

# EU entry restrictions in relation to Russia's war on Ukraine

## SUMMARY

The EU has imposed progressively harsher sanctions on Russia, first in response to Russia's illegal annexation of Crimea in 2014, and then in response to its full-scale invasion of Ukraine in February 2022. Successive packages of EU sanctions, adopted in the framework of the EU's common foreign and security policy, include entry restrictions for specific individuals linked to Russia's aggression against Ukraine.

After partially suspending the EU-Russia visa facilitation agreement in February 2022, the Council decided to fully suspend the agreement in September 2022. This made the visa application process for all Russian nationals more expensive, lengthier and subject to increased scrutiny.

The EU Visa Code, which lays down common procedures and conditions for issuing short-stay (Schengen) visas, requires the competent authorities of the Schengen states to examine and decide on each individual visa application. An individual assessment is also required by the Schengen Borders Code when carrying out checks at the EU's external borders.

In both contexts, the competent authorities of the Schengen state concerned need to assess whether individuals pose a threat to public policy, internal security, public health or international relations. Moreover, an individual who has previously obtained a Schengen visa may still be denied entry into the territory of a Schengen state based on the (separate) risk assessment carried out during the border check. Neither the Visa Code nor the Schengen Borders Code contain provisions on imposing generalised visa or entry bans, however.



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## Introduction

In August 2022, amid Russia's continued aggression against Ukraine, several Member States' [called](#) for drastically restricting Russian nationals' access to Schengen visas. A third-country national in possession of a Schengen visa can enter the [Schengen area](#)<sup>2</sup> and stay in it for a maximum of 90 days in any 180-day period. Member States such as [Czechia](#), [Estonia](#) and [Latvia](#) have already imposed visa and/or entry restrictions on Russian nationals. Whereas some Member States (including Finland, Poland, Czechia and the Baltic States) have demanded a full ban on [Schengen visa and entry](#) for Russian nationals, other Member States (including Germany and Greece) are in favour of more targeted measures.

In February 2022, the EU partially suspended the 2007 EU-Russia [visa facilitation agreement](#), removing visa facilitation for Russian government officials and businesspeople. On 9 September 2022, the Council [decided](#) to fully suspend the EU-Russia visa facilitation agreement, thus making the visa application process for all Russian nationals more expensive, lengthier and subject to increased scrutiny. Nevertheless, Estonia, Latvia, Lithuania and Poland [agreed](#) to impose an entry ban for all Russian nationals with a short-stay Schengen visa (exceptions apply), as of 19 September.

## Background

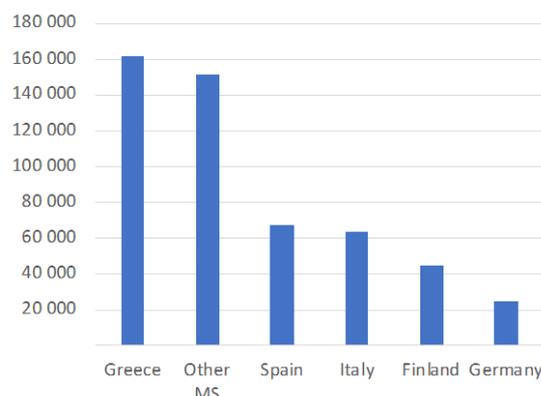
Russian nationals have been the largest group benefiting from Schengen visas in recent years. According to European Commission [data](#), in 2020-2021 the Member States' consulates in Russia issued almost a quarter of the volume of Schengen visas issued worldwide (see Figure 1). The share was even higher in 2019, when the Member States' consulates in Russia issued 5.2 million Schengen visas out of a total of 19.9 million globally. The Member States that issued the largest share of Schengen visas in their consulates in Russia in 2021 were Greece (33%), Spain (13%), and Italy (12%) (see Figure 2). In 2020, the highest number of Schengen visas issued in Russia were issued by the consulates of Finland (about 771 000), Spain (about 553 000), and Italy (about 548 000).

