

Order #1456 of 01.12.2003 On Approval of the Instruction on the Procedure of the Extension of the Stay of Foreigners and Stateless Individuals in Ukraine

N 1456, 01.12.2003, Executive Order, Ministry of the Interior

MINISTRY OF INTERNAL AFFAIRS

ORDER

#1456
of December 1, 2003

Registered with the Ministry of Justice of Ukraine on 18 December
2003 under #1180/8501

ON APPROVAL OF THE INSTRUCTION ON THE PROCEDURE OF THE EXTENSION OF THE STAY OF FOREIGNERS AND STATELESS INDIVIDUALS IN UKRAINE

In accordance with Resolutions of the Cabinet of Ministers of Ukraine **No.1074 of 29 December 1995** "On Rules of Entry of Foreigners into Ukraine, Their Exit from Ukraine and Transit across Its Territory" and **No. 227 of 20 February 1999** "On Introduction of the New Procedure of Execution of Visa Documents for the Entry into Ukraine", I ORDER herewith as follows:

1. The attached Instruction on the Procedure of the Extension of the Stay of Foreigners and Stateless Individuals in Ukraine shall be approved.

2. Heads of main directorates of the Ministry of Internal Affairs of Ukraine in the Autonomous Republic of Crimea, the city of Kyiv and Kyiv Oblast (GUMVS), directorates of the Ministry of Internal Affairs in oblasts, city of Sevastopol (UMVS) and at transportation facilities (UMVST), in district, city district, city and line directorates and units of internal affairs shall:

2.1. Organise the study of the Instruction by the personnel and ensure the absolute compliance with its requirements.

2.2. The territorial agencies and units of the State Citizenship, Immigration and Individuals Registration Department of the Ministry of Internal Affairs of Ukraine (DDGIRFO) shall be provided with the required quantity of stamps of appropriate format envisaged by Annexes 3, 4, 6, and 7 to this Instruction.

2.3. The regulations of GUMVS, UMVS, UMVST, city/district/line internal affairs agencies shall be brought into compliance with provisions of this Instruction.

3. Order of the Ministry of Internal Affairs of Ukraine **No. 887 of 19 November 1999** "On Approval of Instruction on the Procedure of the Consideration of Issues Related to the Extension of the Period of Stay of Foreigners and Stateless Individuals in Ukraine" registered with the Ministry of Justice of Ukraine on 6 December 1999 under No. 837/4130. Order of the Ministry of Internal Affairs of Ukraine No. 550dsk of 14 July 1999 "On Approval of the Procedure of Consideration of Issues Related to the Registration of Passport Documents of Foreigners from States subject to the Visa-free Regime of Mutual Travel of Citizens" shall be abolished.

4. The control over the compliance herewith shall be laid upon A.Y. Prysiashniuk, Deputy Minister of Internal Affairs of Ukraine and Head of the Public Security Militia, Major General of Militia, and DDGIRFO (O.O. Perov) of the Ministry of Internal Affairs of Ukraine.

M.V. BILOKON, Minister, Lieutenant General of Militia

APPROVED

with Order of the Ministry of Internal Affairs of Ukraine

No. 1456 of 1 December 2003

Registered with the Ministry of Justice of Ukraine on 18 December

2003 under #1180/8501

INSTRUCTION ON THE PROCEDURE OF THE EXTENSION OF THE STAY OF FOREIGNERS AND STATELESS INDIVIDUALS IN UKRAINE

General Provisions

1. This Instruction has been developed in accordance with the Law of Ukraine "On Legal Status of Foreigners and Stateless Individuals", Decree of the President of Ukraine No. 435 of 15 June 2001 "On Additional Measures Related to the Exercise of the Human Right to the Freedom of Movement and Free Choice of the Place of Residence", Resolutions of the Cabinet of Ministers of Ukraine No. 1074 of 29 December 1995 "On Rules of Entry of Foreigners into Ukraine, Their Exit from Ukraine and Transit across Its Territory" and No. 227 of 20 February 1999 "On Introduction of the New Procedure of Execution of Visa Documents for the Entry into Ukraine".

