Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	9 December 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 783 final ANNEX
Subject:	ANNEX to the Proposal for Council Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and the Republic of Cabo Verde amending the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union

Delegations will find attached document COM(2020) 783 final ANNEX.

Encl.: COM(2020) 783 final ANNEX

EUROPEAN
COMMISSION

Brussels, 9.12.2020
COM(2020) 783 final

ANNEX

ANNEX

to the

Proposal for Council Decision

on the signing, on behalf of the European Union, of the Agreement between the European Union and the Republic of Cabo Verde amending the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union

AGREEMENT

between the European Union and the Republic of Cabo Verde

amending the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union

THE EUROPEAN UNION, hereinafter referred to as 'the Union', of the one part,

and

THE REPUBLIC OF CABO VERDE, hereinafter referred to as 'Cabo Verde', of the other part,

hereinafter jointly referred to as 'the Parties',

RECALLING the Cotonou Partnership Agreement between the African, Caribbean and Pacific States, and the European Community and its Member States signed in Cotonou on 23 June 2000, revised on 25 June 2005 and revised on 22 June 2010, as well as and the Special Partnership between the Union and Cabo Verde, approved by the Council of the European Union on 19 November 2007,

HAVING REGARD to the Joint Declaration of 5 June 2008 on a Mobility Partnership between the Union and Cape Verde, in accordance with which the Parties are to take steps to develop a dialogue on matters relating to short-stay visas, with a view to facilitating the mobility of certain categories of people,

HAVING REGARD to the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union[1], hereinafter referred to as 'the Agreement', which entered into force on 1 December 2014,

HAVING REGARD to the Agreement between the European Union and the Republic of Cape Verde on the readmission of persons residing without authorisation[2], which entered into force on 1 December 2014,

BEARING IN MIND that, as from 2 January 2019, citizens of the Union are exempt from the requirement to have a visa when travelling to Cabo Verde for a period not exceeding 30 days[3],

RECOGNISING that if Cabo Verde reintroduces visa requirements for citizens or certain categories of Union citizens for intended stays of no more than 30 days, at least the same facilitations granted under this Agreement to the citizens of Cabo Verde should automatically apply to the Union citizens concerned, on the basis of reciprocity,

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1 Official Journal of the European Union L 282, 24.10.2013, p. 3.

2 Official Journal of the European Union L 282, 24.10.2013, p. 15.

3 Official Bulletin of the Republic of Cabo Verde I.54, 13.8.2018, p. 1350.

TAKING INTO ACCOUNT the entry into force of Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019, amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)[4],

WISHING to promote contacts between their peoples as an important factor in ensuring the constant development of economic, humanitarian, cultural, scientific and other ties, by facilitating the issuing of visas to their citizens, on the basis of reciprocity,

RECOGNISING that this should not encourage illegal migration and paying special attention to security and readmission,

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

TAKING INTO ACCOUNT the Protocol on the position of Denmark annexed to the Treaty on European Union and to 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

The Agreement is amended as follows:

(1) The title is replaced by the following:

'Agreement between the European Union and the Republic of Cabo Verde on facilitating the issuing of short-stay visas'.

(2) References to 'Cape Verde' are replaced by 'Cabo Verde' throughout the text of the Agreement.

(3) Article 2 is replaced by the following:

'***Article 2***

General clause

1. The measures to facilitate the issuing of visas, as set out in this Agreement, shall apply to citizens of Cabo Verde and of the Union only insofar as those citizens are not exempt from visa requirements under the laws and regulations of the Union or its Member States, under the laws and regulations of Cabo Verde, or under the present Agreement or other international agreements.

2. If Cabo Verde reintroduces the visa requirement for Union citizens or certain categories of Union citizens for intended stays of no more than 30 days, at least the same facilitations granted under this Agreement to the citizens of Cabo Verde shall automatically apply to the Union citizens concerned, on the basis of reciprocity.

[4] Official Journal of the European Union L 188, 12.7.2019, p. 25.

3. For intended stays of longer than 30 days but not exceeding 90 days, at least the same facilitations granted under this Agreement to the citizens of Cabo Verde shall apply to the Union citizens concerned.

4. The national law of Cabo Verde and the national law of the Member States or the law of the Union shall apply to matters not covered by this Agreement.'

