right to preferences stipulated in the Agreement. Besides, the list of persons involved into such cooperation stating their positions and international passport data should be provided. **Cooperation agreement, especially if it is signed by well known and renowned organizations, significantly increases changes for positive results – obtaining long term visas.**

Please, pay attention to the fact that while submitting documents for long term visa you should have medical insurance covering 90 days (maximum «period of stay») over the validity of Schengen visa (the number of days can be less if you do not apply for maximum stay).

While processing documents for multi entry visas the Consulates also pay thorough attention to financial support during your travels. The line testifying that the host party will

cover transport and accommodation expenditures should be clearly stated in the invitation and/or in the cooperation agreement. In other case you need to have significant amount on your current banking account (not a deposit one!) – the amount may vary but it should be no less than 50 euro per day.

In some cases the certificate from authorized professional organizations (professional unions, associations) is necessary. For example, only professional association of trucking companies can confirm the need for a truck driver to apply for a long term visa.

The same situation concerns the journalists; however the practice during the first year of Agreement implementation provoked numerous complaints about artificial incitement to join archaic Union of journalists of Ukraine as it issues relevant IDs. Having understood that such regulation is artificial, Consulate of Germany lifted obligatory requirements for journalists to provide certificates from professional associations.

Finally, one important technical issue. When you fill in the application form in order to apply for a long term visa, in the «period of stay» line in sections From... – To...you should **specify the whole period of visa validity you apply for rather than the term of the first journey**. The example listed above will read «From 01.01.2010»... «To 31.12.2010».

Long term visa have not yet become a massive phenomenon in the Consulates of Schengen States, however, their number is slightly increasing. According to the data of our public monitoring, conducted in 2008 only every sixth multiple entry visa is valid for more than 6 months. In most cases the success of the application for a long term visa depends on the quality level of supporting documents.

«LIFE IS TOO SHORT TO WAIT FOR A VISA»: International experience of struggling for freedom of movement within Europe

The heading of this article contains the slogan (which at the same time serves as a title) of one of the most noticeable «anti visa» campaigns in today's Europe carried out by European Liberal Youth (LYMEC) organization. This movement is not unique, although over the last two year it could probably be considered as the most active initiative in this sphere.

However, the history of campaigns for lifting visa barriers within Europe already lists a number of examples. Each of them is worth attention if we take into account current situation in Ukraine and in that part of Europe which is outside EU borders.

Countries of Eastern and Southern Europe have considerable experience in carrying out public and political campaigns for freedom of movement. Their history dates back to the times of iron curtain fall when the citizens of former socialist countries for the first time obtained the possibility of visa free travel within the states of former «capitalist world».

At that time due to extremely favourable timing conditions (euphoria caused by velvet revolutions in Central Europe coincided in time with the formation of free movement regime in Europe known as the Schengen system) countries of Central and Eastern Europe (Poland, Czech Republic, Hungary, Slovak Republic, Slovenia and Baltic countries) over a short period of time in the first half of the 90s obtained the right to free movement over the whole territory of European Community, however with certain temporary exceptions. Thus public initiatives relating to the issues of free movement of people were immediately concentrated on more ambitious tasks, in particular freedom of employment and the right to

permanent residence in EU countries of that time. These initiatives are not the subject of our review.

Romania and Bulgaria overcame much longer and much more complicated way towards visa free regime as these countries were not included into the «first wave» of free Europe of the 1990-s. Their way to visa free regime was dragged out for more than 10 years after velvet revolutions. Only on December 1st 2000 Council of the European Union approved the decision on lifting visa obligations for these countries.

Long term evaluation process of countries' correspondence to clear criteria preceded this decision, as the well known EU Council Regulation No. 574/1999 dated March 12th, 1999 had been already approved. The Regulation defined the list of the countries whose nationals must be in possession of visas when crossing the external borders of EU Member States³ – the so-called Schengen «black list» which primarily included Bulgaria and Romania.

However the version of the «black list» dated March 15th, 2001 did not include both countries anymore⁴, and so far, as of March 2009 this fact serves as the unique example of successful visa solution for specific countries within the formed Schengen system.

Actions of Bulgarian and Romanian authorities aimed at lifting visa barriers with Europe would not have succeeded if they had been not supported by forceful collective will of the citizens expressed in public activities both on the national and international levels.

Even now we can still browse the web site of Bulgarian public campaign for lifting visa obligations «*No visa, Europe!*»,

3 Council Regulation (EC) No 574/1999 of 12 March 1999 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=1999&nu_doc=574

4 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 http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2001&nu_doc=539

which for several years was being implemented by Bulgarian non governmental organizations with the support of their colleagues from EU Member States of that time⁵.