2. This Instruction shall specify the procedure of the extension of the stay of foreigners and stateless individuals in Ukraine desirous of extending their stay in Ukraine.

3. This Instruction shall apply to foreigners and stateless individuals not mentioned in items 19 and 20 of Rules of Entry of Foreigners into Ukraine, Their Exit from Ukraine and Transit across Its Territory approved with Resolution of the Cabinet of Ministers of Ukraine No. 1074 of 29 December 1995 (hereinafter referred to as the "foreigners and stateless individuals stay rules"), as well as to legal entities and individuals in Ukraine receiving or servicing the same.

4. Terms used in this Instruction:

"Passport document" shall be understood as a document that confirms the citizenship of a foreigner, identifies the personality of a foreigner or a stateless individual issued by authorised agencies of foreign states or chartered UN organisations, and grants the right to travel abroad, and is recognised by Ukraine;

"Visa" shall be understood as a mark in the passport document that confirms the right of a foreigner or a stateless individual to enter Ukraine and transit across its territory;

"Registration" shall be understood as making a "Entry" ("Exit") mark in the passport document at the state border checkpoint by the official of relevant state border protection agencies, entering the information about the foreigner or the stateless individual, and their passport details into the relevant register, and completing the immigration card in accordance with the procedure prescribed by the Administration of the State Border Service;

"Extension of stay" shall be understood as the extension of the validity period of the registration with an imprint of the appropriate stamp in the passport document to be certified with the registration seal, and the entry of details of the foreigner or stateless individual, and their passport details into the relevant registration log. If international treaties provide for the entry of foreigners into Ukraine on the basis of internal passport documents, their stay in Ukraine shall be extended, subject to their wish, by means of the issue of a supplementary ticket to the passport document;

"Receiving party" shall be understood as the Ukrainian enterprises, joint ventures or foreign enterprises, institutions and organisations registered in accordance with the established procedure, as well as individuals (citizens of Ukraine, foreigners and stateless individuals), who live permanently in Ukraine or stay temporarily in Ukraine in connection with the education, internship, work, etc. that invite or receive foreigners and stateless individuals and, in accordance with requirements of the legislation of Ukraine, ensure that they are provided with the explanation of their rights, freedoms and duties, keep record of such individuals (in case of legal entities only), and are liable for the timeliness of the execution of documents for their stay in Ukraine, the travel on its territory, and the exit from Ukraine upon the expiry of the prescribed period of stay;

"Illegal migrant" shall be understood as a foreigner or a stateless individual, who have illegally crossed the state border in any manner (outside state border checkpoints or in state border checkpoint without passing through the immigration control), and have failed to apply for the refugee status or asylum in Ukraine within 3 working days, as well as a foreigner or a stateless individual, who have arrived legally at Ukraine, but have ceased to have grounds for their further stay after the expiry of the prescribed period of stay, and evade the exit from Ukraine.

5. The registration shall be carried out by officials of the state border protection agencies for the short-term stays in case of foreigners and stateless individuals from countries subject to visa entry procedures for

the whole visa validity period but not more than 6 months, or, in case of foreigners and stateless individuals from countries subject to the visa-free entry procedures for the period of 90 days, unless different duration is prescribed by international agreements. The registration mark shall be valid on the whole territory of the country regardless of the place of residence and the purpose of stay of the foreigner or the stateless individual in Ukraine.

Review of Documents Related to the Extension of the Period of Stay, and Registration Thereof

6. For the purposes of the extension of the period of stay, the written applications of foreigners or stateless individuals, and the receiving party shall be submitted not later than three working days before the expiry of the registration validity period to the territorial units of the State Citizenship, Immigration and Individuals Registration Department (hereinafter referred to as the "Department") in the place of residence of these individuals or directly to agencies listed in item 14 of this Instruction depending on their powers.

7. The written applications shall indicate the grounds for the extension of the period of stay in accordance with those listed in item 12 of the **Rules of Execution of Visa Documents for the Entry into Ukraine**, the personal information about the foreigner or the stateless individual (citizenship, last name, first name, patronymic name, date of birth, sex), the number of the passport document, its validity period, the date and place of the entry into Ukraine, the type of visa, the purpose and duration of the desired extension of stay, the place of residence in Ukraine, as well as the registration details of the receiving party, the actual location of the office (the place of residence of the individual), and its written guarantees in respect of the financial support for the stay of the foreigner in Ukraine and the undertaking to ensure the timely exit of the foreigner from the state after the expiry of the period of stay.