Figure 1 – Number of Schengen visas issued at consulates in 2020-2021



Data source: [European Commission](#).

Figure 2 – Number of Schengen visas issued at consulates in Russia in 2021



Data source: [European Commission](#).

According to the [Commission](#), around 963 000 Russian nationals held valid visas to the Schengen area in September 2022. This number does not include Russian nationals who are exempted from visa requirement (e.g. because they hold a residence permit issued by a Schengen state or because they are family members of a national of a Schengen state and benefit from visa exemptions). According to [Frontex](#), 998 085 Russian nationals have legally entered the EU through the land border crossing points, mainly via Finland and Estonia, since February 2022. This significant number of crossings at the EU's eastern land borders is also due to EU restrictions on air travel from Russia.

## EU legal framework

The EU Treaties provide that the EU 'shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals ([Article 67\(2\) of the Treaty on the Functioning of the European Union \(TFEU\)](#)). For this purpose, the EU shall adopt measures on 'the common policy on visas and other short-stay residence permits', 'the checks to which persons crossing external borders are subject' and 'the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period' ([Article 77\(2\) TFEU](#)).

### Visa code

The 1985 [Schengen Agreement](#) (the Schengen *acquis*) and the 1990 [Schengen Convention](#), signed by five Member States at the time, included provisions for the establishment of a common visa for short-term stay. From the beginning, the contracting states allowed for national derogations from the common visa arrangements in exceptional cases and on grounds of 'overriding reasons of national policy'. However, even in such cases, each Member State had to 'first consult the other Contracting Parties and, in its decision, take account of their interests and the consequences of that decision' (Article 9(2), Schengen Convention).

The [Treaty of Amsterdam](#) brought Schengen cooperation into the EU framework, with the EU establishing a common visa policy for transit through or for short stays (a maximum of 90 days in any 180-day period) in the territory of a Schengen state. [Regulation \(EC\) No 2018/1806](#) (repealing Council Regulation (EC) No 539/2001) laid out a [list of countries](#) whose nationals are subject to a visa requirement when entering the EU and a list of countries for which this requirement is waived. [Regulation \(EC\) No 810/2009](#) (the Visa Code) set out the common procedures and conditions for issuing short-stay visas (Schengen visas).

A key provision of the Visa Code is that 'in accordance with the general principles of Union law, decisions on applications under this Regulation shall be taken on an individual basis' (Article 1(4)). A previous refusal to grant a Schengen visa cannot lead to an automatic refusal of a new application (Article 21(9)). A third-country national who is required to have a visa for a short stay in the Schengen area can apply for a Schengen visa at a consulate of a Schengen state (or exceptionally at the EU external borders), which is usually situated in their country of residence. Once established that the consulate is competent to process the visa application, the consulate proceeds with the verification and assessment of each application, in line with the rules provided for in the Visa Code.

A key element of the visa procedure is the assessment of whether 'the applicant presents a risk of illegal immigration or a risk to the security of the Member States' (Article 21(1)). The authorities need to verify, among others, 'whether the applicant is a person for whom an alert has been issued in the [Schengen Information System](#) (SIS) for the purpose of refusing entry' and whether 'the applicant is not considered to be a threat to public policy, internal security or public health ... or to the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds' (Article 21(3)). If a person is considered a threat to public policy, internal security or public health, his/her visa application is refused (Article 32).

The Visa Code provides for the right to appeal against a negative decision on a visa application (Article 32(3)). In its judgment on [Joined Cases C-225/19 and C-226/19](#), the Court of Justice of the European Union (CJEU) maintained that 'the characteristics of the appeal provided for in Article 32(3) of the Visa Code must therefore be determined in accordance with Article 47 of the Charter [of Fundamental Rights of the European Union], which provides that everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal' (para 42). For the judicial review guaranteed by Article 47 of the Charter to be effective, 'the person concerned must be able to ascertain the reasons upon which the decision

taken in relation to him or her is based ...' (para 43). Given that 'the competent national authorities have a broad discretion, in examining a visa application ..., the judicial review of that discretion is limited, therefore, to ascertaining whether the contested decision is based on a sufficiently solid factual basis and verifying that it is not vitiated by a manifest error' (para 49).

