

## **Visa-free (or not) and how the law on Financial transparency for civil servants could threaten its implementation**

HRWF (07.01.2016) - European Commission head Jean-Claude Juncker said on 18 December that the EU should offer visa-free short-stay travel to the bloc for Ukraine, Georgia and Kosovo, all three locked in bitter disputes with Russia.

Ukraine has met all benchmarks for getting visa-free travel to the European Union's Schengen zone, he said.

EU officials said the Commission will draw up a formal proposal early next year for approval by the European Council, the bloc's political leaders, and the European Parliament.

If the EU institutions give their green light to the proposal, Ukrainians will no longer need to pay for a visa, provide proof of employment, list their assets, convince Schengen nations that they have enough compelling reasons to go back home, provide proof of funds, meet additional requirements not mentioned on the websites of EU member states, stand in queues, have visas refused due to any or no logical reason, ... a very degrading treatment imposed for years on a population who paid a high price in Maidan to show their will to share the values of the European Union.

If a visa-free regime is granted to Ukrainians, it will only apply for tourism and allow their presence within the Schengen zone during 90 days over a six-month period. Studying or doing business within the EU will still require a specific visa. In short, the proposed visa-free regime will only mirror the one EU citizens have been granted by Ukraine since the Eurovision held in Kiev in 2005 - no more and no less.

### ***The law on transparency for civil servants***

Recently, HRWF met the manager of the "Odessablogger", a long-standing British observer of political life in Ukraine, who on 4th January published a long and interesting entry on the Ukrainian transparency law for civil servants and its possible negative impact on the final decision to adopt or not the visa-free regime for Ukrainians (\*). Here is his perspective:

"It appears that during the early hour vote (about 0400 hours) to adopt the Ukrainian 2016 budget in late December 2015, (hopefully a budget that still meets the IMF requirements after so many early morning amendments), that the introduction of a new system of financial transparency for civil servants, providing for the declaration of assets in electronic form in the public domain, has had its implementation delayed from 1st January 2016 until 1st January 2017. (...)

"Despite any claims to the contrary, nobody knows the Ukrainian political class like the Ukrainian voting constituency. Thus this seemingly inexplicable (and there has been no explanation) move, whether the Ukrainian constituency prioritises Visa-free with Europe or not, will come as no surprise whatsoever a population well versed in the fecklessness and odious nefariousness of the Ukrainian political class and State institutions.

"Nothing in Ukraine proclaimed by the political class is worth anything, nor believed, until it actually happens. The entire Ukrainian constituency knows when its political class is spewing forth empty rhetoric, or indeed blatantly lying - they can see their lips moving. When statements of intent actually materialise in Ukraine it is met with mild surprise, so removed from the norm are such occurrences.

"Thus the Ukrainian constituency will only believe that they have Visa-free travel when they actually have it and it has come into force - and not a moment before.

"There are more interesting perceptions and questions to raise than those of the domestic constituency however.

***How will the EU institutions react to the postponement of the implementation of the law until 1st January... 2017?***

"How will the European Commission and European Member States perceive the quietly passed delay of an EU requirement after the European Commission gave a "green light"?

"Surely assurances will have been given by Ukraine that the law regarding civil service financial transparency would be passed if it had been the last legislative hurdle to meet for the European Commission to give the go ahead prior to this final piece of the legislative puzzle, with such legislation being implemented post haste.

"It is almost certain the European Commission would not agree to such a delay in the implementation of such legislation whilst still giving its recommendation for Ukrainian Visa-free.

"To be fair the law has been passed - but it is more than reasonable to expect that the EU would have anticipated immediate implementation upon its passing - not a deferral for 12 months before it came into effect. Perhaps a 3 month window for implementation at a maximum.

"It is strongly rumoured that Visa-free for Ukraine (and the other aforementioned nations) will have been signed off by all who need to do so sometime between June and September, thus coming into force immediately thereafter.

"But should it?

"Should Visa-free come into force before the civil service financial transparency requirement comes into force? For some unknown reason, the effective implementation date has been delayed for 12 months, so should the EU not reciprocate by timing Visa-free to synchronise with the effective dates of all required Ukrainian legislation? Quid pro quo.

"May be that is how things will work out, and may be it won't be - but knowing the fecklessness and nefariousness of the Ukrainian elite, perhaps it should be synchronised as a matter of principle (and a mechanism to prevent further delays).

"Unless the effective implementation date of 1st January 2017 was pre-agreed with the European Commission, the EU should be bluntly requiring answers as to why this (anti-corruption/transparency) law has had its implementation date deferred until 1st January 2017.

"Why was the implementation of the civil service financial transparency law delayed until 2017?

"It is surely not one of lacking technical ability to create a simple database for electronic submissions by civil servants listing their assets and (illegitimately accrued) wealth. Ukraine is awash with top quality programmers. It is ranked 4th globally for the number of Microsoft and Apple certified programmers. It has the IT skills to knock up a simple platform/database in double-quick time.

"Is it perhaps that a database would not be functioning on 1st January 2016 when the original draft law regarding civil service transparency was due to come into effect due to poor governmental planning, and as the budget is an annual document, the decision was made to make the law come into effect at the conclusion of this budgetary year? A matter of neatness as far as calendar dates are concerned - for there is no reason that it could not have taken effect on any date during 2016 providing the IT platform existed to accept the submissions.

"The question of who deleted 2016 and inserted 2017 must also be asked - for it may shed some light upon the why it was done.

"It must surely be somebody within the Verkhovna Rada budgetary committee, Ministry of Finance, or the Cabinet of Ministers. It was most certainly not those among the hoi polloi within the Verkhovna Rada voting chamber that made such an amendment. At 0400 hours in the morning, the Verkhovna Rada parliamentarians didn't even see the budget they voted through, they voted in accordance with the relevant party leadership "nod" following no end of last minute amendments. Undoubtedly almost none - indeed perhaps none - will have been aware of the amendment that is subject of this entry when they voted the budget through.

"What can be gained, other than a final hurrah and huzzah for one last financial year in the opaqueness of the current system, for whomever is responsible for the last minute amendment? Is it a final opaque year for manic corrupt gains, or a final opaque year in which to hide more effectively the mass of illicit income already acquired more thoroughly prior to false 2017 declarations of "Church Mouse" poverty? A year perhaps where a current and highly influential (and nefarious) official will bow out of public life, but for now has no desire to declare anything. Which such officials are likely to fall into that category?

"Hopefully the EU will be demanding answers to the 'who' and 'why' of this last minute amendment that has the noxious smell of "bad faith" about it from an EU-Ukrainian perspective, and the odor of continued nefarious corruption about it from a domestic perspective.

"When the EU gets that answer, they would be well advised to share it with the Ukrainian constituency - regardless of whether or not it will delay any Visa-free agreement. A public explanation is due, not only for any unnecessary risk that Visa-free may now have, but more importantly as to why a much needed transparency law has been delayed by 12 months.

"It would be a wise policy to amend this law immediately to effect implementation by Easter 2016 for matters of trust between the European Commission and the Ukrainian leadership - although the Ukrainian constituency will only believe in the Visa-free rhetoric when it actually comes into effect."

(+) Comments can be sent to the author via his blog: <https://odessablog.wordpress.com>