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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

HOW AN ADDITIONAL AGREEMENT INFLUENCES FACILITATION OF THE ISSUANCE OF VISAS TO EU COUNTRIES

April 18, 2013 was marked by a special event for Ukrainian citizens – the European Parliament ratified the Amended Visa Facilitation Agreement between Ukraine and the EU. For the majority of Ukrainian citizens obtaining visas to the countries of the European community is a significant problem, despite the fact that Ukraine has adopted the principle of asymmetric visa policy, which established a visa-free regime for EU citizens when entering Ukraine. In spite of that, Ukrainian citizens have not received adequate preferential treatment.

Ukraine's attempts to restore the balance of interests in visa policy ended with the signing of the Visa Facilitation Agreement with the EU. However, this document itself and especially its practical implementation proved unsatisfactory, causing a lot of complaints from Ukrainian citizens when obtaining visas at the EU countries' consulates accredited in Ukraine.

Long-term monitoring of the visa issuing process conducted by Ukrainian civic organisations, such as 'Europe without Borders', and the repeated requests of the Ministry of Foreign Affairs of Ukraine to EU countries' embassies somewhat clarified the situation, but did not fundamentally solve the problem. According to the nationwide monitoring of visa issuing to citizens of Ukraine by EU countries' consulates in Ukraine covering 21 Consulates of 11 EU member states (10 based in Kyiv and 11 in 6 regions of Ukraine), it was found that the Agreement has contributed to some improvement in the issuance of visas to citizens of Ukraine mostly to the 'old' Schengen states. 'New' Schengen countries have a more rigid and restrictive policy on the entry of citizens of Ukraine to EU territory than provided by the Agreement; the provisions for issuing free and multiple-entry visas to special categories of citizens of Ukraine are not implemented in full.

Visa policy expert Svitlana Mitriayeva notes that inhibition in issuing free and multiple-entry visas to the privileged categories of citizens of Ukraine by EU countries' consulates is mirrored in unjustified and inflated expectations of Ukrainian citizens to quickly solve most of the problems they encounter whilst applying for a Schengen visa.

Accordingly, the role of the Agreement in the liberalisation of the visa regime for Ukraine currently remains controversial, primarily due to the unpreparedness of Ukrainian applicants to competently use its features. Now, experts say that the potential for visa regime simplification between Ukraine and the EU is almost exhausted or close to exhaustion.

Thus, a need to further develop the existing Agreement at legislative level became apparent, which resulted in the European Parliament ratification of the Supplementary Agreement to amend the Visa Facilitation Agreement. Previously the Agreement was ratified by the Verkhovna Rada of Ukraine on March 22 and signed by President Viktor Yanukovych on April 8, 2013. Then, according to the procedure, the decision must be taken by the EU Council after the ratification of the European Parliament.

Amendments to the Agreement concern, first of all, expanding the list of persons who can apply for a visa under the simplified procedure, including those who are to be given long-term multiple-entry visas, as well as reducing the number of documents required for issuing visas. In particular, the requirements for documents is simplified for technical crew members accompanying journalists, drivers transporting international cargo, and close relatives of citizens residing in the territory of the Member States and nationals of one of the EU countries.

This also applies to members of religious communities, participants in official cross-border cooperation with the EU, official educational exchange programs, seminars, courses and conference participants, as well as people of various professions participating in international exhibitions, conferences and seminars. If an applicant requests to consider their application for three days on the grounds that they live far from the diplomatic mission, EU member states may charge 70 euros for a visa. The document also provides for visa-free travel to the EU for Ukrainians who hold biometric passports issued to government officials.

Along with the Ukrainian Agreement, the European Parliament has also ratified a similar agreement with Moldova. However, in contrast to the list of persons enjoying the privileges of the Ukrainian document, the Moldovan Agreement does not include prosecutors and their deputies. This led to sharp criticism of the Ukrainian Agreement by human rights activists and representatives of the Ukrainian opposition. They called for a ban on entry for judicial authority representatives involved in politically-motivated prosecutions.

Provisional criticism of the newly ratified Agreement can be heard not only from human rights groups and the Ukrainian opposition, but from the expert community.

In particular, Iryna Sushko says that while discussing the draft agreement MEPs focused more on political issues than on the process of visa regime simplification. Another problem of the implementation of the amendments to the Agreement is that it is only advisory, but not legally binding. On this basis, EU countries' consulates whilst issuing visas to Ukrainian citizens may take into account the Agreement's requirements or may ignore them doing it according to their own considerations.

