



THE VISEGRAD STATES BETWEEN SCHENGEN AND NEIGHBOURHOOD

Summary

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SUMMARY OF CONCLUSIONS

Serious reservations have been expressed by Visegrad states about the need and probability of aligning their consular and visa policies towards Ukraine and Moldova so as to facilitate the travel of their eastern neighbours. In fact, the most direct form of alignment was observed between two states, the Czech Republic and Slovakia, which in 2000 introduced more restrictive regulations ahead of the two other states in the group. It is notable that these states do not consider themselves as their most likely partners for adapting visa policy but either seek the support and the co-operation of other EU Member States (e.g. Germany for Poland or Austria for Hungary) or are waiting for EU-level solutions (e.g. the initiative to create a European diplomatic service by November 2006 or the adoption of the draft Council Regulation on local border traffic). (A notable exception was the Hungarian initiative raised at the November 2004 Salzburg Forum concerning the future possibility of sharing one another's visa issuing consulates.)¹

Since visas were introduced, most activities aimed at facilitating travel have been national in character (e.g. the local cross-border traffic arrangement between Slovakia and Ukraine since March 2001, reciprocal moves by the Czech Republic and Slovakia towards Ukraine and by Poland towards Moldova, resulting in de facto asymmetric visa policies as of April/May 2004, the introduction of longer-term Polish visas for Ukraine, and Hungary's facilitation of visa traffic of Ukrainian nationals in October 2004). Although following Ukraine's recent goodwill measures towards the EU all the Visegrad states maintain facilitated conditions for obtaining their visas for the Ukrainian citizens, differences in the approach to the form and purpose of introduction of visas persist among the four Visegrad states. Observation of the manner in which more restrictive policies were imposed and are implemented reveals two distinct groups. On the one hand, the Czech Republic and Slovakia introduced visas earlier, citing EU accession requirements and stressing the security aspect of visas. On the other hand, Hungary and Poland delayed visa obligations for Ukraine and sought customised solutions (free Polish visas for Ukraine and later for Moldova, free Hungarian visas for Ukraine and Serbia and Montenegro). As a result, despite superficial similarities, current national visa policy arrangements vary far more (especially in terms of implementation) among the four states than they did in either 2000 or 2003.

Differences at policy level reflect some deep disparities in the approach towards visas as policy instruments and towards eastern neighbours. Firstly, two contrasting positions could be noted as regards the purpose and administration of visas. One position, close to that of most EU Member States and the Commission itself, was adopted by the Czech Republic and Slovakia, which makes the visa-issuing process the first barrier against potential illegal immigrants and requires that the applicant

¹ However, co-operation in this field is suggested to start first between Hungary and Austria and later be extended to the other members of the Salzburg Forum (the Czech Republic, Poland, Slovakia, Slovenia).

must prove his or her good intentions during the interview. This approach is far from making visas widely available and instead clearly and narrowly defines the profile of 'safe' or desirable applicants (e.g. residents of the immediate neighbourhood or workers in certain labour niche markets). The states adopting this approach are concerned about the impact on labour markets and about potential transit migration.

On the other hand, Poland (and to a lesser extent Hungary) adopted a contrasting position, which could be compared to recent German practice, according to which visas are not so much a tool to fight criminality but instruments of foreign policy. These two states are responsible for some of the longest stretches of the external EU border and have been at the forefront of tightening border controls. At the same time, they introduced asymmetric policies for their non-EU neighbours by granting visas free of charge (Poland for Ukraine and Hungary for Ukraine and Serbia and Montenegro). Thus, these two states on the one hand sought support from the EU for improving border controls and on the other invested in the expansion of their consular network (there are five Polish and three Hungarian consulates in Ukraine, and, unlike the Czech Republic or Slovakia, both states have representations in the Republic of Moldova).² It could be concluded that Poland and Hungary have been able to demonstrate that their liberal visa policies vis-à-vis their neighbours are compatible with their efforts at effective border controls, and that the assurance of tight controls on the external EU border allows some flexibility in visa administration, something which is recognised by the EU.

