

TO: Clients and Friends of the Firm
FR: Frishberg & Partners
RE: New Registration Rules for Foreign Visitors to Ukraine

I. New Rules for Entry and Stay of Foreigners in Ukraine

On July 11, 2007, the Cabinet of Ministers of Ukraine introduced amendments to its Resolution No. 1074 “On the Rules for Entry and Stay of Foreign Nationals and Stateless Persons into Ukraine, Their Exit from Ukraine and Transit Through the Territory of Ukraine”, dated December 29, 1995, which governs issues associated with the entry, registration and stay of foreign nationals in Ukraine. The said amendments provide the following three new requirements with respect to the entry and stay of foreign nationals:

1. Foreign nationals of the states, which are included into the list of the Cabinet of Ministers of Ukraine, must confirm their ability to finance their stay in Ukraine.
2. Foreign nationals, who arrive in Ukraine for a short term, may stay in Ukraine based on the registration of their passports upon arrival into Ukraine. The term of such registration cannot exceed 90 days for foreigners who arrived from countries with a visa entry regime with Ukraine. The registration for foreigners who arrived from countries with which Ukraine does not have a corresponding visa entry regime is valid for no more than 90 days per 180 days, unless otherwise provided by international treaties. In the future, after Ukraine’s entry into the WTO, foreign nationals of states, which are members of the WTO, will be registered for 180 days during one year.
3. The term of a foreign national’s temporary stay may be reduced either by the internal affairs authority (militia), which makes the corresponding decision based on the petition of a party that receives such foreign national, or by the border authorities. The state security authority may also initiate the process for reducing a foreigner’s stay in Ukraine.

The above-referenced new requirements of Ukrainian law are currently effective as follows:

The first requirement is currently in force. However, the Cabinet of Ministers did not prepare and promulgate the list of countries whose citizens should confirm their financial ability to stay in Ukraine. Therefore, this new norm cannot be implemented.

The second requirement is ambiguous and it can be interpreted in several ways. If, however, this norm is interpreted conservatively so that the overall duration of the visitor's stay cannot exceed 90 calendar days per 180 calendar days from the arrival date, then this new requirement will cut visa-free travels into Ukraine for foreign individuals from wealthy countries (i.e., countries with no visa requirement for Ukraine) who otherwise remained in Ukraine for more than 90 days. Henceforth, they would have to leave Ukraine and then return to receive an additional 90-day visa-free stay.

Due to the above ambiguity, however, we believe that the relevant official explanations in this respect will follow from the corresponding Ukrainian authorities in the near future.

Finally, the third new norm permits the reduction of stay of "problematic" foreigners in Ukraine.

II. Extension of the Stay Permit

Citizens from EU member states, Switzerland, the Republic of Korea, Japan and the US can enter Ukraine without a visa for a 90-day term, which may be extended. To do so, the foreign national must simply apply for an extension of his or her stay in Ukraine at least 3 days prior to the expiration of the 90-day visa-free period. The above stay extension registration is performed by the corresponding local departments responsible for issues of citizenship, immigration and registration of natural persons subordinated to the Ministry of Internal Affairs.

An extension may be granted for 1 year. The procedure for extending the stay of foreign nationals and stateless persons in Ukraine was approved by the Ministry of Internal Affairs by its Order No.1456, dated December 1, 2003 and registered with the Ministry of Justice of Ukraine on December 18, 2003.

All foreign nationals, who are employed by Ukrainian employers, must receive work permits. Importantly, a Ukrainian employer cannot employ a foreign national until the work permit is duly issued. There are two basic types of situations with respect to work permits:

- (1) the employees are employed by a foreign company and receive payment from such company abroad;
- (2) the employees are employed by a Ukrainian company and are paid by such company in Ukraine.

In the situation described in item (1) above, if the employees will remain on the payroll of the foreign company and will continue their employment with such a company, their stay in Ukraine will be considered as a business trip. In such case, no work permit will be required for the employees in question.

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