



**COUNCIL OF
THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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

COMMON GUIDELINES

Consultation deadline for Croatia: 10.10.2012

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',

and

THE REPUBLIC OF CAPE VERDE, hereinafter referred to as 'Cape Verde',

Hereinafter referred to as 'the Parties',

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 issue of visas to their citizens on the basis of reciprocity,

HAVING REGARD to the Joint Declaration of 5 June 2008 on a Mobility Partnership between the European 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,

RECALLING the Cotonou Partnership Agreement and the Special Partnership between the European Union and Cape Verde, approved by the Council of the European Union on 19 November 2007,

RECOGNISING that this should not encourage illegal immigration 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 the United Kingdom of Great Britain and Northern Ireland or 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

Subject matter and scope

The purpose of this Agreement is to facilitate, on the basis of reciprocity, the issue of visas to citizens of Cape Verde and of the Union for an intended stay of no more than 90 days per period of 180 days.

ARTICLE 2

General clause

1. The measures to facilitate the issue of visas set out in this Agreement shall apply to citizens of Cape Verde and of the Union only in so far as they are not exempt from visa requirements under the laws and regulations of the Union or its Member States or of Cape Verde, or under the present Agreement or other international agreements.
2. The national law of Cape Verde and of the Member States or the law of the Union shall apply to matters not covered by the provisions of this Agreement, such as refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence, refusal of entry and expulsion measures.

ARTICLE 3

Definitions

For the purposes of this Agreement:

- (a) 'Member State' shall mean any Member State of the Union, with the exception of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland;
- (b) 'Union citizen' shall mean any national of a Member State as defined in point (a);
- (c) 'citizen of Cape Verde' shall mean any person with Cape Verde citizenship;
- (d) 'visa' shall mean an authorisation issued or a decision taken by a Member State or by Cape Verde which is required with a view to entering, for transit purposes or for an intended stay of no more than 90 days in total, the territory of that Member State or of several Member States or the territory of Cape Verde;
- (e) 'legal resident' shall mean:

in the case of the Union, any citizen of Cape 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.

in the case of Cape Verde, any Union citizen, as defined in point (b), holding a residence permit in accordance with national legislation.

ARTICLE 4

Issue of multiple-entry visas

1. Diplomatic missions and consular posts of the Member States and of Cape Verde shall issue multiple-entry visas valid for five years to the following categories of citizen:
 - (a) members of national and regional governments and parliaments, constitutional courts, supreme courts or courts 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 Cape Verde, the Member States or the Union, take part in meetings, consultations, negotiations or exchange programmes, or in events in the territory of the Member States or Cape Verde organised on the initiative of intergovernmental organisations;
 - (c) business people and company representatives who regularly travel to the Member States or to Cape Verde;

(d) spouses, children (including adopted children) who are under the age of 21 or are dependent, and relatives visiting either:

- citizens of Cape Verde legally resident in the territory of a Member State or citizens of the Union legally resident in Cape Verde, or
- citizens of the Union resident in the Member State of their nationality, or citizens of Cape Verde resident in Cape Verde.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to this stay, in particular where

- 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 Cape Verde citizens residing in the territory of a Member State and Union citizens residing in Cape Verde, in the case of those covered by point (d) above,

is less than five years.

2. Diplomatic missions and consular posts of the Member States and Cape Verde shall issue multiple-entry visas valid for one year to the following categories of citizens, provided that during the previous year they have obtained at least one visa and that they have made use of it in accordance with the laws on entry and residence in the territory of the State in question:

- (a) representatives of civil society organisations travelling regularly to Member States or to Cape Verde for the purposes of educational training or to take part in seminars and conferences, including as part of exchange programmes;
- (b) practitioners of a liberal profession taking part in international exhibitions, conferences, symposia, seminars or other similar events who regularly travel to the Member States or to Cape Verde;
- (c) persons taking part in scientific, cultural and artistic activities, including university and other exchange programmes, who regularly travel to the Member States or to Cape Verde;
- (d) participants in international sports events and persons accompanying them in a professional capacity;
- (e) journalists and accredited persons accompanying them in a professional capacity;

- (f) school pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including exchange programmes and other school-related activities;
- (g) representatives of religious organisations recognised in Cape Verde or in the Member States who regularly travel to the Member States or to Cape Verde respectively;
- (h) persons visiting regularly for medical reasons;
- (i) participants in official exchange programmes organised by twinned towns or municipal authorities;
- (j) members of official delegations who, following an official invitation addressed to Cape Verde, the Member States or the Union, regularly take part in meetings, consultations, negotiations or exchange programmes, and in events in the territory of the Member States or of Cape Verde organised on the initiative of intergovernmental organisations.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to the length of this stay.

3. Diplomatic missions and consular posts of the Member States and of Cape Verde shall issue multiple-entry visas that are valid for at least two years and at most five years to citizens in the categories referred to in paragraph 2 of this Article, provided that during the two years prior to the application they have made use of a one-year multiple-entry visa in accordance with the laws on entry and residence in the territory of the host State.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to the length of that stay.

4. The total period of residence of the persons referred to in paragraphs 1 to 3 of this Article shall not exceed 90 days per period of 180 days in the territory of the Member States or of Cape Verde.

ARTICLE 5

Visa fees and service charges

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

- (a) members of official delegations who, following an official invitation addressed to Cape Verde, the Member States or the Union, take part in meetings, consultations, negotiations or official exchange programmes, or in events in the territory of a Member State or of Cape Verde organised by 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 no older than 25 years of age taking part in seminars, conferences or sports, cultural or educational events organised by non-profit organisations.