At that, it shall be disallowed to modify the status of the temporary stay in accordance with requirements of item 19 of the **Rules of Execution of Visa Documents for the Entry into Ukraine** (other than applications for the immigration permit under item 2 of part 1 of Article 9 of the Law of Ukraine "**On Immigration**").

8. In case of the arrival of foreigners or stateless individuals of the Ukrainian origin at Ukraine on private matters (for instance, on the basis of П-2 type visa), and in other cases, when the receiving party is not specified, the said individual shall only submit own application in writing. At that, the application shall be approved at the place of residence (by the hotel manager, the housing agency) in respect of the possibility of the accommodation at the address indicated therein. Also, the applicant shall state in the application that he/she is in possession of funds needed to cover the expenses related to the stay in Ukraine.

Refugees and individuals who have submitted applications in writing for the refugee status and in whose respect a decision has been made to execute documents for the solution of the issue of granting them the refugee status, and those disputing the decision to deny the acceptance of the application for the refugee status or to deny the execution of documents for the solution of the issue of granting them the refugee status shall register with the territorial agency of the Department in the place of the temporary residence on the basis of the application of the relevant Nationalities and Migration Directorate (Unit) of the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations indicating the actual place of residence of the individual.

9. The following documents shall be submitted for the extension of the stay of foreigners and stateless individuals:

9.1. If an individual is a receiving party:

the application in writing from the receiving individual for the extension of the period of stay of the invitee. In case of the submission of the application in person, the individual shall present a valid passport document or a permanent residence permit. In case of the submission of the application by the invitee, the application must be authenticated in the place of residence of the receiving individual in accordance with the procedure prescribed by the legislation;

an application of the foreigner or the stateless individual in writing for the extension of the period of stay, which is to be submitted either in person, or by the receiving individual;

the passport document of the foreigner or the stateless individual, and the immigration card (if any);

2 pcs. of 3.5 x 4.5 cm-sized photographs of the foreigner or the stateless individual;

the receipt confirming the payment of the state duty for the extension of the period of stay;

receipts confirming the payment for the paid services that can be provided by the citizenship, immigration and individuals registration service under Resolution of the Cabinet of Ministers of Ukraine No. 478 of 7 April 2003 "On Approval of the List of Paid Services That Can Be Provided by the Citizenship, Immigration and Individuals Registration Service" (if any).

9.2. If a legal entity is a receiving party:

the written application of the legal entity indicating its details shall be submitted by a representative thereof (the documents confirming the state registration of the receiving legal entity shall also be submitted on the first application). In this case, if the housing facility provided to the foreigner or the stateless individual for the further residence is not owned by the receiving party, the application shall be concurred in the place of residence with the management of the hotel, the housing agency, etc. (except for individuals listed in paragraph two of item 8 of this Instruction);

an application of the foreigner or the stateless individual in writing for the extension of the period of stay, which is to be submitted either in person, or by the authorised representative of the receiving party;

the passport document of the foreigner or the stateless individual, and the immigration card (if any);

2 pcs. of 3.5 x 4.5 cm-sized photographs of the foreigner or the stateless individual;

the receipt confirming the payment of the state duty for the extension of the period of stay;

receipts confirming the payment for the paid services that can be provided by the citizenship, immigration and individuals registration service under Resolution of the Cabinet of Ministers of Ukraine No. 478 of 7 April 2003 "On Approval of the List of Paid Services That Can Be Provided by the Citizenship, Immigration and Individuals Registration Service" (if any).

9.3. If necessary, the officer of the territorial agency or unit of the Department may require that foreigners or stateless individuals be present in person during the review of their application, and demand other documents that confirm the availability of grounds and the lack of obstacles for the further stay in Ukraine:

the possession by the foreigner or the stateless individual of a valid urgent medical aid insurance policy as provided for by Resolution of the Cabinet of Ministers of Ukraine **No. 1021 of 17 September 1997** "On Improvement of the Procedure of Provision of Medical Aid to Foreign Citizens Staying Temporarily on the Territory of Ukraine", unless otherwise provided by international agreements;

the possession by the foreigner or the stateless individual of funds for the coverage of expenses related to the stay in Ukraine, or the confirmation of guarantees set forth in the application of the receiving party.