Though most web site modules currently do not function (which is not surprising as the campaign reached its aim more than 8 years ago) we can observe that the structure of the page included detailed analysis of the situation, links to the documents, announcements and declarations of Bulgarian non governmental organizations, recommendations on «what can be done» and feedback. The page was last updated on December 1st, 2000 with the information about positive decision for Bulgaria approved by Council of the European Union concerning lifting of visa obligations. This announcement contains the picture demonstrating Bulgarian Minister of Foreign Affairs of that time Nadejda Mihaylova receiving greetings from Bulgarian Parliamentarians.

The decision on visa free regime for Romania and Bulgaria was mostly a political one as in December 1999, before it was approved both countries were acknowledged as candidate countries for the EU accession. Nevertheless, united actions carried out jointly by state authorities and public community of these countries with the support of EU Member States back then which were aimed at lifting visa obligations serve as the first and unique experience in Europe and it should definitely be taken into account while planning similar activities in Ukraine.

Another stage of public actions for freedom of movement in Europe is connected with countries of former Yugoslavia and Albania, however, not including Slovenia and Croatia which have been enjoying the right to visa free crossing the Schengen borders since the moment Schengen zone was created in 1995.

5 http://www.bluelink.net/bg/campaigns/no_visa/index.htm

Citizens of Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina are still included into the Schengen «black list» and they need visas in order to enter EU Member States. The same situation refers to the holders of temporary passports of Kosovo residents issued by UN mission UNMIK over the last years.

Currently the situation is not favorable for Macedonia: visa regime still functions regardless the fact that it is officially a candidate country for EU accession, though this very fact was of great importance for Romania and Bulgaria in due time.

Taking into account the intensity of human contacts between the above mentioned Balkan states and European Union, natural concern about freedom of movement and dissatisfaction with the status quo were expressed in numerous campaigns, initiatives and activities aimed at lifting visa barrier in relations with European Union.

This process has become particularly active after positive precedent of neighboring Romania and Bulgaria, end of Balkan wars under Milosevic rule and the start of Stabilization and Association process for Western Balkans which contained the final aim of full integration of the above mentioned states into EU.

Macedonia, which is de facto a leader among Western Balkan countries in the process of European integration, also acts as the center of public initiative in terms of lobbying visa free regime.

There are coalitions of NGOs as well as separate activists who carry out regular activities. Such activities are aimed at attracting the attention towards the problems of lack of freedom of movement. This problem hampers realization of legitimate aspirations of lawful citizens.

Macedonian youth organizations are especially active in this field. They regularly organize different public events not

only inside their own country, but in Brussels and other European capitals as well.

On January 22nd and 23rd, 2009 a group of 50 Macedonian students organized peaceful protest near the building of European Commission in Brussels demanding further steps to be taken by European Union in terms of visa regime liberalization for their country.

Students representing public initiative «*Visa? No Way!!!*» played a grotesque theatre performance which depicted the most repellent sides of visa regime and visa procedure. They had meetings with several Members of European Parliament and Slovenian MPs were the most interested ones, as this former Yugoslavian state persistently supports former co-citizens in their European aspirations.

As one of the leaders of this initiative stated, «We have come all the way from Skopje by bus in order to lobby European politicians, raise awareness about the fact that the current visa liberalization for Macedonia is not working as promised. Therefore we demand to scarp them entirely and to create pressure in order to put the issue on the agenda of the next meeting of the European Council».

Besides, due to the efforts of this public initiative in a month starting from December 2nd, 2008 16393 signatures of Macedonian students were collected for the petition against visa regime. This petition was presented to the Ambassadors of EU Member states missions to Macedonia during the round table where the visa subject was discussed.

It should be mentioned that in the second half of 2008 there were overestimated expectations in Western Balkan countries due to the declarations made by local politicians concerning very fast (in December 2008) EU decision on lifting visa obligations. When this decision was not approved, certain frustration was splashed out.

Nevertheless, efforts made by NGOs are of long term and systematic character. The experience of Western Balkans visibly demonstrates that those initiatives are the most effective which were initially planned as international and turn to existing, well structured and well known international networks.

The above mentioned initiative of Macedonian students «*Visa? No Way!!!*» was so widely spoken of due to the fact that it was initially supported as a part of international activities of *Young European Federalists – «JEF-Europe»*⁶ – which is an international political youth movement promoting democratic reforms, profound integration and creation of Federation of Europe.