(4) Article 3 is amended as follows:

(a) Point (a) is replaced by the following:

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

(b) Point (e) is replaced by the following:

'(e) "legal resident" shall mean any citizen of Cabo Verde authorised or entitled to stay for more than 90 days in the territory of a Member State on the basis of Union or national law;'

(c) The following point is inserted:

'(f) "EU *laissez-passer*" shall mean the document issued by the Union to servants of the institutions of the Union in accordance with Council Regulation (EU) No 1417/2013[5].'

(5) Article 4 is replaced by the following:

'***Article 4***

Issuance of multiple-entry visas

1. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas valid for 5 years to the following categories of citizens of Cabo Verde:

(a) members of national and local governments and parliaments, constitutional courts, the supreme court or court of auditors, if they are not exempt from visa requirements under this Agreement, in the exercise of their duties;

(b) permanent members of official delegations who, following an official invitation addressed to Cabo Verde, are travelling to a Member State to take part in meetings, consultations, negotiations, exchange programmes or events organised on the initiative of intergovernmental organisations;

(c) business people and company representatives who regularly travel to the Member States;

(d) spouses, children (including adopted children) under the age of 21 or dependent, and parents of either Cabo Verde citizens legally resident in the territory of a Member State; or Union citizens resident in the Member State of their nationality.

However, if the need to travel frequently or regularly is clearly limited to a shorter period, the validity of the multiple-entry visa shall be limited to that period, in particular where any of the following is less than 5 years:

[5] Council Regulation (EU) No 1417/2013 of 17 December 2013 laying down the form of the *laissez-passer* issued by the European Union (Official Journal of the European Union L 353, 28.12.2013, p. 26).

- the term of office, in the case of those covered by point (a) above;
- the term of office of a permanent member of an official delegation, in the case of those covered by point (b) above;
- the duration of the positions as business people and company representatives, in the case of those covered by point (c) above; or
- the duration of the residence permits issued to Cabo Verde citizens residing in the territory of a Member State, in the case of those covered by point (d), first part, above.

2. Without prejudice to paragraph 1, diplomatic missions and consular posts of the Member States shall issue multiple-entry visas to other applicants with a validity of:

   (a) 1 year, provided that the applicant has obtained and lawfully used one visa in the previous 18 months;

   (b) 2 years, provided that the applicant has obtained and lawfully used, one multiple-entry visa valid for 1 year in the previous 30 months;

   (c) 3 to 5 years, provided that the applicant has obtained and lawfully used one multiple-entry visa valid for 2 years in the previous 42 months.

3. By way of derogation from paragraphs 1 and 2, the term of validity of the visa may be shortened in individual cases, where there is reasonable doubt that the entry conditions will be met for the entire period or where the validity of the visa would exceed that of the applicant's travel document.

4. The persons referred to in paragraphs 1 and 2 shall not stay in the territory of the Member States for a total of more than 90 days per period of 180 days.'

(6) Article 5 is replaced by the following:

'***Article 5***

Visa fees and service charges

1. The fee for processing visa applications shall be 75% of the amount to be charged in accordance with the applicable domestic legislation.

   That percentage may be reviewed in accordance with the procedure provided for in Article 12(4).

2. Without prejudice to paragraph 1, the Member States shall not collect visa fees from the following categories of people:

   (a) members of official delegations who, following an official invitation addressed to Cabo Verde, are travelling to a Member State to take part in meetings, consultations, negotiations, official exchange programmes, or events organised on the initiative of intergovernmental organisations;

   (b) children under 12 years of age;

   (c) school pupils, students, postgraduate students and accompanying teachers travelling for study or educational purposes;

(d) researchers travelling for the purposes of scientific research;

(e) participants in seminars, conferences or sports, cultural or educational events organised by non-profit organisations, aged 25 years or less;

(f) spouses, children (including adopted children) under the age of 21 or dependent, and parents of either Cabo Verde citizens legally residing in the territory of a Member State; or Union citizens residing in the Member State of their nationality.

3. Without prejudice to point (f) in paragraph 2, children who are at least 12 years old but are below 18 years old shall be charged 50% of the fee applicable under paragraph 1.

4. Where Member States cooperate with an external service provider, service charges may be collected. The service charge shall be proportionate to the costs incurred by the external service provider in the performance of the tasks, and shall not exceed EUR 30.'