2. Where the Member States or Cape Verde 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. Cape Verde and the Member State or States concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.

ARTICLE 6

Departure in the case of lost or stolen documents

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

ARTICLE 7

Extension of visa in exceptional circumstances

Citizens of Cape Verde and of the Union who are unable to leave the territory of the Member States or of Cape Verde respectively by the date indicated in their visas for reasons of force majeure shall have their visas extended free of charge in accordance with the legislation applied by the host State for the period necessary for their return to their State of residence.

ARTICLE 8

Diplomatic and service passports

1. Citizens of Cape Verde or of the Member States who are holders of valid diplomatic or service passports can enter, leave and transit through the territories of the Member States or of Cape Verde without visas.
2. The citizens referred to in paragraph 1 of this Article may stay in the territories of the Member States or of Cape Verde for a period not exceeding 90 days per period of 180 days.

ARTICLE 9

Territorial validity of visas

Subject to the national rules and regulations concerning national security applied by the Member States and Cape Verde, and subject to Union rules on visas with limited territorial validity, citizens of Cape Verde and of the Union shall be entitled to travel within the territory of the Member States and of Cape Verde under the same conditions as Union and Cape Verde citizens respectively.

ARTICLE 10

Joint Committee for the management of the Agreement

1. The Parties shall establish a Joint Committee to manage the Agreement ('the Committee'), consisting of representatives of the Union and of Cape Verde. The Union shall be represented on the Committee by the European Commission, assisted by experts from the Member States.
2. The Committee shall, in particular, have the following tasks:
 - (a) monitoring the implementation of the Agreement;
 - (b) proposing amendments or additions to the Agreement;
 - (c) settling disputes arising from the interpretation or application of the provisions in the Agreement.
3. The Committee shall meet whenever necessary at the request of either of the Parties and at least once a year.
4. The Committee shall lay down its own rules of procedure.

ARTICLE 11

Relationship between this Agreement and agreements between the Member States and Cape 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 Cape Verde, in so far as the provisions of those agreements or arrangements relate to matters that are dealt with by this Agreement.

ARTICLE 12

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 from paragraph 1 of this Article, this Agreement shall enter into force only on the date of the entry into force of the Agreement on readmission between the Union and Cape Verde if that date is after the date provided for in paragraph 1 of this Article.
3. This Agreement is concluded for an indefinite period, 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. Either Party may suspend the application of this Agreement in whole or in part for reasons of public order, protection of national security or protection of public health. 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. Either Party may terminate this Agreement by giving written notice to the other Party. The Agreement shall cease to apply 90 days after the date of receipt of such notification.

Done in duplicate in the Bulgarian, 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.

For the European Union

For the Republic of Cape Verde

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

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

In accordance with Decision No 582/2008/EC of the European Parliament and of the Council of 17 June 2008 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories¹, harmonised measures have been taken in order to simplify the transit of holders of Schengen visas and Schengen residence permits through the territory of the Member States not yet fully applying the Schengen *acquis*.

¹ OJ L 161, 20.6.2008, p. 30.

JOINT DECLARATION
ON ARTICLE 8 OF THE AGREEMENT
CONCERNING DIPLOMATIC AND SERVICE PASSPORTS

Either Party may invoke a partial suspension of the Agreement, and in particular of Article 8, in accordance with the procedure set out in Article 12(5), if the implementation of Article 8 leads to abuse by the other Party or to a threat to public security.

If the implementation of Article 8 is suspended, the two Parties shall initiate consultations in the framework of the Committee set up by the Agreement with a view to solving the problems that led to the suspension.

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 ensured in accordance with the requirements set out in 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 States¹.

¹ OJ L 385, 29.12.2004, p. 1.

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

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

- in general, to draw up a list of basic information for applicants on the procedures and conditions for applying for visas, on the visas themselves and on the validity of the visas issued;
- in the case of each Party, to draw up a list of minimum requirements in order to ensure that applicants are given basic, coherent and uniform information and are required to submit, in principle, the same supporting documents.

The information mentioned above is to be disseminated widely (on the information board of consulates, in leaflets, on the Internet, etc.).

JOINT DECLARATION
CONCERNING THE KINGDOM OF DENMARK

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

It is therefore desirable that the authorities of Denmark and of Cape Verde should conclude, without delay, a bilateral agreement on facilitating the issue of short-stay visas, in terms similar to those in the Agreement between the Union and Cape Verde.

JOINT DECLARATION
CONCERNING IRELAND
AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Parties take note that the present Agreement does not apply to the territory of Ireland or of the United Kingdom of Great Britain and Northern Ireland.

It is therefore desirable that the authorities of the United Kingdom of Great Britain and Northern Ireland, Ireland and Cape Verde should conclude bilateral agreements on facilitating the issue of visas.

JOINT DECLARATION
CONCERNING THE REPUBLIC OF ICELAND,
THE KINGDOM OF NORWAY, THE SWISS CONFEDERATION
AND THE PRINCIPALITY OF LIECHTENSTEIN

The Parties take note of the close relationship between the Union and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, 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*.

It is therefore desirable that the authorities of the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation, the Principality of Liechtenstein and Cape Verde should conclude, without delay, bilateral agreements on facilitating the issue of short-stay visas, in terms similar to those set out in this Agreement.

JOINT DECLARATION
ON COOPERATION ON TRAVEL DOCUMENTS

The Parties agree that when monitoring the implementation of the Agreement, the Joint Committee established under Article 11 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 to avoid the proliferation of travel documents, to develop the technical aspects of travel document security, and regarding the personalisation process in the issue of travel documents.