The Visa Code allows Member States to require that other Member States consult their central authorities when examining visa applications lodged by nationals of specific third countries or specific categories of such nationals (Article 22). A Member State may raise objections to another Member State's issuing of Schengen visas to persons belonging to such categories on grounds of a threat to public policy, internal security, international relations or public health. In such situations, the Member State examining the application may issue a Schengen visa with limited territorial validity (Article 25). A visa with limited territorial validity may exceptionally be valid for the territory of more than one Member State, subject to the consent of each such Member State. A Member State may also require to be informed of the visas issued by consulates of other Member States to nationals of specific third countries or specific categories of such nationals (Article 31).

Article 25a of the Visa Code empowers the Council of the EU to impose restrictions on visa applicants or categories of visa applicants who are nationals of a third country that is considered not to be cooperating sufficiently in the field of [readmission](#). Typical restrictions include suspending visa facilitation, imposing higher visa fees and extending the deadlines for processing applications. The Visa Code has no other special provisions for collective visa restrictions (e.g. for security risks).

According to Article 34(2) of the Visa Code, 'a visa shall be revoked where it becomes evident that the conditions for issuing it are no longer met'. Although, in principle, a visa is revoked by the competent authorities of the Member State that issued it, the authorities of another Member State may also revoke a visa, in which case they inform the authorities of the Member State that issued it. A visa holder whose visa has been revoked has the right to appeal. If a Member State issues an [SIS alert](#) on refusal of entry or stay for a holder of a Schengen visa, this person's visa should be revoked.

## Schengen Borders Code

[Regulation \(EU\) 2016/399](#) (the Schengen Borders Code – SBC) lays down rules governing border control of persons crossing the external borders of the Schengen area.<sup>3</sup> Article 4 of the SBC provides that 'in accordance with the general principles of Union law, decisions under this Regulation shall be taken on an individual basis'.

The SBC lists the conditions that third-country nationals must meet to be authorised to enter the territory of an EU Member State (Article 6). These include that they be in possession of a valid travel document and a valid visa (if required). Member States have full competence for the recognition of travel documents for the purpose of allowing the holder to cross the external borders and affixing a visa sticker. However, they need to notify to the Commission their position on their recognition or non-recognition of the travel documents [listed](#) by the Commission according to [Decision 1105/2011/EU](#). To be authorised to enter, third-country nationals should also not be among the persons for whom an alert has been issued in the SIS for the purposes of refusing entry and should not be considered a threat to public policy, internal security, public health, or the international relations of any of the Member States.

A third-country national who does not fulfil all the entry conditions is to be refused entry (Article 14(1)), unless authorised by a Member State to enter its territory on humanitarian grounds, on grounds of national interest or because of international obligations. Where a third-country national concerned is the subject of a SIS alert, the Member State authorising them to enter has to inform the other Member States.

As provided in the Visa Code, the 'mere possession of a uniform visa or a visa with limited territorial validity shall not confer an automatic right of entry' (Article 30). Border checks may result in a refusal for the visa-holder to enter the Schengen area and the EU.

Entry may only be refused by a substantiated decision stating the reasons for the refusal. The decision is taken by an authority empowered by national law. Persons refused entry have the right to appeal. Appeals are conducted in accordance with national law (Article 14 of the SBC).