Practically the public initiative «*Visa? No Way!!!*» was initiated by Macedonian activists of Young European Federalists in order to promote one of the general directions in terms of international lobbying the idea of free movement for citizens including further liberalization and lifting visa regimes of Europe.

Several years before in December 2006 during the meeting of Young European Federalists in the Athens the resolution «*Against Visa Regime. EU Institutions, National Governments, MEPs: Let us be united*» was approved. This document stated:

«JEF-Europe sees the rule of law and the free movement of people as one of the fundamental human rights, an important part of the concept of European citizenship and an essential element for the European successful future.

JEF-Europe:

- *Is deeply concerned about the European Union's present visa regime with the countries at the Western Balkans which is fostering resentment inhibiting progress on trade, business,*

⁶ Web site of Young European Federalists <http://www.jef.eu>

- education and more open civil societies, and as a result contributing negatively to regional stability;*
- *Regrets that this New Year Europe's leaders have decided to increase visa costs in order to make the right of free movement even more impossible to be practiced;*
 - *Is disturbed that the visa mechanism goes in the direction which separates the «worthy» from the «unworthy», and is a source of deep offence to honest travelers, undermine the credibility of the states of the region, and function less as an obstacle than an opportunity for organized crime and corruption in the EU and the region;*
 - *Is fearing that it would be the EU that is stalling the process of integration of the Western Balkans, on such a basic element as travel*
 - *Reiterates that such decisions go against the basic principles of the EU and should therefore be immediately abandoned;*
 - *Considering the above, JEF-Europe highlights that the free movement must be applied to all Europeans, and the Western Balkans needs to gain something from the EU in terms of reciprocity, since the Western Balkans already have conceded almost completely liberalized visa regimes for EU citizens.*
- Therefore JEF-Europe demands,*
- To the European Commission to:*
- *Set out a road map for each country so that it has a clear picture of the steps it needs to take to get an improved visa regime from the EU;*
 - *Revise the common consular instruments to encourage a simplified visa process;*
- And to the European Union Member States to include:*
- *A stronger presumption that the visa will be issued;*
 - *A simplified application process with fewer required supporting documents;*

- *No visa fee;*
- *No interview; and*
- *Significantly reduced processing time;*

JEF-Europe therefore:

Calls upon the European Union and its Member States to make a choice: Will it signal to its nearest neighbors that they, too, are European and their citizen's potential EU citizens? Or will it retain a regime in which organized criminals by-pass regulations while legitimate travelers are humiliated at the consulate gate».

This declaration clearly demonstrates that its initiators are concentrated on the problems of Western Balkan countries and they do not expand their appeals on other countries of Eastern Europe and Ukraine in particular. Mostly it is caused by the fact that Ukraine and other countries of the region lack youth movement which is integrated into JEF-Europe network and is interested and capable of initiating and organizing such activities as the abovementioned Macedonian»*Visa? No Way!!!*» initiative.

At the same time it is obvious that almost all the arguments can be successfully applied in our region and our country (not including the reference to formal «EU membership perspective» which currently neither Ukraine nor other Eastern countries have).

Some clauses of the petition are outdated, in particular those concerning increase in visa fees (since 2008 the exception has been made for Western Balkan and Eastern European countries and the visa fee has remained at the level of 35 Euro while in other countries it has increased up to 60 Euro). Agreements on visa regime facilitation signed in 2007 include shorter list of documents required from the applicants and visa application review was limited to 10 calendar days.

However, we would like to focus on practical experience of lobbying further liberalization and lifting visa regime on the regional level rather than on the content details. General experience of Western Balkans can be applied in the region of Eastern Europe, in particular in the context of EU initiative «Eastern Partnership» realization.