So the ultimate solution to the visa problem will only be possible as a result of the successful implementation of the Action Plan on Visa Liberalisation between Ukraine and the EU in place since 2010. Implementation of this plan and meeting of technical criteria will enable Ukrainians to travel to the EU without preliminary paperwork. The

plan consists of two phases. Currently, the government of Ukraine is nearing completion of the first phase. During the second phase European officials will be checking Ukrainian migration practices and their convergence with EU standards. According to optimistic forecasts of Deputy Foreign Minister of Ukraine Andriy Olefirov, Ukraine will take a year to complete the second phase provided that the Verkhovna Rada of Ukraine makes preliminary amendments to anti-corruption, anti-discrimination, and personal data protection legislation.



UKRAINE – NATO



KEY THEME ANALYSIS

WILL NEW ANNUAL NATIONAL PROGRAM FOR COOPERATION WITH NATO CREATE SUFFICIENT INCENTIVES FOR REFORMS IN UKRAINE?

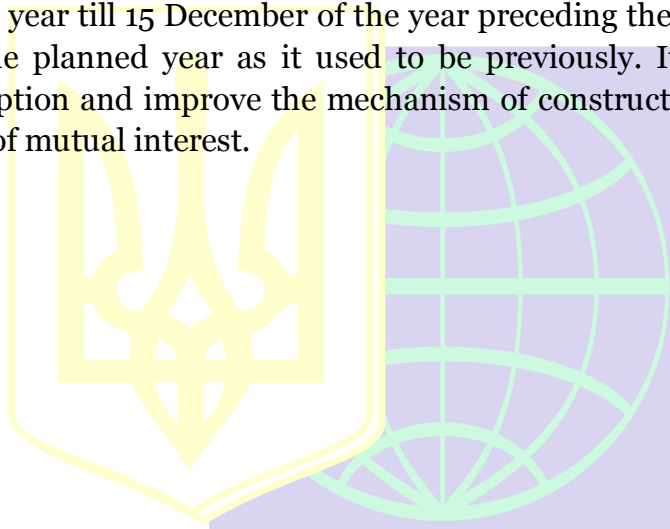
At its meeting on April 3, 2013, the Cabinet of Ministers of Ukraine approved a draft Order of the President of Ukraine “On the Approving of the Annual National Program of Ukraine – NATO Cooperation for 2013.” The draft Order of the President and the mentioned Annual National Program (ANP) were elaborated on by the Ministry of Foreign Affairs of Ukraine in order to provide international facilitation of the reforms carried out in our country. The Program’s project contains recommendations of 36 executive authority bodies of various levels. On January 21, 2013 the draft Program was discussed with NATO representatives who gave it a positive evaluation and expressed their willingness to contribute to its implementation.

The Program’s features, compared to those of previous documents, are that it completely removes the primary purpose of the Annual National Program (ANP) – Ukraine’s preparations for NATO membership and replaces it with increased cooperation with NATO, rather than integration into the organisation. Accordingly, the potential external impact on reforms as well as incentives to reform various sectors of state and public life are reduced. Whereas integration assumes achieving common standards with NATO countries, cooperation does not require that. Thus, the purpose of this Program is not to create incentives, but to attract international experience in reforming the country, which is positive but not sufficient for creating a strong motivation for carrying out reforms in Ukraine.

On the other hand, the new ANP-2013 largely eliminates the chronic shortcomings inherent in previous ANPs. In particular, the document was approved with a notable delay; the vast majority of the planned measures were implemented over the past one and a half or two months of the ANP; the tasks set out in documents were not primarily focused on providing quality changes, but quantitative parameters, i.e. not to promote reforms, but to achieve certain statistical indicators.

This time the ANP was drafted by a qualified staff of experts from the Ministry of Foreign Affairs who addressed the disadvantages of previous programs. Based on the experience of previous years, the new redaction of the Program firstly contains specifications for actions and the responsible executors, which greatly simplifies its implementation; the procedures governing the preparation process, the introduction of ANP and implementation of measures for their realisation are simplified. In particular, the authorities involved can include ANP implementation activities directly in their departmental plans. Thus, the need for central executive authority bodies to develop and approve the annual action plans for the implementation of ANP at the level of the Cabinet of Ministers of Ukraine is eliminated.