There are certain categories of persons who are exempted from the obligation to obtain a Schengen visa when entering the Schengen area even if they are nationals of countries for which visa requirements apply:

- third-country nationals asking for international protection, in line with Member States' 'obligations related to access to international protection, in particular the principle of *non-refoulement*' (Article 4 of the SBC);
- third-country nationals holding a long-stay visa issued by a Member State when transiting towards the territory of that Member State;
- third-country nationals holding a residence permit issued by a Schengen State fully applying the Schengen *acquis*;
- third-country nationals who are family members of nationals of a Schengen state fully applying the Schengen *acquis* and are in possession of a valid residence card issued under Articles 10 and 20 of [Directive 2004/38/EC](#);
- third-country nationals with a valid residence card issued under Articles 10 and 20 of Directive 2004/38/EC and who accompany their family members who are nationals of Ireland or of a Schengen state not yet fully applying the Schengen *acquis* and who have exercised the right to move and reside freely by virtue of Directive 2004/38/EC;
- border residents of a neighbouring third country who are in possession of a local border traffic permit, in accordance with [Regulation \(EC\) No 1931/2006](#).

The SBC does not specify any rules for introducing generalised entry bans. This became obvious during the coronavirus pandemic, when the Member States agreed to implement a Commission [recommendation](#) to temporarily restrict non-essential travel from third countries into the EU to prevent the spread of the virus. Despite this agreement, the Member States took [different approaches](#) on restricting travel across EU external borders, some banning all travellers, others allowing travellers from countries that were not included in the common list.

## EU sanctions

EU restrictive measures or [sanctions](#) are a tool of the EU's common foreign and security policy (CFSP) aiming to bring about a change in the policy or conduct of those targeted, with a view to promoting the objectives of the CFSP. Sanctions can target governments of non-EU countries, entities (companies), groups, organisations, and individuals associated with the targeted policies, or involved in targeted activities.

In line with [Article 29 TEU](#), the Council can adopt decisions imposing individual restrictive measures such as a ban on admission into the EU of specific nationals of third countries. These decisions are legally binding on all Member States, who are responsible for implementing them.

According to the principles set in the Council's [sanctions guidelines](#), the introduction and implementation of restrictive measures must always be in accordance with international law and must respect human rights and fundamental freedoms, in particular due process and the right to an effective remedy (para 9). The measures must be proportionate to their objective and must be targeted. They should target those identified as responsible for the policies or actions that have prompted the EU decision to impose restrictive measures and those benefiting from and supporting such policies and actions (para 13).

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## Visa restrictions

Russia is on the list of countries whose nationals are subject to a visa requirement when entering the EU (Annex I to [Regulation \(EC\) No 2018/1806](#)), and thus Schengen visa applications by Russian nationals are handled according to the rules and procedures established in the Visa Code. According to the [Commission](#), at least one Member State requires prior consultation of their central authorities when examining visa applications by Russian nationals (Article 22, Visa Code). In line with Article 31 of the Visa Code, at least one Member State requires to be informed of visas issued by consulates of other Member States to Russian nationals.

In May 2007, the EU and Russia signed a [Visa Facilitation Agreement](#), which provided for easier access to Schengen visas (e.g. reduction of the visa fee, issuance of multiple-entry visas, shorter processing times) for certain categories of Russian nationals, such as government officials, businesspeople, athletes, students, and journalists.

Following Russia's invasion of Ukraine in February 2022, the Council decided to partially suspend the application of the EU-Russia visa facilitation agreement ([Council Decision \(EU\) 2022/333](#)). The decision removed the visa facilitation for Russian government officials and businesspeople and suspended the waiver of visas for Russian nationals holding valid diplomatic passports. The Commission [guidelines](#) on the implementation of Council Decision (EU) 2022/333 provides that, 'given the current security situation, it is important that consulates thoroughly verify whether applicants could be considered to be a threat to public policy, internal security or to the international relations of any of the Member States, in which case the visa should be refused'.

Following calls from several Member States to restrict Russian nationals' access to Schengen, on 9 September 2022, the Council adopted its [decision](#) on the full suspension of the EU-Russia visa facilitation agreement.<sup>4</sup> The decision removed the remaining forms of visa facilitation enjoyed by certain categories of Russian nationals, who now face a lengthier, more expensive and more difficult visa application process. The Commission prepared [guidelines](#) to support Member States' consulates in handling short-stay visa applications lodged by Russian citizens. According to the Commission, while the Member States should exercise greater scrutiny of visa applications by Russian nationals, the 'EU will remain open to Russian visa applicants travelling for essential purposes, including notably family members of EU citizens, journalists, dissidents and civil society representatives'.

