



STEFAN
**BATORY
FOUNDATION**

How to make a difference?

EU-Ukrainian negotiations on facilitation of visa regime

Jakub Boratyński

Stefan Batory Foundation, Warsaw

Grzegorz Gromadzki

Stefan Batory Foundation, Warsaw

Oleksandr Sushko

Centre for Peace, Conversion and Foreign Policy of Ukraine, Kyiv



The Enlarged European Union and Ukraine

New Relations



How to make a difference? EU-Ukrainian negotiations on facilitation of visa regime

1. Background

The EU and Ukraine will start visa facilitation negotiations probably in November, before EU-Ukraine summit of December 1, as commissioner Benita Ferrero Waldner announced on 26th of October. However we can expect that visa talks will not finish earlier than late spring 2006. An agreement can be signed in summer of 2006 and ratification process will take at least several months more. Therefore, introduction of more liberal visa regime for Ukrainians may happen (at best) in early 2007. While it seems to be realistic scenario, it is indeed regrettable that the first tangible effects of enhanced cooperation between Ukraine and EU following the Orange Revolution will be felt by Ukrainian citizens with such delay. The announced negotiations should be seen as a first step on the road to further liberalisation of movement of persons between the EU and Ukraine. The liberalisation seems to be indispensable for the development of closer relations between the EU and Ukraine in future. Therefore a success of the first round of negotiations becomes the very important factor for the EU-Ukrainian relations as a whole. The content of facilitation proposal for the abovementioned negotiations is still a subject of debate within EU. The Commission received a mandate for visa facilitation talks in late August. EU (responding to Ukrainian proposals) offers visa facilitation for selected categories of people, namely, businessmen, journalists, students, perhaps some more groups will be included. The categories mentioned above are expected to receive access to long term, multiple-entry visas. The prospects for other groups of visa applicants remain uncertain. It is still a question if EU is ready to take steps leading to standardise procedure for visa application for all citizens of Ukraine among consulates of various Schengen countries which differ substantially e.g. as far as the number and type of documents that applicants have to produce while requesting visas. In terms of the social impact privileged approach will unlikely minimize substantially the discomfort existing in Ukrainian society regarding EU visa regime. People not belonging to abovementioned categories (about 90-95% of citizens) will probably feel frustrated if conditions of obtaining visas for them remain unchanged.

2. Recommendations:

The list of recommendations, mentioned below, is divided in two groups: firstly – general principles and secondly – specific proposals.

2.1. General principles:

1. Discussion on visa facilitation would hopefully bring a number of technical improvements. For political reasons it is important to agree on one measure at least that would be simple, obviously beneficial and understandable to ordinary people in Ukraine. Such measure would be seen as expression of EU openness toward Ukraine and generous reward in exchange for visa asymmetry.
2. Both sides should send a clear message to Ukrainian society before the parliamentary elections in Ukraine scheduled for spring 2006 about a most likely outcome of the negotiation (as we assume they will not be concluded by that time). It requires highly intensive negotiations from December until February.
3. Arrangements reached by the EU with Russia in October 2005 can be seen as the minimum but by no means they should be treated as the maximum of what could be offered to Ukraine. The major difference with Russia is that Ukrainian government gave up on 'sacrosanct' reciprocity principle by lifting unilaterally visa requirement to EU citizens.
4. While negotiating visa facilitation EU should keep in mind the existing visa system applied by Poland, Hungary, Slovakia and Lithuania toward Ukraine where visas are both free of charge and easily accessible. The experience of these countries should be thoroughly examined and applied to the extent possible in the new visa arrangement for Ukraine. The extension of Schengen zone to new member states should not lead to a situation that Ukrainian citizens travelling to these countries will face change for the worse.
5. Both parties in the future negotiation should not fall into the trap of focusing predominantly on easing visa requirements just for selected groups of Ukrainian society. Such solution will have limited effect as far as general perception of EU is concerned and may even add to the frustration generated by the existing severe visa regime among the society, as only small minority of actual and potential visa applicants could claim to be members of the privileged groups. In addition such arrangement may increase the risk of misuse and corruption.
6. In a case that the preferred solution would be to extend preferential treatment to selected categories, it is extremely important that some facilitation measures will be applicable to all Ukrainian citizens.
7. Local visa arrangement (available to residents who live at maximum 50 km from the border) that is under discussion in the EU would have limited impact on Ukrainian citizens. No major Ukrainian town except Uzhorod is in the sufficient distance from the border to benefit from the local visa. Therefore it could not be used as a substitute of other measures or be presented as major change for the better.
8. Visa facilitation negotiation should include provisions on the EU support for modernization or establishment of border crossings including ones accessible by foot and bike. The outcome of the negotiation could include joint declaration listing future investments at the border.
9. Schengen states consulates should apply truly uniform and unified procedure that includes arrangements on details that are important from the point of view of visa applicants such as required documentation, access to information and advice, etc.

