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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 August 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 403 final
Subject:	ANNEX to the Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas

Delegations will find attached document COM(2019) 403 final.

Encl.: COM(2019) 403 final

EUROPEAN
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Brussels, 30.8.2019
COM(2019) 403 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the conclusion of the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas

ANNEX

AGREEMENT
between
the European Union and the Republic of Belarus
on the facilitation of the issuance of visas

THE EUROPEAN UNION hereinafter referred to as "the Union";

and the REPUBLIC OF BELARUS, hereinafter referred to as "Belarus"

hereinafter referred to as "the Parties;

DESIRING to facilitate people to people contacts as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties, by facilitating the issuing of visas to citizens of the Union and Belarus on a basis of reciprocity;

RECOGNISING that visa facilitation should not lead to irregular migration and paying special attention to security and readmission;

BEARING IN MIND the fundamental principles governing the cooperation between the Parties as well as the obligations and responsibilities, including the respect of human rights and democratic principles, stemming from the relevant international instruments applicable to them;

TAKING INTO ACCOUNT the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and the Protocol of the Schengen acquis integrated into the framework of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and confirming that the provisions of this Agreement do not apply to the United Kingdom and Ireland;

TAKING INTO ACCOUNT the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union and confirming that the provisions of this agreement do not apply to the Kingdom of Denmark;

HAVE AGREED AS FOLLOWS:

Article 1 – Purpose and scope of application

The purpose of this Agreement is to facilitate, on the basis of reciprocity, the issuance of visas for an intended stay of no more than 90 days in any 180-day period to the citizens of the Union and Belarus.

Article 2 – General clause

1. The visa facilitations provided in this Agreement shall apply to citizens of the Union and of Belarus only insofar as they are not exempted from the visa requirement by the laws and regulations of Belarus, the Union or the Member States, this Agreement or other international Agreements.
2. The national law of Belarus or of the Member States or the Union law shall apply to issues not covered by the provisions of this Agreement, such as the refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence and the refusal of entry and expulsion measures.

Article 3 – Definitions

For the purpose of this Agreement:

(a) "Member State" shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark, Ireland and the United Kingdom;

(b) “Citizen of the Union” shall mean a national of a Member State as defined in point (a);

(c) “Citizen of Belarus" shall mean a national of the Republic of Belarus;

(d) "visa" shall mean an authorisation issued by a Member State or Belarus with a view to transit through or entry for an intended stay of a duration of no more than 90 days in any 180-day period in the territory of Member States or Belarus**;**

(e) “legally residing person” shall mean :

- for Belarus, a citizen of the Union authorized or entitled to stay for more than 90 days in the territory of Belarus, on the basis of legislation of Belarus.
- for the Union, a citizen of Belarus authorized or entitled to stay for more than 90 days in the territory of a Member State, on the basis of Union law or national legislation.

(f) "EU *laissez-passer*" shall mean the document issued by the Union to certain servants of the institutions of the Union in accordance with Council Regulation (EU) No 1417/2013.

Article 4 – Documentary evidence regarding the purpose of the journey

1. For the following categories of citizens of the Union and of Belarus, the following documents are sufficient for justifying the purpose of the journey to the other Party:

(a) for members of official delegations including permanent members of such delegations who, following an official invitation addressed to the Member State, the European Union or Belarus, shall participate in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States or Belarus by intergovernmental organisations:

– a letter issued by a competent authority of the Member State, the European Union or Belarus confirming that the applicant is a member of its delegation, respectively or a permanent member of its delegation, travelling to the territory of the other Party to participate in the aforementioned events, accompanied by a copy of the official invitation;

(b) for close relatives – spouses, children, parents and persons exercising the parental authority, grandparents, grandchildren visiting citizens of the Union legally residing in Belarus or citizens of Belarus legally residing in the Member States, or citizens of the Union residing in the territory of the Member State of which they are nationals, or citizens of Belarus residing in the territory of Belarus:

– a written request from the host person;

(c) for business people and representatives of business organisations:

– a written request from the host legal person or company, organization or an office or a branch of such legal person or company, state, or local authorities of Belarus or one of the Member States or organising committees of trade and industrial exhibitions, conferences and symposia held in the territory of Belarus or one of the Member States endorsed by the competent authorities in accordance with the national legislation;

(d) for drivers conducting international cargo and passenger transportation services between the territories of Belarus and the Member States in vehicles registered in the Member States or in Belarus:

– a written request from the national company or association (union) of carriers of Belarus or the national associations of carriers of the Member States providing for international road transportation, stating the purpose, itinerary, duration and frequency of the trips;

(e) for members of train, refrigerator and locomotive crews in international trains travelling to the territories of Belarus and Member States:

– a written request from the competent railway organization or company of Belarus or one of the Member States, stating the purpose, duration and frequency of the trips;

(f) for journalists and technical crew accompanying them in a professional capacity:

– a certificate or other document issued by a professional organization or the applicant's employer proving that the person concerned is a qualified journalist and stating that the purpose of the journey is to carry out journalistic work or proving that he/she is a member of technical crew accompanying the journalist in a professional capacity.