The Commission also presented a [proposal](#) for a decision of the European Parliament and the Council on the non-recognition of Russian travel documents issued in occupied foreign regions. The Member States have generally [not recognised](#) the travel documents issued by Russia in the territories it had occupied in Ukraine for the purposes of issuing a visa and of crossing the external borders. The Commission proposed to establish a list of Russian travel documents that should not be recognised for the purposes of travel into the Schengen area.

## Individual restrictions

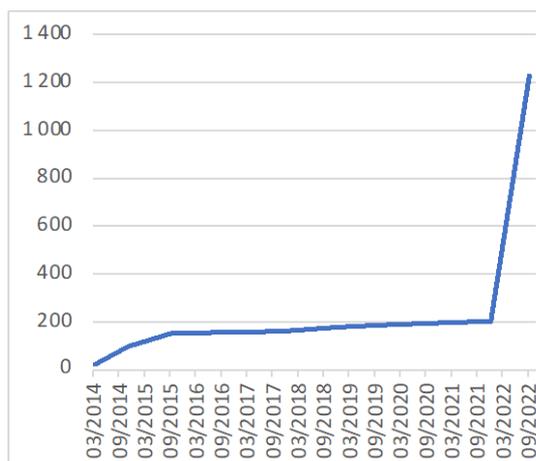
Since 2014, the EU has progressively imposed CFSP [sanctions](#) on Russia. Following Russia's illegal annexation of Crimea in March 2014, the EU imposed a series of restrictive measures against specific individuals and entities. [Council Decision 2014/145/CFSP](#) imposed travel restrictions and an asset freeze on persons responsible for actions that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine.

The list of individuals targeted by EU sanctions because of actions that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine has been updated regularly (see

Figure 3). With its latest update of 4 August 2022, the Council authorised [admission restrictions](#) against a total of 1 229 persons (up from 21 individuals in February 2014). Individual admission restrictions are implemented through SIS alerts on refusal of entry (Article 21(3)(c) of the Visa Code). Member States are required to revoke visas previously issued to individuals under sanctions, as the conditions for issuing these visas are no longer met (Article 34(2) of the Visa Code). They must enter the information on revoked visas into the [Visa Information System](#) (VIS).

As part of its successive packages of sanctions against Russia, the EU has [banned](#) Russian carriers of all kinds from accessing EU airports and entering EU airspace, as well as banning Russian-flagged vessels from EU ports. The unintended consequence of banning air travel from Russia is that a greater number of Russian nationals have started crossing into the EU [by land](#), mainly via Finland and Estonia.

Figure 3 – Number of individuals targeted by EU entry restrictions in relation to Russia's war on Ukraine



Data source: [European Commission](#).

## MAIN REFERENCES

Dumbrava C., [Schengen reform: Key challenges and proposals](#), EPRS, European Parliament, July 2022.

EPRS Topical Digest, [Russia's war on Ukraine: Background](#)

## ENDNOTES

- <sup>1</sup> In this briefing, 'Member States' and 'Schengen States' refers to the 26 countries that are part of the Schengen area, and 'EU Member States' refers to the 27 countries that are members of the European Union.
- <sup>2</sup> Bulgaria, Cyprus, Croatia and Romania do not fully apply the Schengen *acquis* and cannot issue Schengen visas. However, the holders of valid Schengen visas can enter these countries' territory for short visits without the need to obtain additional national visas.
- <sup>3</sup> The SBC applies to all 26 Schengen members. Whereas Bulgaria, Cyprus, Croatia and Romania are not yet full Schengen members, they are also bound by the SBC rules.
- <sup>4</sup> Denmark, Norway, Iceland, Switzerland and Liechtenstein, which have bilateral visa facilitation agreements with Russia are expected to suspend their bilateral agreements as well.

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