10. On receipt of the written application for the extension of the period of stay, the officer of the territorial agency or unit of the Department shall review the substantiation of the quoted grounds for the extension of the period of stay, check the submitted documents for validity and timeliness of the submission, the availability of registration marks ("Entry" ("Exit") stamps of state border protection agencies) or the stay extension marks, compare the information about foreigners or stateless individuals set forth in their passport documents with the details provided in the said applications, ascertain the legality of stay of foreigners and stateless individuals in the state, and the lack of information preventing the said individuals from staying in Ukraine further.

11. The written applications received for review shall be registered in the separate logbook for applications for the extension of the period of stay of foreigners and stateless individuals in Ukraine in the specified format (Annex 1). The sequence number of the record in the logbook of the current year shall be the registration number of the application specified in the application and on the stay extension stamp. The code of the purpose of entry depending on the visa type in line with item 9 of the Rules of Execution of Visa Documents for the Entry into Ukraine approved with Resolution of the Cabinet of Ministers of Ukraine **No. 227 of 20 February 1999** "On Introduction of the New Procedure of Execution of Visa Documents for the Entry into Ukraine" shall be written after the dash that follows the registration number.

The document exchange shall take place in accordance with provisions of the Model Instruction on the Document Exchange in Ministries, Other Central Executive Agencies, the Council of Ministers of the

Autonomous Republic of Crimea, Local Executive Agencies approved with Resolution of the Cabinet of Ministers of Ukraine No. 1153 of 17 October 1997.

12. The processing of received documents shall start immediately; they shall be reviewed within three working days. In case of the review of applications during more than one working day, the applicant shall be issued a certificate with a photograph (Annex 2) that his/her passport document is held by the territorial agency or unit of the Department in connection with the review of the issue of the extension of the period of stay in Ukraine. The photograph of the foreigner or the stateless individual, and the signature of the head of the issuing agency shall be certified with the registration seal of the agency that has issued the certificate. The certificate validity period shall be limited with the time actually needed to execute the documents, but may not exceed 10 days. (On return of the passport document to the owner, the said certificate shall be withdrawn and returned to the territorial agency or the unit of the issuing Department).

13. The verification of the information preventing the further stay of foreigners or stateless individuals in Ukraine shall be carried out on the basis of registration files of relevant territorial agencies of the Department in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, and territorial units of the Department in the administrative coverage area, in respect of:

13.1. Foreigners or stateless individuals in order to detect individuals who have violated the legislation on the legal status of foreigners and stateless individuals during their stay in Ukraine;

13.2. Receiving party in order to detect receiving parties that have failed to meet the obligations specified in item 5 of the foreigners and stateless individuals stay rules.

A mark on the results of the verification shall be made on the written applications of foreigners and stateless individuals with the indication of officers, who have carried out the verification.

Decision Making Powers on Extension of the Period of Stay

14. Decisions on the extension of the stay of foreigners and stateless individuals shall be made by:

14.1. the Director (or deputy directors) of the Department in respect of all foreigners and stateless individuals regardless of the instituted regime of the mutual travel of citizens, the duration of stay in Ukraine, the purpose of the visit, and the place of residence in Ukraine.

14.2. Heads (or deputy heads) of territorial agencies of the Department in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol in respect of all foreigners and stateless individuals staying in the administrative coverage area regardless of the instituted regime of the mutual travel of citizens, the duration of stay in Ukraine, and the purpose of the visit.

14.3. Heads (or acting heads) of territorial units of the Department in town, district and city district internal affairs agencies in respect of foreigners and stateless individuals staying in the administrative coverage area regardless of the instituted regime of the mutual travel of citizens and the duration of stay in Ukraine, except for individuals that arrived as the personnel of representative offices of foreign business entities, as asylum seekers, as refugee status seekers, as well as for the purposes of the education, the employment on the basis of permits from employment centres, the work under inter-governmental agreements, and the religious activities.

