

COUNCIL DECISION (EU) 2021/1940**of 9 November 2021****on the partial suspension of the application of the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), point (a), and Article 218(9) thereof,

Having regard to the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas ⁽¹⁾, and in particular Article 14(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas ('the Facilitation Agreement') entered into force on 1 July 2020, in parallel with the Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation ⁽²⁾ ('the Readmission Agreement').
- (2) The purpose of the Facilitation 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. The Facilitation Agreement contributes to the enhancement of people-to-people contacts and the sharing of values, including respect for human rights and democratic principles.
- (3) Under Article 14(5) of the Facilitation Agreement, each Party is able to suspend in whole or in part the Facilitation Agreement. The decision on suspension is to be notified to the other Party not later than 48 hours before its entry into force. The Party that has suspended the application of the Facilitation Agreement is to immediately inform the other Party once the reasons for the suspension no longer apply.
- (4) In reaction to the continued brutal repression against all segments of society in Belarus, and in particular to the hijacking of a passenger flight on 23 May 2021, the Union banned Belarusian carriers from overflying the territory of the Union and accessing Union airports, and introduced the fourth package of sanctions against natural and legal persons, entities and bodies as well as targeted economic sanctions by means of Council Regulation (EC) No 765/2006 ⁽³⁾ and Council Decision 2012/642/CFSP ⁽⁴⁾.
- (5) In response to such restrictive measures, on 28 June 2021 Belarus retaliated by announcing the suspension of its participation in the Eastern Partnership and the suspension of the Readmission Agreement. On 8 September 2021, a bill on the suspension of the Readmission Agreement was submitted to the Belarusian Parliament.
- (6) At the same time, Lithuania and, more recently, Poland and Latvia have been experiencing an unprecedented increase in irregular migration flows from Belarus. That sudden increase suggests that the Belarusian regime is encouraging irregular migration for political purposes, and in particular retaliating against Lithuania, Poland and Latvia for their stance on Belarus.

⁽¹⁾ OJ L 180, 9.6.2020, p. 3.

⁽²⁾ OJ L 181, 9.6.2020, p. 3.

⁽³⁾ Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in respect of Belarus (OJ L 134, 20.5.2006, p. 1).

⁽⁴⁾ Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus (OJ L 285, 17.10.2012, p. 1).

- (7) The actions taken by Belarus breach the fundamental principles on which the Facilitation Agreement was concluded and go against the interests of the Union and its Member States. In particular, those actions do not demonstrate respect for human rights or democratic principles, and provoke irregular migration from the territory of Belarus into the territory of the Union.
- (8) Therefore, the application of certain provisions of the Facilitation Agreement concerning the issuing of short-stay visas to certain categories of applicants, namely members of Belarusian official delegations, members of the national and regional Governments and Parliaments of Belarus, and members of the Constitutional Court of Belarus and the Supreme Court of Belarus, in the exercise of their duties should be suspended.
- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽⁷⁾; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (10) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The application of the following provisions of the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas ('the Facilitation Agreement') is suspended:

- (a) Article 4(1), point (a), as regards any visa applicant who is a member of a Belarusian official delegation, including permanent members of such delegation who, following an official invitation addressed to Belarus, is to participate in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations;
- (b) Article 5(1), points (a) and (b), as regards any visa applicant who, in the exercise of his or her duties, is a member of national or regional Government or Parliament of Belarus, the Constitutional Court of Belarus or the Supreme Court of Belarus, as well as any visa applicant who is a permanent member of a Belarusian official delegation, who, following an official invitation addressed to Belarus, is to participate regularly in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations;
- (c) Article 5(2), point (a), as regards any visa applicant who is a member of a Belarusian official delegation who, following an official invitation addressed to Belarus, is to participate regularly in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;
- (d) Article 6(3), points (a) and (b), as regards any visa applicant who is a member of national or regional Government or Parliament of Belarus, the Constitutional Court of Belarus or the Supreme Court of Belarus, as well as any visa applicant who is a member of a Belarusian official delegation, including permanent members of such delegation, who, following an official invitation addressed to Belarus, is to participate in official meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations.

⁽⁷⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 14(5) of the Facilitation Agreement not later than 48 hours before the entry into force of this Decision.

Article 3

This Decision shall enter into force on the second day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 9 November 2021.

For the Council
The President
A. ŠIRCELJ