(g) for persons participating in scientific, academic, cultural or artistic activities, including university and other exchange programmes:

– a written request from the host organisation to participate in those activities;

(h) for pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including in the framework of exchange programmes as well as other school-related activities:

– a written request or a certificate of enrolment from the host university, academy, institute, college or school or student cards or certificates of the courses to be attended;

(i) for participants in international sports events and persons accompanying them in a professional capacity:

– a written request from the host organization - competent authorities, national sport federations of the Member States or Belarus or National Olympic Committee of Belarus or National Olympic Committees of the Member States;

(j) for participants in official exchange programmes organized by twin cities or other municipal entities:

– a written request of the Head of Administration/Mayor of these cities or municipal authorities;

(k) for visiting military and civil burial grounds:

– an official document confirming the existence and preservation of the grave as well as family or other relationship between the applicant and the buried;

(l) relatives visiting for burial ceremonies:

– an official document confirming the fact of death as well as confirmation of the family or other relationship between the applicant and the buried;

(m) for persons travelling for medical reasons and necessary accompanying persons:

– an official document of the medical institution confirming necessity of medical care in this institution, the necessity of being accompanied and proof of sufficient financial means to pay for the medical treatment;

(n) for members of the professions participating in the international exhibitions, conferences, symposia, seminars or other similar events held on the territory of Belarus or Member States:

– a written request from the host organization confirming that the person concerned is participating in the event;

(o) for representatives of civil society organizations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes:

– a written request issued by the host organization, a confirmation that the person is representing the civil society organization and the certificate on establishment of such organization from the relevant register issued by a state authority in accordance with the national legislation;

(p) for participants in official EU cross-border cooperation programmes between Belarus and the Union:

– a written request by the host organization.

2. The written request mentioned in paragraph 1 of this Article shall include the following items:

(a) for the invited person: name and surname, date of birth, sex, citizenship, passport number, time and purpose of the journey, number of entries and where relevant the

name of the children accompanying the invited person;

(b) for the inviting person: name, surname and address;

(c) for the inviting legal person, company or organisation: full name and address and:

– if the request is issued by an organisation or authority, - the name and position of the person who signs the request;

– if the inviting person is a legal person or company or an office or a branch of such legal person or company established in the territory of a Member State or in Belarus, - the registration number as required by the national law of the Member State concerned or by the Belarusian law.

3. For the categories of persons mentioned in paragraph 1 of this Article, all categories of visas are issued according to the simplified procedure without requiring any other justification, invitation or validation concerning the purpose of the journey, provided for by the legislation of the Parties.

Article 5 – Issuing of multiple-entry visas

1. Diplomatic missions and consular posts of the Member States and of Belarus shall issue multiple-entry visas with a term of validity of 5 years to the following categories of persons:

(a) members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, if they are not exempted from the visa requirement by this Agreement, in the exercise of their duties;

(b) permanent members of official delegations, who following an official invitation addressed to the Member States, the Union or Belarus, are to participate regularly in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of Belarus or one of the Member States by intergovernmental organisations;

(c) spouses, children, who are under the age of 21 or are dependent, parents and persons exercising the parental authority, grandparents and grandchildren, visiting citizens of the Union legally residing in the territory of Belarus or citizens of Belarus legally

residing in the territory of the Member States, or citizens of the Union residing in the territory of the Member State of which they are nationals, or citizens of Belarus residing in the territory of Belarus;

(d) business people and representatives of business organizations who regularly travel to Belarus or the Member States.

By way of derogation from the first sentence, where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, the term of validity of the multiple-entry visa shall be limited to that period, in particular where:

– in the case of the persons referred to in point (b), the term of the validity of the status as a permanent member of an official delegation, is less than five years;

– in the case of the persons referred to in point (c), the period of validity of the authorisation for legal residence of citizens of Belarus legally residing in one of the Member States or citizens of the Union legally residing in Belarus, is less than five years;

– in the case of the persons referred to in point (d), the term of validity of the status as a representative of the business organization or the work contract is less than five years.