The choice of either approach has followed a given state's foreign policy priorities. The Czech Republic and Slovakia (since 1998) clearly put primacy on fast accession to the EU, subordinating relations with Ukraine or the CIS in general insofar as they could be in conflict with the EU agenda. In contrast, Hungary, and especially Poland, played a balancing act between two priorities: EU integration and relations with non-EU neighbours (although EU integration was also a priority for them). Thus, as opposed to the Czech Republic or Slovakia, Hungary and Poland undertook lengthy consultations with their neighbours prior to introducing visas to work out solutions which would prevent a dramatic decline in traffic. The fact that these two states are the only EU members to maintain an asymmetric policy with Ukraine is testimony to their belief that there is a place for national policies vis-à-vis their neighbours, apart from those within the EU framework. The two states also presented their proposals for amending the Union's neighbourhood policies at different times.

These different assumptions place limitations on chances for explicit harmonisation of the position between the four countries in visa and consular affairs. The Czech Republic and Slovakia have consistently affirmed that any co-operation in JHA should be conducted within the EU framework, and have generally been content with the Commission's proposal for the European Neighbourhood Policy. These two countries are likely to continue stressing the need to subordinate national visa

² However, since EU accession, the Czech Republic has been considering opening an additional consular post in Ukraine and establishing a consulate in Moldova.

policies to the overarching objective of being integrated into the Schengen zone and cannot be expected to liberalise their restrictive policies in the spirit of the Polish and Hungarian arrangements. It should be pointed out that Slovakia expressed a will to achieve at least some liberalisation, although to a definitely lesser extent than that found in solutions practised by either Poland or Hungary.

On the other hand, Poland and Hungary have their own particular reasons for adopting more liberal solutions, which are not necessarily directly transferable to the two other Visegrad states. Their position may be justified by the fact that membership of the Visegrad Group never implied a common stance on visa policy and any consultations were limited to exchanging information and facilitating EU integration and, recently, preparations for Schengen accession. Poland and Hungary introduced their more liberal policies separately and were motivated by different reasons. Of the two states, Poland adheres to the notion of a comprehensive 'eastern foreign policy', covering on the one hand Russia and on the other Belarus, Moldova and Ukraine. Hungary lacks such a broad concept, concentrating its efforts on relations with its neighbours in the Carpathian Basin (in particular Slovakia, Ukraine, Romania, Serbia and Montenegro and Croatia). This may explain why only Poland extended the preferential, asymmetric solution to Moldova and, in turn, why the issue of local border traffic was of somewhat more interest to Hungary. Poland underlined the special status for its neighbour, confirmed by Warsaw's support for Ukraine's EU membership. As a result, Warsaw was interested in covering Ukraine as a whole with a network of its consulates, something which was reinforced not only in the immediate neighbourhood (Lviv and Lutsk) but also in eastern and southern Ukraine (Kharkiv and Odessa). Moreover, Poland has sought to stabilise the movement of Ukrainians by extending the opportunities for long-term visas. Hungary considered its two neighbours with large Hungarian minorities, which are still on the EU's black list (Ukraine and Serbia and Montenegro) equally and focused on the availability of preferential (five-year multiple entry) visas for the population in close family, business, cultural or other contact with Hungary, which primarily applied to, but was not explicitly limited to, members of the Hungarian minority living in the immediate vicinity of the border.