(7) The following article is inserted:

'***Article 5a***

Documentary evidence

1. For the following categories of Cabo Verde citizens, the following documents are sufficient to verify the purpose of the journey:

(a) for members of national and local governments and parliaments, constitutional courts, the supreme court or court of auditors, if they are not exempt from visa requirements under this Agreement, in the exercise of their duties:

- a verbal note issued by the Cabo Verdean Ministry of Foreign Affairs confirming that the applicant is on an official mission to a Member State;

(b) for members of official delegations who, following an official invitation addressed to Cabo Verde, are travelling to a Member State to take part in meetings, consultations, negotiations, exchange programmes or events organised on the initiative of intergovernmental organisations:

- a letter issued by the competent authority of Cabo Verde confirming that the applicant is a member of its delegation travelling to the territory of the Member State(s) to participate in the event(s) in question, accompanied by a copy of the official invitation or registration confirmation issued by the host organisation;

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

- a written invitation issued by a company or organisation based in the Member State of destination;

(d) for the spouses, children (including adopted children) under the age of 21 or dependent, and parents of Cabo Verde citizens legally residing in the territory of a Member State or of Union citizens residing in the Member State of their nationality:

- a written invitation from the host person;

(e) for school pupils, students, postgraduate students and accompanying teachers travelling for study or educational purposes, including university or other exchange programmes (for stays not exceeding 90 days in any 180-day period):

- a written invitation or a certificate of enrolment issued by the host school, college or university, or certificates of the courses to be attended;

(f) for persons participating in scientific or academic research, training events, including vocational training (for stays not exceeding 90 days in any 180-day period):

- a certificate of enrolment issued by the educational establishment or a written request issued by the host organisation;

(g) for participants in seminars, conferences, cultural or religious events organised by non-profit organisations registered in a Member State:

- a written invitation from the host organisation to participate in the activities;

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

- an official document from a medical institution confirming the need for medical care in that institution, and proof of sufficient means to pay for the medical treatment or proof of pre-payment of the medical care, and, where applicable, the need for the person being treated to be accompanied;

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

- a written invitation from the host organisation, competent authorities, national sport federations or national Olympic committees of the Member States;

(j) for journalists and accompanying technical crew travelling in a professional capacity:

- a certificate or other document issued by a professional organisation or the applicant's employer proving that the applicant is a qualified journalist travelling for the purpose of carrying out journalistic work or a member of the technical crew accompanying the journalist in a professional capacity;

2. For the purposes of this Article, the written invitation letter or the relevant official documents shall include the following information:

(a) on the invited person: name and surname, date of birth, sex, citizenship, passport number, time and purpose of the journey, number of entries required and (where relevant) the name of the spouse and children accompanying the invited person; and

(b) if the inviting party is a natural person: the inviting person's name, surname, address and (where applicable) proof of legal residence in a Member State in accordance with national legislation; or

(c) if the inviting party is a legal person, company or organisation (including a non-profit organisation) established in the territory of the Member State(s): the full name and address of the inviting person, the name and position of the representative signing the request and the registration number of the inviting person, as required by the national law of the Member State in question; or

(d) if the relevant official document is issued by a public authority: the name and position of the person signing the request, and the status of the applicant.

3. Applicants who have obtained and lawfully used a multiple-entry visa valid for at least 1 year in the previous 30 months shall, in principle, be exempted from presenting documents to prove the accommodation, or proof of sufficient means to cover the accommodation.'

(8) Article 8 is replaced by the following:

'***Article 8***

Diplomatic and service passports

1. Citizens of Cabo Verde who are holders of valid diplomatic or service passports issued by Cabo Verde may enter, leave and transit through the territories of the Member States without visas.

2. Citizens of the Union who are holders of valid diplomatic or service passport issued by a Member State, and holders of a valid EU *laissez-passer*, may enter, leave and transit through the territory of Cabo Verde without visas.

3. The persons referred to in paragraphs 1 and 2 may stay in the territories of the Member States or of Cabo Verde, respectively, for periods not exceeding 90 days per period of 180 days.'

(9) Article 10(1) is replaced by the following:

'1. The Parties shall establish a Joint Committee to manage the Agreement ('the Committee'), which shall consist of representatives of the Union and of Cabo Verde.'