2. Diplomatic missions and consular posts of the Member States and of Belarus shall issue multiple-entry visas with the term of validity of one year to the following categories of persons, provided that during the previous year they have obtained at least one visa, have made use of it in accordance with the laws on entry and stay of the visited State:

(a) members of official delegations who, following an official invitation addressed to the Member State, the Union or Belarus, shall participate regularly in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of Belarus or of the Member States by intergovernmental organisations;

(b) drivers conducting international cargo and passenger transportation services between the territories of Belarus and the Member States in vehicles registered in the Member States or Belarus;

(c) members of train, refrigerator and locomotive crews in international trains travelling to the territories of Belarus and Member States;

(d) persons participating in scientific, academic, cultural and artistic activities, including university and other exchange programmes, who regularly travel to Belarus or the Member States;

(e) students and post-graduate students who regularly travel for the purposes of study or educational training, including in the framework of exchange programmes;

(f) participants in international sports events and persons accompanying them in a professional capacity;

(g) participants in official exchange programmes organised by twin cities and other municipal entities;

(h) persons needing to visit regularly for medical reasons and necessary accompanying persons;

(i) members of the professions participating in the international exhibitions, conferences, symposia, seminars or other similar events;

(j) representatives of civil society organizations travelling regularly to Belarus or the Member States for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;

(k) participants in official EU cross-border cooperation programmes between Belarus and the Union;

(l) journalists and the technical crew accompanying them in a professional capacity.

By way of derogation from the first sentence, where the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, the term of validity of the multiple-entry visa shall be limited to that period.

3. Diplomatic missions and consular posts of the Member States and of Belarus shall issue multiple-entry visas with the term of validity of a minimum of 2 years and a maximum of 5 years to the categories of persons referred to in paragraph 2 of this Article, provided that during the previous 2 years they have made use of the one year multiple-entry visas in accordance with the laws on entry and stay of the visited State unless the need or the intention to travel frequently or regularly is manifestly limited to a shorter period, in which case the term of validity of the multiple-entry visa shall be limited to that period.

Article 6 – Fees for processing visa applications

1. The fee for processing visa applications shall amount to EUR 35.

   The aforementioned amount may be reviewed in accordance with the procedure provided for in Article 14(4) of this Agreement.

2. The Member States and Belarus shall charge a fee of EUR 70 for processing visa applications in cases where the applicant has requested that a decision on the application be taken within two days of its submission, and the consulate has accepted to take a decision within two days.

3. ithout prejudice to paragraph 4, fees for processing the visa applications are waived for the following categories of persons:

(a) for members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, if they are not exempted from the visa requirement by this Agreement;

(b) for members of official delegations, including permanent members of official delegations, who, following an official invitation addressed to the Member States, the European Union or Belarus, shall participate in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of Belarus or one of the Member States by intergovernmental organisations;

(c) for close relatives – spouses, children, parents and persons exercising the parental authority, grandparents and grandchildren of citizens of the Union legally residing in the territory of Belarus, of citizens of Belarus legally residing in the territory of the Member States, of citizens of the Union residing in the territory of the Member State of which they are nationals, and of citizens of Belarus residing in the territory of Belarus;

(d) persons participating in scientific, academic, cultural and artistic activities, including university and other exchange programmes;

(e) pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including in the framework of exchange programmes as well as other school related activities;

(f) participants in international sports events and persons accompanying them in a professional capacity;

(g) participants in official exchange programmes organised by twin cities and other municipal entities;

(h) representatives of civil society organizations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programmes;

(i) participants in official EU cross-border cooperation programmes between Belarus and the Union;

(j) persons with disabilities and persons accompanying them, if necessary;

(k) 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 seriously ill close relative;

(l) children under the age of 12.

4. If a Member State or Belarus cooperates with an external service provider in view of issuing a visa the external service provider may charge a service fee. This fee shall be proportionate to the costs incurred by the external service provider while performing its tasks and shall not exceed EUR 30. Where possible, the Member State or Belarus shall maintain the possibility for applicants to lodge their applications directly at their consulates.

For the Union, the external service provider shall conduct its operations in accordance with the Visa Code and in full respect of Belarusian legislation.

For Belarus, the external service provider shall conduct its operations in accordance with the Belarusian legislation, and in full respect of the legislation of the EU Member States.