The disparate paths which various Visegrad states took to solve the issue of visa accessibility for the residents of Ukraine and Moldova must be taken into account when assessing the feasibility of co-operation in this area. Currently, it appears that experience so far indicates deep divides over the expectations that each state expresses as to the benefits of potential joint schemes. Poland, which issues more visas to Ukrainian residents than the three other states put together, does not look forward so much to financial or logistical relief as broader support for its ideas on Ukraine's closer integration into the EU (which the Hungarian government has also begun to advocate actively recently). The Czech Republic and Slovakia are primarily interested in quick integration into the Schengen system and the abolition of controls on internal borders. Hungary and Poland were competing over the location of the Agency for the Operational Management of External Borders, seeking support from different EU members and demonstrating the independent capacity of their border-

guard services for effective control of the EU's outer frontier. In the long run, support for the more liberal solutions extended by other EU Member States (e.g. Germany) and eventually by the Commission might be needed to remove the reservations of some of the V4 states. For instance, it remains to be seen whether the Union's impending limited liberalisation policies towards Ukraine would be important signals for both the Czech Republic and Slovakia to maintain their temporary asymmetric regimes that were introduced in response to Ukraine's unilateral initiative of April 2005 (introducing a visa waiver for EU nationals).

Nevertheless, continued EU integration has led to intensified technical and operational co-operation among the Interior Ministries, Foreign Ministries, Border Guards and police forces of the four states, which gave momentum to flagging Visegrad co-operation. Many stakeholders confirmed that relations between Visegrad countries, which had been rather competitive in the run-up to EU membership, have become much more co-operative in the phase of preparation for Schengen enlargement. The institutions involved in implementing the JHA and Schengen *acquis* maintain frequent contact both within the Visegrad framework and at EU forums (e.g. the VISA group). The four states agreed to submit a single application for simultaneous evaluation of compliance with Schengen standards, expecting a joint entry in 2007. EU accession has also stimulated the Visegrad Group to define some tangible issues in which their common voice would represent added value to their national efforts. The common statement by the foreign ministers of the four states on the situation in Ukraine, issued on 7 December 2004, and the decision to send observers to the vote reflected renewed interest in Ukraine's stability.

In the short to medium-term, limited, trial forms of on-demand bilateral co-operation (exchanging information, forwarding applications, placing helpdesks at another state's consulate) could be introduced in selected locations and areas where such schemes would clearly improve access to the visa procedures for a significant number of applicants. However, the key question for the feasibility of these partial solutions is not the extent to which they improve each of the Visegrad countries' individual policies. Given their clear path to integrate into the Schengen system within the next few years, those partial solutions could either be seen as diverting resources and efforts from this main goal or as inferior to the proposals that are tabled within the EU at large, such as schemes for full representation or establishing a common consular policy. Nevertheless, the dampening effect of the recent failures of the technocratic path to the further deepening of EU integration, evident in the French and Dutch referenda, indicates that partial solutions, based on genuine demand from both the affected parties (visa applicants) and the individual member states or interest-based coalitions of states (such as member states with the external EU border) are still the most certain way forward.

KEY RECOMMENDATIONS

a. Agenda for Visegrad Co-operation on the Path to Schengen and Beyond

1. Countries that invested in preparations for introducing asymmetric visa policies (Hungary and Poland) need to share practical measures, addressing considerable challenges such as: logistics, financial loss, need for co-ordination among various consulates and training additional staff with the other Visegrad states. *The exchange of best practice should take place regularly both between ministries* (covering required changes in infrastructure, work organisation and IT support) *and among consuls* (sharing daily experience of issues such as applicant interview techniques, selection and relations with travel agencies, and verification of documents from third countries). Asymmetric policies, adopted by Poland and Hungary, have proven to be attractive for the other Visegrad states (sending a good political signal to Ukraine, facilitating the movement of their own nationals into Ukraine). Experience sharing within the V4 setting could encourage other EU states to increase the scale of visas issued to Ukrainian and Moldovan nationals.
2. A regional forum of the consular administrations of the Visegrad Group should review procedures currently applied by the consulates of the four states and draft the *Visegrad Consular Professional Standards*, setting guidelines for customer service aspirations describing an 'ideal consulate of a Visegrad state' to be implemented upon full Schengen accession. These guidelines would help instill in consular staff a customer service attitude towards applicants, indicating the sort of treatment due to potential clients and the sources of benefit to the destination state's economies and societies. Moreover, the standards would prepare consular staff for implementing the Common Consular Instruction in the spirit of respect towards applicants.
3. *A common list of documents required for the submission of applications* in all the consulates of the four Visegrad countries should be drafted prior to entry into Schengen. The agreement would guarantee that, with the exception of justified but limited cases (e.g. suspicion of prior involvement in illegal activities), no other documents would be demanded by any consular office. The list should be made available to applicants through the consulates' websites, telephone information systems, travel agencies and the local media.
4. *Fast-track visa application procedures* could be created on a pilot basis at Visegrad consulates as *incentives for travel by high-interest visitors* such as legitimate business people, professionals, students or researchers. The procedures need to cover the entire application process, starting with online registration with fixed appointment times, unambiguous lists of required documents, and dedicated times and places for interviews. Feedback from travel agencies indicates that dropping visa fees is not sufficient to attract the