(10) Article 11 is replaced by the following:

'***Article 11***

Relationship between this Agreement and agreements between the Member States and Cabo Verde

From its entry into force, this Agreement shall take precedence over the provisions of any bilateral or multilateral agreements or arrangements concluded between Member States and Cabo Verde, in so far as the provisions of those agreements or arrangements may affect or alter the scope of this Agreement.'

(11) Article 12(5) is replaced by the following:

'5. Either 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.'

(12) The second paragraph of the Protocol to the Agreement on the Member States that do not fully apply the Schengen *acquis* is replaced by the following:

'In accordance with Decision No 565/2014/EU of the European Parliament and of the Council[6], harmonised measures have been taken to simplify the transit or short stay of holders of Schengen visas and Schengen residence permits through or on the territory of the Member States that do not yet fully apply the Schengen *acquis*. Decision No 565/2014/EU authorises Bulgaria, Croatia, Cyprus and Romania unilaterally to recognise the following as equivalent to their national visas, not only for transit through their territory, but also for intended stays not exceeding 90 days in any 180-day period:

- uniform short-stay visas that are valid for two or multiple entries;

[6] Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC (Official Journal of the European Union L 157, 27.5.2014, p. 23).

- long-stay visas and residence permits issued by Member States that are fully implementing the Schengen *acquis*, including visas with limited territorial validity issued in accordance with the first sentence of Article 25(3) of the Visa Code; and
- national visas and residence permits issued by Bulgaria, Croatia, Cyprus and Romania.'

Article 2

1. This Agreement shall be subject to ratification, acceptance or approval in accordance with the Parties' own procedures and the Parties shall notify each other of the completion of the procedures necessary for that purpose.

2. This Agreement shall enter into force on the first day of the second month following the month in which the last notification provided for in paragraph 1 is carried out.

Article 3

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

The following Joint Declarations are adopted by the Parties and attached to the Agreement:

'Joint Declaration on the rules for granting Cabo Verde visas to Union citizens for stays of over 30 days and not exceeding 90 days

In accordance with Cabo Verdean legislation, Union citizens are exempt from the visa requirement for entries and stays in the territory of Cabo Verde that do not exceed 30 days. For intended stays beyond 30 days, they are required to seek and obtain authorisation from the Cabo Verdean authorities. Under Law n. 66/VIII/2014 of the Republic of Cabo Verde, as amended, Union citizens may apply for and obtain a visa valid for up to 90 days at the consular posts of Cabo Verde or apply within the territory of Cabo Verde to the competent authorities for an extension of their stay.

Under Article 2(3) of the Agreement, for intended stays of over 30 days but not exceeding 90 days, at least the same facilitations granted under the Agreement to citizens of Cabo Verde shall apply to the Union citizens concerned.

The Parties understand that the Joint Committee set up pursuant to Article 10 will monitor the implementation of this provision.'

'**Joint Declaration on Article 12(5) of the Agreement concerning grounds for the suspension of the Agreement**

Either Party may suspend the Agreement, in whole or in part, and in particular Article 8, for reasons such as public order, protection of national security or public health, lack of cooperation in the field of readmission or for human rights and democracy considerations. Any such suspension shall be effected in accordance with the procedure set out in Article 12(5).

If implementation of all or some of the provisions of the Agreement is suspended, the Parties shall initiate consultations in the framework of the Committee established under Article 10, with a view to solving the problems that led to the suspension.

This Joint Declaration replaces the Joint Declaration on Article 8 of the Agreement concerning diplomatic and service passport.'

'**Joint Declaration on cooperation on travel documents**

The Parties agree that, when monitoring the implementation of the Agreement, the Joint Committee established under Article 10 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 inform each other regularly of:

- measures taken to avoid the proliferation of travel documents;
- measures taken to develop the technical aspects of travel document security; and
- measures taken regarding the personalisation process in the issuance of travel documents.

As a priority, both Parties undertake to ensure a high level of security for diplomatic and service passports, in particular by integrating biometric identifiers. For the Union, this will be done in accordance with Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States. For Cabo Verde, it will be done in accordance with Decree-law n. 21/2014 of 17 March 2014 establishing the technical specifications, security and issuing conditions of the biometric passport issued by Cabo Verde.

This Joint Declaration replaces the Joint Declaration on cooperation on travel documents.'