Article 7 – Length of procedures for processing visa applications

1. Diplomatic missions and consular posts of the Member States and Belarus shall take a decision on the request to issue a visa within 10 calendar days of the date of the receipt of the application and documents required for issuing the visa.

2. The period of time for taking a decision on a visa application may be extended up to 30 calendar days in individual cases, notably when further scrutiny of the application is needed.

3. The period of time for taking a decision on a visa application may be reduced to 2 working days or less in urgent cases.

If applicants are required to obtain an appointment for the lodging of an application the appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested. Notwithstanding the foregoing sentence, external service providers shall ensure that a visa application, as a rule, can be lodged without undue delay.

In justified cases of urgency, the consulate may allow applicants to lodge their applications either without appointment, or an appointment shall be given immediately.

Article 8 – Departure in case of lost or stolen documents

1. Citizens of the Union and of Belarus who have lost their travel documents, or from whom these documents have been stolen while staying in the territory of Belarus or the Member States, may leave the territory of Belarus or the Member States on the basis of valid travel documents entitling them to cross the border issued by diplomatic missions or consular posts of the Member States or of Belarus without any visa or other authorisation.

Article 9 – Extension of visa in exceptional circumstances

Citizens of the Union and Belarus who are not able to leave the territory of Belarus or the territory of the Member States by the time stated in their visas for reasons of force majeure or humanitarian reasons preventing them from leaving the territory of Member States shall have the term of their visas extended free of charge in accordance with the legislation applied by Belarus or the receiving Member State for the period required for their return to the State of their residence.

Article 10 – Diplomatic passports and EU *laissez-passer* *

1. Citizens of the Union holding a valid biometric diplomatic passport issued by a Member States, as well as the holders of valid EU *laissez-passer*, may enter, leave and transit through the territory of Belarus without a visa.

2. Citizens of Belarus holding a valid biometric diplomatic passport issued by Belarus may enter, leave and transit through the territories of the Member States without a visa.

3. Persons mentioned in paragraph 1 and 2 may stay in the territory of Belarus or the territories of the Member States for a period not exceeding 90 day per period of 180 days.

[**Subject to prior verification by the EU of the security and integrity of Belarus' system for issuing diplomatic passports and its implementation.*]

Article 11 – Territorial validity of visas

Subject to the national rules and regulations concerning national security of Belarus and of the Member States and subject to EU rules on visas with limited territorial validity, citizens of the Union and Belarusian citizens shall be entitled to travel within the territory of the Member States and of Belarus on equal basis with Belarusian and European Union citizens.

Article 12 – Joint Committee for management of the Agreement

1. The Parties shall set up a Joint Committee of experts (hereinafter referred to as "the Committee"), composed by representatives of the Union and of Belarus.

2. The Committee shall, in particular, have the following tasks:

(a) monitoring the implementation of this Agreement;

(b) suggesting amendments or additions to this Agreement;

(c) settling disputes arising out of the interpretation or application of the provisions in this Agreement.

3. The Committee shall meet whenever necessary at the request of one of the Parties and at least once a year.

4. The Committee shall establish its rules of procedure.

Article 13 – Relation of this Agreement with bilateral Agreements between Member States and Belarus

As from its entry into force, this Agreement shall take precedence over provisions of any bilateral or multilateral agreements or arrangements concluded between individual Member States and Belarus, in so far as the provisions of the latter agreements or arrangements may affect or alter the scope of this Agreement.

Article 14 – Final clauses

1. This Agreement shall be ratified or approved by the Parties in accordance with their respective procedures and shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to above have been completed.

2. By way of derogation to paragraph 1 of this Article, this Agreement shall only enter into force at the date of the entry into force of the Agreement between the European Union and Belarus on readmission of persons residing without authorisation if this date is after the date provided for in paragraph 1 of this Article.

3. This Agreement is concluded for an indefinite period of time, unless terminated in accordance with paragraph 6 of this Article.

4. This Agreement may be amended by written agreement of the Parties. Amendments shall enter into force after the Parties have notified each other of the completion of their internal procedures necessary for this purpose.

5. Each Party may suspend in whole or in part this Agreement. The decision on suspension shall be notified to the other Party not later than 48 hours before its entry into force. The Party that has suspended the application of this Agreement shall immediately inform the other Party once the reasons for the suspension no longer apply.

6. Each Party may terminate this Agreement by giving written notice to the other Party. This Agreement shall cease to be in force 90 days after the date of such notification.

Done in XXX on XXX, in duplicate in the Bulgarian, Croat, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Belarusian languages, each of these texts being equally authentic.