14.4. Heads (or deputy heads) of territorial agencies in internal-affairs agencies in cities having districts and city districts of the city of Kyiv in respect of individuals mentioned in item 14.3 of this Instruction and, subject to the consent of agencies listed in item 14.2 hereof, in respect of other foreigners and stateless individuals.

Grounds for the extension of the period of stay depending on the purpose of the visit that matches the visa types:

C-2 on request of central executive agencies and other state authorities;

C-3 on request of state institutions, enterprises or organisations registered in Ukraine in accordance with the established procedure;

Б on request of joint ventures, representative offices of foreign business entities in Ukraine or business entities in Ukraine founded by foreigners or stateless individuals;

Д on request of the Ministry of Extraordinary Situations of Ukraine or its local bodies;

O on request of the higher education establishments;

H on request of the scientific research establishments, other legal entities or public organisations involved into the scientific research activities;

P on request of religious organisations certified by the State Committee of Ukraine for Religions or its local bodies;

Г on request of the Commission for the Co-ordination, Acceptance, Transportation, Protection and Distribution of the Humanitarian Aid Originating from Foreign States under the Cabinet of Ministers of Ukraine;

K on request of institutions, enterprises or organisations that have invited foreigners and stateless individuals for the concert tours for the cultural exchange purposes or for the participation in the sports competitions;

T on request of travel organisations or other documents that confirm the tourism nature of the visit. In this case, the total duration of the stay in Ukraine for tourism purposes may not exceed 6 months, except for cases when the period of stay is extended by the time actually needed to depart from Ukraine.

П-1 on invitations in the prescribed format executed by agencies listed in item 14.2 of this Instruction or invitations of medical establishments in Ukraine, and other documents confirming the private nature of the visit;

П-2 on personal application and documents confirming the Ukrainian origin of the foreigner or stateless individual;

IM-1 on request of the employer and the employment permit issued by the relevant employment centre;

ОП on request of the foreigner or the stateless individual. In this case, the period of stay shall only be extended by the time actually needed to depart from Ukraine;

TP - the period of the transit stay may be extended on requests of foreigners or stateless individuals for the period that is actually needed to eliminate extraordinary circumstances that have caused the forced delay, subject to the availability of a document that confirms the reason and duration of the delay under item 14 of the foreigners and stateless individuals stay rules.

The period of stay of foreigners and stateless individuals may be extended every time for the whole period of existence of the circumstances quoted in the application, but by not more than the validity period of the relevant visa type prescribed by item 11 of the Rules of Execution of Visa Documents for the Entry into Ukraine approved with Resolution of the Cabinet of Ministers of Ukraine **No. 227 of 20 February 1999** "On Introduction of the New Procedure of Execution of Visa Documents for the Entry into Ukraine". The issue of the extension of stay in excess of the said periods shall be considered by agencies listed in items 14.1 and 14.2 of this Instruction.

While making the decision, the end date of the extended period of stay must not exceed the time frame that is one month less than the validity period of the passport document, except for cases, when such extension takes place for the period actually needed for the departure of the foreigner or the stateless individual from Ukraine. In case of the need to depart to the motherland on the basis of a passport document that has expired and that cannot be extended on time for objective reasons, the relevant information shall be sent to the relevant state border checkpoint of the state border protection agencies.

Processing Passport Documents on the Basis of Decisions to Extend the Period of Stay

15. The extension of stay shall be formalised by placing a stamp (Annex 3) in the passport document and certifying it with the registration seal of the agency that has made the decision. The stamp shall be placed on the first free page of the passport document next to the visa label or the available registration mark. In case of the repeated extension of the stay, the stamp described in Annex 4 shall be used, if the receiving party and the address of residence have not changed.

The supplementary ticket to the passport document of the foreigner or the stateless individual shall be issued in the form described in Annex 5.

In case of the loss of the passport document and the obtainment of a new passport document from the

diplomatic institution of the foreign state in Ukraine, the stamp (Annex 3) shall be placed in the passport document after the verification of the legitimacy of stay of foreigners and stateless individuals in Ukraine.