categories of travellers that are of the greatest interest to the economies and societies of the Visegrad states. Once the restricted facilitated solutions are proven to be successful in attracting the most desirable visitors and are at the same time safe from abuse, they may be extended to all travellers.

5. As part of the alignment of their national systems with Schengen, *V4 states ought to exchange operational information on persons who are undesirable in each of the Group's states*. This information could initially be available on demand and in time could be developed into regular sharing of lists of undesirable persons, stating the reasons for their inclusion into the record (such as past engagement in criminal activities, human trafficking or illegal employment). While that information would not bind consuls to a decision, it would provide an important 'alarm signal' requiring that the case be reviewed and potentially checked for reasons for being placed on that list through consular consultations. Such an exchange would build up trust among the national consular systems and help maintain asymmetric policies after Schengen entry by ensuring the high security of those systems, guaranteeing that persons who are undesirable in other Visegrad states would not enter any one of them.
6. In the period leading up to full inclusion into the Schengen zone, *each of the Visegrad states should design their national medium and long-term visa policies* which would cover the categories of travellers with more permanent ties to these countries. National visas for students and academics, business people, family members and ethnic compatriots are appropriate tools for maintaining people-to-people relations between regions.
7. In turn, measures must be taken to ensure that *only genuine tourists or persons with explicit and definite short-term reasons for visits receive short-term national Schengen visas*. As part of preparations for the adoption of the Common Consular Instruction, consuls of Visegrad states ought to strive to see each applicant and verify his or her actual reason for visiting. Given the consuls' field experience, obligatory interviews for applicants would serve as crucial pre-screening mechanisms, helping to eliminate the bulk of unfounded applications and limit the number of travellers denied entry only on arrival at the border. Consulates should also lead sustained information awareness-raising campaigns about the Visegrad countries that would balance the tourist attractions of those destinations, specific labour market needs for certain types of professions and the consequences of illegal residence and employment.

b. Visegrad Co-operation and Ukraine and Moldova

8. In the short- to medium-term, the national authorities from these states ought to develop procedures for *access of all EU consuls to information on visa applicants' criminal records, places of residence or economic activity status* in line

with the recommendations contained in the EU-Ukraine Action Plan. Managing a unique identification system for the citizens of Ukraine and Moldova needs to be included in the objectives of broader EU assistance to those states as part of migration management collaboration. Consuls in both Ukraine and Moldova depend on co-operation with those countries' state institutions, such as passport-issuing offices, migration and asylum departments of Interior Ministries and Border Guards, and for obtaining information on applicants that is otherwise unavailable.

