

OPEN EUROPE

Warsaw, March 2015

Ukraine Towards Visa-free Regime (Nº 2)

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One of the key arguments against the EU granting Ukraine a visa-free regime is the lack of stability on the “border” between the divided territory controlled by Ukrainian authorities and the territory controlled by separatists in Donbas. However, it should be noted that the Ukrainian government has endeavoured, since the beginning of 2015, to control the movement of people and goods in this area.

Ukraine is not a unique country facing the problem of separatist regions uncontrolled by central authorities in the context of negotiations with the EU on visa liberalisation. Before the Vilnius Summit of the Eastern Partnership in November 2013, the European Commission stated “that the Republic of Moldova meets all the benchmarks set in the four blocks of the second phase of the VLAP”¹. Five months later Moldova received a visa-free regime with the EU despite being adjacent to Transnistria, an unrecognised, self-proclaimed state in the internationally-recognised territory of Moldova.

Regarding the border management and border crossings between Transnistria and Moldova, the European Commission has, in general, assessed the effects of Moldovan activities to be adequate for visa-free movement with the EU. Transnistrian residents are obliged to show documents only at Transnistrian “border points” when entering the territory controlled by the Moldovan government. Moldova resigned from check points on its “border” with the unrecognised state since it treats Transnistria as an integral part of Moldova, whereby there is no passport control inside of the country. As far as the border crossing from Moldova to Transnistria is concerned, Moldovans need to show their passport (foreigners are additionally obliged to fill out a migration card) to the Transnistrian “border guards”. However, Moldova has not resigned from controlling its borders. There are separate mobile control units of the Moldovan border police which conduct second-line checks in the territory of Moldova in the so-called security zone along the administrative boundary line between the territory controlled by Chisinau and Transnistria. Moldova also exchanges border crossing information with Ukraine, especially on foreigners entering Transnistria from the Ukrainian side. The Bureau for Migration and Asylum (BMA) opened six territorial offices along the “border” with the Transnistrian region for the registration of foreigners entering Moldova via Transnistria.

It therefore appears to be a question of whether it is possible for Ukraine to implement the Moldovan solution towards the separatist, so-called, people’s republics and whether the EU recognises the Ukrainian procedures as appropriate in the context of visa-free movement.

¹ Fifth Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation, Brussels, 15.11.2013, p.36



During the Russian military aggression, one of the fundamental issues was the situation at the Ukrainian-Russian border and, more importantly, on the “border” between the territory controlled by the Ukrainian authorities and the two unrecognised republics: the People’s Republic of Donetsk and the People’s Republic of Luhansk. As a result, Ukrainian authorities have implemented a new “border” regime between Ukraine and the territory controlled by separatists in order to:

1. Stabilise the situation at the “border” between the two sides in the crisis area
2. Prevent, detect and block the penetration of sabotage and reconnaissance terrorist groups and illegal armed groups, the supply of arms, ammunition, explosives and also to prevent the conflict spreading to other regions of Ukraine.
3. Stop the uncontrolled movement of civilians and goods from the territory controlled by illegal armed groups.

Seven border crossing points have been created: four for the movement of people and three are intended for goods transportation. The movement of people and goods through other routes is prohibited. In the event of intense fire some of the roads are closed.

It is only possible for people to cross any of the points with a valid Ukrainian internal passport with permission from so-called coordination points at the Ministry of Internal Affairs in Starobilsk, Velyka Novosilka or Mariupol. The permission covers movement in both directions and is issued for a maximum of 10 days. Besides the passport, the following documents are required to cross the “border” between the Ukraine and the territories under separatist control: an application including the reason for travel and the route, a copy of the passport, copies of documents confirming the reason for travel, i.e. a document confirming residence in the territories under separatist control or that the person will stay with his/her family in this territory, documents confirming burial places of relatives in the territory under separatist control, documents confirming the death or disease of relatives in the territory under separatist control, documents confirming proprietorship in the territory under separatist control as well as other documents confirming the reason for travel. Providing false information and an unproven reason for travel would be a ground for the refusal of admission.

In order to organise the transportation of goods the following documents are required: a sales invoice, certified copy of the certificate of registration of a business entity in the Ukraine, a certified copy of the taxpayer’s certificate, registered with the fiscal authorities of Ukraine, or an extract from the register of VAT taxpayers and a certified copy of the purchase contract, plus the relevant statutory certificates of conformity for products.

The new regime came into effect on 21st January 2015. It is worth mentioning that the “border” between Ukraine and the two separatist republics is monitored by the OSCE. During a telephone conversation between Petro Poroshenko and Angela Merkel on 6th March, the President of Ukraine mentioned “the necessity of an increasing number of OSCE points on the »border«”².

There are some voices of criticism against the new “border” regime. The Governor of Donetsk oblast, Oleksandr Kikhtenko (the representative of the Ukrainian authorities) said “I proposed the postponement of the implementation of this regime. [...] The new law means that it is not terrorists that suffer, but law-abiding citizens”. On the other hand, Kyiv is forced to put huge resources into controlling the border dividing Ukraine and the separatist republics, and there are not too many solutions to choose from. The Ukrainian authorities have already presented their efforts in implementing the Visa Liberalisation Action Plan, in spite of the occupation of part of their territory, and in trying to control the flow of migration.

² <http://www.pravda.com.ua/rus/news/2015/03/6/7060656/>