The registration of individuals mentioned in paragraph two of item 8 of this Instruction shall be executed by means of placing stamp (Annex 6) in the refugee identity card or the relevant certificate provided for by Article 1 of the Law of Ukraine "On Refugees".

Grounds for Denial of the Extension of Stay

16. Foreigners and stateless individuals may be denied the extension of stay in Ukraine on the following grounds:

if their actions contradict interests of the security of Ukraine or the protection of the public order, or when this is necessary to protect health, defend rights and legitimate interests of citizens of Ukraine, and other individuals residing in Ukraine;

if the individual has been found to be unwanted in Ukraine in accordance with the legislation of Ukraine;

the detection of the fact of submission of the deliberately false information or fake documents by the individual during the execution of the visa or the submission of the application for the extension of stay;

the facts of the violation of the legislation of Ukraine during the prior or current stays on its territory;

the lack of the valid insurance policy in the form prescribed by the legislation of Ukraine, unless otherwise provided by international agreements;

the lack of funds for the coverage of expenses related to the stay in Ukraine or relevant guarantees from the receiving party.

Disputing Decisions to Deny

17. The decision to deny the extension of stay shall be communicated against signature to foreigners or stateless individuals, and the receiving party within the time frame specified in item 12 hereof. In this case the applicants shall be warned that they must leave Ukraine within the prescribed time frame.

18. The decision to deny the extension of stay in Ukraine for foreigners and stateless individuals may be disputed with the higher agency or unit of the citizenship, immigration and individuals registration service, or with the court.

The dispute procedure shall suspend the decision to deny the extension of stay in Ukraine, except for cases, when the denial arises from interests of ensuring the security of Ukraine or the protection of the public order, whereof a statement shall be made in the decision.

19. In case of the failure of the foreigner or stateless individual to leave Ukraine after the denial of the extension of their stay, they may be found to be illegal migrants and a decision may be taken in their respect to expulse them from Ukraine under Article 32 of the Law of Ukraine "On Legal Status of Foreigners and Stateless Individuals". The stamp (Annex 7) shall be placed in the passport document of the foreigner or the stateless individual in case of the decision to expulse.

Procedure of Keeping Record of Foreigners and Stateless Individuals Desirous of Extending Their Stay in Ukraine

20. In case of the extension of stay of a foreigner or a stateless individual in Ukraine, the territorial unit of the Department that has made the decision shall fill out two record cards in the prescribed form (Annex 8), of which the second copy shall be sent within five working days of the processing of passport documents to the higher territorial agency of the Department for the record keeping purposes (the automated record keeping is allowed).

In case of the extension of the stay of foreigners or stateless individuals by the higher agency of the citizenship, immigration and individuals registration service, the notice thereof shall be sent to the territorial unit of the Department in the place of residence of the said individuals for the record keeping and the exercise of control over their timely departure from Ukraine.

In case of the migration of foreigners or stateless individuals to the administrative coverage area of another unit of the citizenship, immigration and individuals registration service, and the extension of stay by the said agency, the notice thereof shall be sent to the territorial unit of the Department in the place of the previous stay of the said individuals for the removal from records.

The information about foreigners and stateless individuals, whose stay in Ukraine has been extended, shall be sent to the Administration of the State Border Service of Ukraine within five days.

21. For the purposes of control over the timely departure of foreigners and stateless individuals from Ukraine, the territorial unit of the Department in the place of their residence shall send a notice after the expiry of the period of their stay in Ukraine to the relevant unit of precinct inspectors of militia for the inspection to be carried out within 20 days. The report of the precinct inspector of militia about the departure of the said individuals shall constitute the ground for the removal of the said individuals from records. A letter from the receiving organisation shall constitute the ground for the removal from records of foreigners and stateless individuals invited by legal entities.

After the need ceases to exist, the record cards shall be moved from the current card file to the archive card file, and kept there for 5 years after the removal of the foreigner or stateless individual from records, and then destroyed on the basis of a protocol.

***O.O. PEROV, Director of the State Citizenship, Immigration and
Individuals Registration Department of the Ministry of Internal
Affairs of Ukraine, Major General of Militia***