9. *A common database of international Ukrainian passports should be made available to every EU consul, allowing data to be scanned and the application process for customers and consulates to be simplified by providing all the necessary information about each traveller. Visegrad states should focus EU assistance in the JHA domain to Ukraine and Moldova on developing a trustworthy citizens' register system, including issuing their identification documents properly, so as to eliminate the possibility of easily changing personal data. Attention must be paid to the issue of persons using multiple passports or providing false data as regards their purpose for travelling or accommodation. The Visegrad states ought to be interested in setting up this database even prior to the extension of the SIS system as not all of them have on-line systems integrated with police records that would help identify forged identification documents.*
10. *Visegrad Border Guard services should develop common multilateral programs for training their Ukrainian counterparts in detecting forged documents and should share their experience in verifying the purpose of trip so as to lower the number of persons refused entry or visa cancellations. Visegrad states may use the positive experiences of capacity-building and transfer of skills from individual (e.g. Hungarian, Polish and Slovak) Border Guard forces to their Ukrainian counterparts for making a collective case, not only for the faster removal of controls on the temporary Schengen borders but also for dropping Ukraine from the visa black list. As the western border of Ukraine becomes a full Schengen frontier, Ukrainian Border Guards will be seen as an additional barrier to illegal migration and trafficking and Ukraine as a country integrated into the EU's border control system.*

c. Visegrad Agenda for the EU and Schengen

11. Further deeper collaboration could be built on existing successful schemes involving other EU members (e.g. the Salzburg Forum or the Baltic states), so as to reinforce the notion of the compatibility of multilateral solutions within the EU with further integration of Visegrad states in EU common policies, including Schengen. By bringing in the 'old' EU members. The Visegrad states that have pursued more liberal solutions in visa policy (Poland and Hungary)

could lower the other new Member States' apprehension about a likely conflict with the larger objective of Schengen accession.

12. Co-operation within the Visegrad Group or other regional settings aimed at improving relations with third countries, such as Ukraine or Moldova, must include *a new communication strategy, presenting possible benefits to each participating EU state*. The benefits should be expressed in terms of both particular national interests (e.g. the issue of ethnic compatriots or maintaining economic and social contact across the EU external border) and of the bargaining power of the interest-based coalition in the EU of 25. The diversity of national foreign policy orientations does not allow for taking the support of other states for granted any more, and EU membership opens up to all states opportunities for new, interest-based coalitions.
13. It is also necessary *to communicate to the EU of 25 the persistent interest of Ukraine's immediate neighbours as well as of the Czech Republic, which has extensive experience of Ukrainian immigration, in shaping a balanced harmonized visa policy in the framework of the European Neighbourhood Policy*. Communication with other EU states ought to stress the new Member States' awareness of the specificity of East European cross-border movement, as well as their openness to co-operation with other EU Member States. In this context, parallels with the policies of other EU states should be shown so as to make the solutions practiced by some of the Visegrad states more acceptable for consideration by the European Union of 25.
14. *The Visegrad Group's public statements should identify and acknowledge the competencies that some of the V4 states have in specific policy areas (e.g. the Czech experience in managing labour immigration, the more extensive Polish consular network, Hungarian and Slovak policies for the borderland communities)*. They should be communicated to the European Commission and 'old' EU Member States as part of the Visegrad states' shared commitment to *developing 'friendly border' policies*, which could be the basis for the EU's eastern dimension of eastern policy. New opportunities have appeared for 'making the new members' voices heard' in the EU at large with the successful deployment of regional co-operative efforts (facilitating a peaceful resolution to the Ukrainian electoral crisis and sending in observers) among some new EU Member States. In turn, the new Member States' preference for involving EU institutions in active 'eastern diplomacy', revealed the pivotal role that they could play individually and as a group in influencing the content of the EU's agenda for Ukraine and Moldova.
15. *The states of the Visegrad Group should present the Council and the Commission with a proposal for setting fees for Schengen visas at a minimum level*. The proposal could present the benefits of the visa-waiver programs adopted by all Visegrad states towards Ukraine and by Poland towards Moldova. The fact that the Visegrad states issue more visas to Ukraine than all the other EU

states and yet manage to control illegal migration successfully may be used as a persuasive argument for adopting the new members' national solutions on a broader scale. The entry of those states into the Schengen zone is an opportunity not only for sharing the 'old' members' experience in tight controls but also for extending the model of widely-available visas for the EU's eastern neighbours.

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