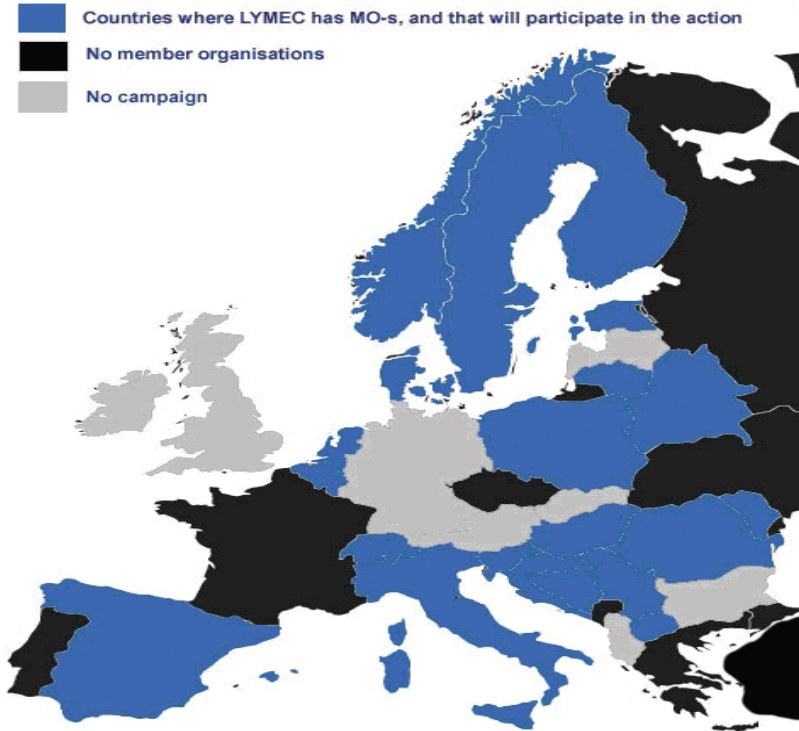
The campaign «*No Visa – Europe is Our Home*» may be considered as the example of the broadest (in terms of regional scale) public and political initiative for the freedom of movement in Europe. This initiative was carried out by the organization *European Liberal Youth – LYMEC*, which was already mentioned in the beginning of this analysis.

Both the nature and structure of this organization are similar to those of «JEF-Europe», it is also non party political movement which stands for promotion of citizen liberties and democratic institutions in Europe, however it focuses not on the federalism or other principles of institutional structure of Europe but rather on liberal values.

The campaign for visa lifting headed by European Liberal Youth under the name «*No Visa – Europe is Our Home*» started in 2007 when on February 13th at 1 o'clock the first mass protest was organized in more than 10 countries of Europe. Organizers announced the goal of lifting visa regimes on the whole European continent⁷. Protests started simultaneously due to the efforts of national organizations which are included into the network of European liberal youth.

7 Anti visa campaign of European Liberal Youth — LYMEC <http://www.lymec.org/novisa/index.html>

Geography of events in terms of the initiative «*No visa – Europe is Our Home*» is considerably broader comparing to previous activities of such type (map):



Several activities in terms of the protest (each with relevant focuses) took place in different European capitals – Brussels, Vilnius, Warsaw, Chisinau, etc.

For example, on May 8-10th, 2007 LYMEC organized a conference «Life is too short to wait for a visa» in Chisinau. The event was organized in cooperation with the Youth Organization of Alianta Moldova Noastra and with the support of the Friedrich Naumann Foundation and the ALDE Group in the European Parliament.

On May 9th, which was the day of Europe, conference participants from different countries of Europe took part in the street actions in the center of Chisinau, protesting against limitations of freedom of movement and of other civil rights.

Unfortunately currently Ukraine is still out of the scope of activities of young liberals (even unlike Belarus and Moldova!) as the organizers still have not found adequate partners here.

The web site of the organization includes the petition which anyone can join by signing. The petition is written by one of the initiative leaders Slaven Klobucar. The petition is the following:

*To European Union and other national European governments
We, the young people of Europe sign this petition against visa regimes in Europe, and ask of the European Union and national governments to start adapting the laws to allow students and tourists to be able to visit/study in all the countries of the European continent without the visas.*

Besides, young liberals perform this activity in a very professional and technological way. The materials prepared for the events on February 13th, 2007 include the set of banners and fliers of two types with the unique design that were printed in different languages according to the country in action.

Most of the campaign activities are supported by the liberal Friedrich Naumann Foundation.

Politicization may be considered as a certain drawback of the campaign implemented by European Liberal Youth as LYMEC is a political movement, however it does not directly participate in power struggle (i.e. it is not a political party or party coalition).

Politicization is demonstrated in the fact that during anti visa protests young liberals often use purely political slogans, formulated with the help of their subjective evaluations of certain personalities and processes. This may lower general effect

of such actions and cause the focus of activities on a very narrow political or social sector.

For example, during the realization of the abovementioned LYMEC project in Moldova in 2007 (conference and street protests) both thematic slogans and political appeals were widely used against «repressive communist regime» in Moldova and we believe that it shifted the accent of the action drifting it from the main aim.

In order to get a full image of various public initiatives on lifting visa regimes in Europe we should also mention such modern form of consolidating interest groups, as *internet communities*. For example, the well known Facebook.com includes the campaign «*Visa free Europe*» with the slogan «free movement for Europeans in Europe»⁸. As of March 20th, 2009 28661 people were registered in this virtual political campaign for the freedom of movement.