2.2. Specific proposals

1. Visa fees should be waived entirely or lowered significantly (10 euro for a regular Schengen visa). Waiving visa fees entirely could be also more efficient as individual examination on case by case basis whether particular individual is entitled to visa fee waiver would be a time consuming process. Finally, it would be politically most powerful reward for visa asymmetry as unlike more subtle measures that one would be seen as progress by all Ukrainian people. It is also the measure that would not compromise the security aspects of visa procedure
2. Issuance of multiple-entry long-term visas should become routine procedure for those persons who received Schengen visas (twice or three times at least) during last 2-3 years and their record remained clean. Validity of such visa should be no less than one year, up to five years. The visa would be annulled in the case of longer stay than permitted or other misuses.
3. EU consulates should introduce standard for comprehensive information for visa applicants available on information boards, leaflets and websites including sample questionnaires with data included.
4. An employee of the consulate should be assigned to provide information in local language to first-time applicants and other persons in need of information on details of procedure (firstly, these services are now provided by private agents that contributes to the perception of non-friendly attitude of EU consulates, secondly visa applicant only during interview learn about the documents that they should have submitted)
5. The pre-procedure that is the time between people register their intention to apply for visas and are allowed to submit formal application should be eliminated or radically shortened
6. Requirements concerning the information provided by the applicant should be streamlined and simplified, the standard approach would be to require only questionnaire and invitation. Additional documents should be requested only in exceptional circumstances.
7. Interference in privacy of applicants such as asking questions about family, relatives, job details and asking supporting documentations should be avoided and applied only in exceptional circumstances. In general personal interviews should be required only for those, who travel for the first time, submit a new passport or have the record of some problems with adherence to visa regime or migration rules.
8. Time limit (10 days) to issue decision on visa concluded with Russia seems reasonable and should be included also in EU-Ukraine agreement. This time limit should apply to the whole procedure, it would be unacceptable that applicants have to wait several weeks before they can make formal submission and only then the counting of the time limit starts
9. The procedure should be limited to one or two days in case of persons who apply for the Schengen visa third time in the last 2-3 years. It means that they went successfully through the full Schengen procedure first time and the second time when potential 'misbehaviour' could have been traced by member states.
10. EU consulates should accept visa applications and supporting documentation by regular mail or e-mail. Documents could be presented and authen-

ticated during a visit to the consulate based on one-day principle: submission of passport and supporting documents in the morning (possibly accompanied by an interview), collection of the passport in the afternoon/evening.

11. Benefit of the doubt principle should be applied: While assessing visa applications from the point of view of immigration risk consulates should give the benefit of the doubt to the applicant. Certain categories of applicants should not be discriminated (e.g. young female graduates, without family)

12. Various measures that could reduce time in queues should be introduced. EU consulates should be expected to monitor queues and time invested by consulate's clients and seek to redress the situation. Measures could include: hiring additional staff, appointments at a specific time. EU as part of the deal could offer to monitor member states performance.