Determining performers of each thematic unit and specification of measures to implement the ANP in governmental plans will ensure control over their implementation and be reflected in departmental reports on the realisation of the ANP, the latter to be summarised by the Ministry of Foreign Affairs and submitted through the Cabinet of Ministers of Ukraine to the Presidential Administration of Ukraine. The approved Draft Order of the President of Ukraine also provides for submission of ANP projects for the next year till 15 December of the year preceding the planned period, not by February 1 of the planned year as it used to be previously. It will accelerate the process of ANP adoption and improve the mechanism of constructive partnership with NATO on all issues of mutual interest.



FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

CAN UKRAINE LIVE WITHOUT IMF MONEY?

An International Monetary Fund (IMF) Mission led by Christopher Jarvis visited Ukraine during March 27 – April 10. The main purpose of the mission was a new round of talks with the Ukrainian authorities on a new stand-by agreement. It was planned to talk about a loan of \$15 billion to help Ukraine cope with foreign debt repayments to peak at about \$9 billion. The preliminary round of talks and the previous visit of the IMF mission to Ukraine took place in January and February 2013, but no specific agreements between Ukraine and the IMF had been reached. The same happened this time.

According to Ukrainian experts, the events that took place in Cyprus demonstrated that international organisations and countries are not willing to make concessions to those countries that have systemic economic problems. So if Kyiv wants to get money from the IMF, it has to make great efforts in order to prove its stability and the absence of economic difficulties. However, Ukraine showed only its intention and desire to get money from the IMF this time. It is worth emphasising that provision of the IMF money aims to support reforms in the country, so it does not have to seek loans. In the situation of Ukraine, Kyiv needs a new loan in order to pay the debt for the previous one. Thus the nation finds itself trapped in a vicious circle.

The IMF Stand-by Program for Ukraine has been frozen since spring 2011, and thus it is necessary to state that the Ukrainian side's inability to agree on the lending program makes our country extremely vulnerable to new external financial disasters. Indeed, Ukraine has to pay more than \$4.3 billion in 2013 to the IMF alone. It is worth pointing out that in order to pay off this debt and debts on bonds Ukraine must obtain a new loan from the IMF and until the loan is received the Ministry of Finance will be forced to borrow money by selling state bonds or find a way out of the deadlock by getting commodity loans from Chinese banks.

The key elements of a new IMF program should be measures aimed at reducing Ukraine's fiscal and external current account deficits, energy sector and banking reforms in order to create the conditions for sustained economic growth and job

creation in Ukraine. In addition, it was publically reported that there was an intention to continue the IMF dialogue with the Ukrainian side in a few weeks. At the final meeting with the mission of the Fund Prime Minister Mykola Azarov said that Ukrainian delegation plans to visit Washington soon including to discuss the prospects of cooperation with the IMF.

So it is hard to call the mission successful because the published results, in fact, are general diplomatic phrases. If negotiations had been truly effective, it would have resulted in a more concrete form, such as the signing of a new agreement. The positive thing in this round was that the issue of rising home gas prices was sidelined. In this respect, it is necessary to state that the Ukrainian authorities currently cannot afford such an increase as a new election campaign is approaching in 2015.

Judging by the results of the visit, the IMF is not really ready to give Ukraine a loan. The IMF Resident Representative for Ukraine Max Alier stated thus. The IMF requirements remain essentially unchanged, or have even increased, namely: to stop subsidising state-controlled energy company NAK Naftogaz Ukrainy, make the company operate at least on a break-even basis, switch to floating exchange rates, begin introducing an inflationary lending policy, to stimulate economic development. It is predicted by the IMF that Ukraine's GDP growth constitutes 0% in 2013.

On the last day of the mission work in Ukraine, Kyiv placed Eurobonds for \$1.25 billion at 7.5% per annum while the IMF loan would cost the country about half the price. This February, Ukraine has already 'borrowed' \$1 billion through Eurobonds at over 7.6% per annum. In 2013, Ukraine has to allocate for foreign debt repayments \$13.7 billion versus \$12 billion last year.

In conclusion, it is necessary to state that the results of performance, negotiation, and dialogue are essentially zero. Having researched the activity and number of IMF loans lately, we note that the Fund has taken a tough stance, requiring countries to implement the requirements and recommendations made by the IMF. Ukraine is highly likely not to receive another loan this year, even though the Ukrainian government says the opposite. The Fund is not an organisation to make concessions and give any country with an unstable economy a loan even on conditions favourable to the IMF. A country is either to meet the requirements or to be refused the necessary loan.

The topical question is whether Ukraine can live without IMF money? If Kyiv fails to resume the lending programme by the end of the year, default is unlikely to happen, but the economic situation is not improving either.