It worth to mention well designed web-resource «Schengen White List»⁹ introduced by German-based European Stability Initiative with a purpose to lobby visa-free regime for Western Balkans.

Conclusions

- Experience of European countries in terms of their struggle for free movement within Europe is sufficient in order to develop effective technologies of initiating similar campaign in Ukraine based on such experience.
- It is not the lack of attention to the subject (on the contrary, informational field shows substantial interest in the matter) but the **lack of integrated internal debates concerning visa free regime in terms of relevant European discussions, campaigns, projects and initiatives** that comprises a major problem in Ukraine.

⁸ <http://apps.facebook.com/causes/145374>

⁹ The Schengen White List Project <http://www.esiweb.org/index.php?lang=en&id=342>

- Dilemma of politicization: inclusion of visa issue into wider range of political debates, especially into pre election discussions (in particular in terms of increased populism) may hamper the process of reaching the aims of the campaign and decrease its efficiency. At the same time political movements in Europe follow the most successive position by implementing proactive campaigns aimed at ensuring the right for free movement. Thus the balance of political and public components is necessary as well as **subordination of interests of political players to the needs of campaign results.**
- **Those initiatives which are set out as international are the most effective** ones as they are based on the successful experience of existing public or public and political organizations both in the countries that aspire visa free regime as well as in EU Member States.

Samples of banners of fliers developed by the initiative for visa free movement within Europe – European Liberal Youth (LYMEC)

1. Logo and banner in English



2. Flier in Polish



RECOMMENDATIONS

On Agenda and Management of Public Campaign for Visa Free Regime between Ukraine and the EU

There is an obvious need for launching the systematic public campaign for visa free regime between Ukraine and the EU. Such campaign should be aimed at supporting the «visa dialogue» and reacting on its existing or potential challenges, correcting the agenda, content and the tone of the dialogue in the right way.

The campaign should be focused on a clear target and it can potentially strengthen the arguments of promoters of visa free regime within Europe to a great extent; it can draw nearer waiving of visa requirements for the citizens of Ukraine on behalf of EU.

Respectively, we believe that the following recommendations should be taken into account:

- The campaign for visa free regime for the citizens of Ukraine should be based on the idea of clear European identity of Ukrainian citizens. Accordingly, visa regime should be described as unjustified archaism which contradicts with the needs and values of all-European project, and the freedom of movement of persons is one of the components of such project.
- The campaign should be carried out as a part of international efforts promoting visa free movement within Europe. Such campaign should spread further than the needs of Ukrainian society and it should be based on the support of influential public, expert and political circles in EU Member States.
- The campaign should take into account the experience of the countries which acquired visa free regime by having

- implemented relevant conditions (Romania, Bulgaria) as well as those which undergo the format of «visa dialogue» together with Ukraine (Serbia, Macedonia, Montenegro, Albania, Bosnia and Herzegovina, Russian Federation)
- The campaign should combine internal (Ukraine) and external (EU) components in order to provide synchronic impact on decision making institutions in Ukraine and EU Member States.
 - The campaign should go in parallel with the state (diplomatic) efforts, taking into account the content, algorithms and the stages of such efforts. At the same time it should not be seen as the campaign directed by the state and/or political parties.
 - The campaign should not seem as a populist and/or dillettante movement and it should avoid the attempts of blackmailing in terms of non-fulfillment of current international obligations of Ukraine and re-launching of visa regime for the citizens of EU.
 - The campaign should be accompanied with the active public support for state actions aimed at meeting the criteria of visa free country on behalf of Ukraine in its relations with EU. Taking into account the country specifics and notwithstanding the indefiniteness of certain criteria, the main criteria for Ukraine will include:
 - Fulfillment of the obligations taken by Ukraine in terms of the Agreement on Readmission with EU
 - Improvement of the system and practice of border protection along the perimeter
 - Effective fighting illegal migration, smuggling and human trafficking
 - Enhancing documents security, primarily of international passports for Ukrainian citizens

- Improvement of migration policy, introduction of single migration institution, making changes into migration legislature and establishing responsibility for breaking EU laws on migration
 - Carrying out the repatriation of Ukrainian citizens who broke EU laws on migration and who became the subject for deportation
- The campaign should include technological components inherent in modern long term advocacy campaigns; it should be, in particular, represented in mass media, including foreign media and Internet network; it also should support public, analytical and lobbying components, involve the leaders of public opinion from both sides of «Schengen border».
- The campaign should be structured in accordance with the interests and possibilities of the most interested and active audience (business, students, intellectuals, journalists, etc)

