

Legal Alert – 12 July 2011

NEW UKRAINIAN VISA REGIME

In pursuance of the obligations undertaken by Ukraine at the "Ukraine – European Union" Summit that took place on 22 November 2010 in Brussels, and according to the Action Plan to Liberalize the European Union Visa Regime for Ukraine¹ signed by the Ukrainian President, the Cabinet of Ministers of Ukraine (the "**CMU**") adopted Resolution "On Approving the Rules for Issuing Visas Authorizing Entry into Ukraine and Transit through its Territory"² (the "**New Visa Regulations**") which approved new rules for issuing visas authorizing entry into Ukraine and transit through its territory and introduced amendments to existing regulations.



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The New Visa Regulations will take effect on 11 September 2011, while on the same date a number of other CMU Resolutions governing this sphere will cease to be in effect, including:

- Resolution "On Approving the New Procedure for Issuing Visa Documents Authorizing Entry into Ukraine"³ (the "**Effective Visa Regulations**");
- Resolution "On the Procedure for Issuing Permits Authorizing Entry into Ukraine";
- Resolution "On Approving the Tariffs of the Consular Fee Charged for Issuance of Visa Documents Authorizing Entry into Ukraine".

The **New Visa Regulations** substantively differ from those that are currently in effect.

I. Change of visa types

According to the **Effective Visa Regulations**, the following types of visas are established depending on the purpose of the trip: diplomatic visa; service visa; business visa; rescue service employee visa; student visa and other types of visas depending on the purpose of visiting Ukraine. Some types of visas could be issued for a term of up to three or five years, and the term of IM-1 and B type visas could not exceed one year.

The **New Visa Regulations** introduce a new classification of visas depending on the purpose of the visit to Ukraine:

1. Transit visa.

¹ President of Ukraine Decree No. 494/2011 "On the National Plan on Implementation of the Action Plan to Liberalize the European Union Visa Regime for Ukraine" dated 22 April 2011.

² Cabinet of Ministers of Ukraine Resolution No. 567 "On Approving the Rules for Issuing Visas Authorizing Entry into Ukraine and Transit through its Territory" dated 1 June 2011.

³ Cabinet of Ministers of Ukraine Resolution No. 227 "On Approving the New Procedure for Issuing Visa Documents Authorizing Entry into Ukraine" dated 20 February 1999.

2. Short-term visa (which is issued when the duration of stay in Ukraine does not exceed 90 days during the 180-day period after the date of first entry). Such visa may be valid for up to 5 years.
3. Long-term visa (which is issued based on documents authorizing stay in Ukraine for a period exceeding 90 days). Such visa may be valid for up to 3 years.

Depending on the number of entries, visas under the **New Visa Regulations** and **Effective Visa Regulations** may be single-entry, two-entry and multiple-entry.

The **New Visa Regulations** do not change the list of states whose citizens may enter Ukraine under visa-free regime.

In addition, the **New Visa Regulations** provide that citizens of Antigua and Barbuda, Barbados, Mauritius, El Salvador, the Seychelles and Turkey, who arrive for tourism purposes, shall have the right to obtain a single-entry visa at a State border checkpoint for a term of up to 15 days.

II. Expanding the categories of foreigners and stateless persons who are granted temporary residence permits

A temporary residence permit allows foreigners to stay in Ukraine for a period exceeding 90 days during 180-day period without the need to extend their stay with the migration authorities and gives the right to freely enter Ukraine and leave its territory.

Besides the persons who at present have the right to obtain temporary residence permits (such as foreign employees of Ukrainian companies who obtained employment permits), according to the **New Visa Regulations** the following categories of foreigners and stateless persons will also be given the right to get a temporary residence permit:

- persons who arrived in Ukraine in order to work at a branch, division, representative office or other structural unit of a social (nongovernment) organization of a foreign State;
- persons who arrived in Ukraine in order to work at a foreign business entity's representative office registered in accordance with the established procedure;
- persons who arrived in Ukraine in order to work at a foreign bank's branch or representative office registered in accordance with the established procedure.

We note that until now no procedure for obtaining temporary residence permits for both existing and new categories of foreigners entitled to obtaining such permit has been approved by a regulation. In practice officers of the migration authorities issue such permits in each individual case.

III. Grounds for issuing visas and for visa denial

The **New Visa Regulations** have changed the list of grounds for issuing visas, based on the changes in visa types.

Also, the **New Visa Regulations** exclude the following grounds for visa denial which are currently stipulated in the **Effective Visa Regulations**:

- failure to pay the consular fee for automated processing of visa questionnaire or issuance of visa;
- lack of insurance policy in the form established by Ukrainian law;
- lack of money for staying in Ukraine;
- lack of documents certifying testing for the human immunodeficiency virus (if a Ukrainian visa is to be issued for a term exceeding 3 months);
- improper behavior in the course of applying to a diplomatic mission or consular office of Ukraine, demonstration of disrespect to Ukraine, etc.

At the same time, the **New Visa Regulations** establish new grounds based on which a visa may be denied:

- if a database of persons prohibited from entry into Ukraine according to law contains information about the respective foreigner or stateless person;
- if a foreigner or stateless person fails to prove the purpose of the intended stay in Ukraine;
- if there are no documents that would allow to establish the foreigner's or stateless person's intention to leave Ukraine prior to visa expiry;
- if a foreigner or stateless person, after submission of the documents for visa issuance, files an appeal requesting not to issue a visa to him/her.

Other grounds for visa denial such as the necessity to ensure national safety, incompliance of passport with the established form, submission of deliberately misleading information, etc., remain unchanged in the **New Visa Regulations**.

IV. Timeframe for consideration of visa applications

The **Effective Visa Regulations** do not establish timeframe for consideration of applications and issuance of visas. In practice, this takes at least a week.

The **New Visa Regulations** provide for timeframe for consideration of applications and issuance of visas in case the decision is positive. The respective authority must make a decision within 15 calendar days after receiving a visa application, visa questionnaire and documents required for issuance of visa. The period of consideration of a visa application may be extended up to 30 calendar days, if it is necessary to further verify the above documents. The procedure and timeframe for considering an urgent visa application shall be established by the Ministry of Foreign Affairs of Ukraine.

V. Tariffs of the consular fee

The current tariffs of the consular fee for issuance of visas are established by a separate CMU Resolution⁴ and range from 7 (15 USD) to 47 (100 USD) minimum tax free incomes of citizens, depending on the type of visa and the number of entries the visa is going to be issued for.

According to the **New Visa Regulations**, Ukrainian diplomatic missions and consular offices charge a consular fee for issuance of visas at the following rates:

⁴ Cabinet of Ministers of Ukraine Resolution No. 1457 "On Approving the Tariffs of the Consular Fee Charged for Issuance of Visa Documents Authorizing Entry into Ukraine" dated 9 August 1999.

- single-entry visa – 85 USD;
- two-entries visa – 130 USD;
- multiple-entry visa – 200 USD.

Urgent issuance of visa is subject to the double consular fee.

Conclusion

Implementation of the **New Visa Regulations** will allow modernize the visa regime and make it more transparent. It will also facilitate further adaptation of Ukraine's migration and visa policy with the European Union standards and will increase the efficiency of the illegal migration prevention.

Disclaimer

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