For the Union For Belarus

PROTOCOL TO THE AGREEMENT ON THE MEMBER STATES THAT DO NOT FULLY APPLY THE SCHENGEN ACQUIS

Those Member States which are bound by the Schengen acquis but which do not issue yet Schengen visas, while awaiting the relevant decision of the Council to that end, shall issue national visas the validity of which is limited to their own territory.

In accordance with Decision N° 565/2014/EU of the European Parliament and of the Council of 15/05/2014, which as of 16/06/2014 is authorising Bulgaria, Croatia, Cyprus and Romania to unilaterally recognise the uniform short-stay visas which are valid for two or multiple entries and long-stay visas and residence permits issued by Schengen States, and visas with limited territorial validity issued by Schengen Member States in accordance with the first sentence of Article 25(3) of the Visa Code, as well as national visas and residence permits issued by Bulgaria, Croatia, Cyprus and Romania as equivalent to their national visas not only for transit through, but also for intended stays on their territory not exceeding 90 days in any 180-day period, harmonised measures have been taken in order to simplify the transit through and short stay of holders of Schengen visas and Schengen residence permits on the territory of the Member States that do not fully apply the Schengen *acquis* yet.

JOINT DECLARATION CONCERNING DENMARK

The Parties take note that this Agreement does not apply to the procedures for issuing visas by the diplomatic missions and consular services of Denmark.

In such circumstances, it is appropriate that the authorities of Denmark and of Belarus conclude, without delay, a bilateral agreement on the facilitation of the issuance of short-stay visas in similar terms as the Agreement between the European Union and Belarus.

JOINT DECLARATION CONCERNING THE UNITED KINGDOM AND IRELAND

The Parties take note that this Agreement does not apply to the territory of the United Kingdom and Ireland.

In such circumstances, it is desirable that the authorities of the United Kingdom, Ireland and Belarus, conclude bilateral agreements on the facilitation of the issuance of short-stay visas.

JOINT DECLARATION CONCERNING ICELAND, NORWAY, SWITZERLAND AND LIECHTENSTEIN

The Parties take note of the close relationship between the European Union and Switzerland, Iceland, Liechtenstein, and Norway, particularly by virtue of the Agreements of 18 May 1999 and 26 October 2004 concerning the association of these countries with the implementation, application and development of the Schengen acquis.

In such circumstances, it is appropriate that the authorities of Switzerland, Iceland, Liechtenstein, and Norway and Belarus conclude, without delay, bilateral agreements on the facilitation of the issuance of short-stay visas in similar terms as the Agreement between the European Union and Belarus.

JOINT DECLARATION
ON COOPERATION ON TRAVEL DOCUMENTS

The Parties agree that the Joint Committee established under Article 12 of the Agreement, when monitoring the implementation of the Agreement, should evaluate the impact of the level of security of the respective travel documents on the functioning of the Agreement. To that end, the Parties agree to regularly inform each other about the measures taken for avoiding the proliferation of travel documents, developing the technical aspects of travel document security as well as regarding the personalisation process of the issuance of travel documents.

The Member States, Union and Belarus will inform without undue delay in case of introducing the new travel documents or changing the existing travel documents and submit the samples of these travel documents and their description.

JOINT DECLARATION CONCERNING HARMONISATION OF INFORMATION ON PROCEDURES FOR ISSUING SHORT-STAY VISAS AND DOCUMENTS TO BE SUBMITTED WHEN APPLYING FOR SHORT-STAY VISAS

Recognizing the importance of transparency for visa applicants, the Parties consider that following measures should be taken:

- to draw up basic information for applicants on the procedures and conditions for applying for short-stay visas and on their validity;

- for the EU, to widely disseminate the list of supporting documents to be presented by visa applicants in Belarus, adopted by the Commission Implementing Decision No. C(2014) 2727 of 29 April 2014.

The information mentioned above is to be clearly displayed (on the notice boards of consulates, on websites etc.)

JOINT DECLARATION

CONCERNING NECESSARY CONSULAR STAFFING

FOR THE EFFECTIVE IMPLEMENTATION OF THE AGREEMENT

Acknowledging the importance of an effective implementation of the Agreement, the Parties underline the necessity of providing adequate consular staffing by the Parties.

In this light, the Parties agree that the Joint Committee, set up by Article 12 of the Agreement, should monitor the implementation by both Parties of Articles 6(4) and 7 of the Agreement that establish, respectively, the possibility for applicants to lodge the applications directly at the consulate, and the length of procedures for processing visa applications.

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