

Q&A 29 September 2022

Ministry for Foreign Affairs, Ministry of the Interior, Border Guard

Government Resolution 29 September 2022 on the restriction of entry of Russian citizens

1. BACKGROUND

- The mobilisation declared by Russia on 21 September 2022 will increase travel from Russia to and via Finland. There is great uncertainty about the consequences of mobilisation, and its effects on Finland's situation cannot be ignored.
- On Friday 23 September, the President of the Republic and the Ministerial Committee on Foreign and Security Policy took the position that the Government should issue a resolution placing significant restrictions on the issuing of visas to Russian citizens and on their entry into the country in order to prevent serious damage to Finland's international position.

Why are the number of visas issued to Russian nationals and the entry of Russians into Finland being restricted?

- The Government considers that the travel and tourism of Russian nationals to Finland are a threat to Finland's international relations. For that reason, the entry of Russian nationals into the country will be restricted at Finland's external borders. According to the same principle, Finland will no longer accept applications for tourist visas in Russia.
- These restrictions are based on the Schengen Borders Code, according to which third-country nationals may only enter into a country if they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States.
- There is a risk that citizens of the Russian Federation who use Finland as a transit country will have a negative impact on Schengen cooperation and Finland's international relations, especially with those EU countries that share a land border with Russia.

2. LEGAL BASIS: THREAT TO INTERNATIONAL RELATIONS

What does it mean that travel and tourism are a threat to Finland's international relations? How?

- The Government has concluded that tourism from Russia to Finland is a threat to Finland's international relations. The President of the Republic and the Ministerial Committee on Foreign and Security Policy support this view. Finland's foreign policy leadership has conducted an overall political assessment that takes into account many weighty reasons, such as discussions with the leaders of Ukraine (which is currently engaged in a defensive war), the possibility of circumventing the EU restrictions on air traffic, and relations with the Baltic states and Poland. This is specifically an overall political assessment, which can only be conducted by the state leadership. Not all details of the assessment may, therefore, be made available to the public.

Which act are these new restrictions based on? Was it not valid before?

- "Being a threat to international relations" is provided as a condition preventing entry in Article 6, paragraph 1, point (e) of the Schengen Borders Code, according to which third-country nationals

may only enter into a country if they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States.

The Schengen Borders Code has been in force, but it was drawn up with individuals in mind, and provides conditions for the entry of individual persons. Do date, “being a threat to international relations” has not to our knowledge been applied collectively to a group of people. The Government is now of the opinion that tourism from Russia to Finland may in general become a threat to Finland’s international relations. For this reason, the restrictions apply to each individual tourist. On this basis, the authorities may refuse to issue a visa application to an individual or prevent their entry into the country.

Until now, you have claimed that the security assessment would not allow restrictions on entry. What has changed?

- The conclusions of Finland’s national security assessment have not changed, at least not yet. It should be noted that the Finnish authorities carry out the security assessment, whereas only the political leadership can conduct a foreign policy assessment of threats to Finland’s international relations. The security assessment may also change as the situation in Russia changes.

How much of an exception to the norm is this government resolution?

- As far as we know, the provision concerning “threat to international relations” provided in the Schengen acquis has not previously been used collectively, applying to a nationality (tourists of a particular nationality). However, it has been applied to individuals arriving in Finland. In that sense, this is a new state practice. However, a legal assessment has been made, the Chancellor of Justice has assessed the lawfulness of the matter, and the authorities can act on this basis.

Previously, it was argued that a visa ban for one nationality would constitute discrimination, but is not the entire visa system based on differences based on nationality?

- The visa system is indeed based on distinctions made on the basis of nationality: visa requirements on the one hand, and visa waivers on the other. However, when a visa is required, visa applications must be processed in accordance with the parameters laid down in the EU Regulation.
- This is not entirely straightforward, because there are country-specific differences, for example in assessing the reliability of documents. For instance, documents from some countries of origin for illegal immigration cannot really be trusted. But the principle itself is not discriminatory.
- However, discrimination is a side issue: this is not about the rights of Russian citizens. That the entire Schengen system is based on individual consideration has been a more important argument against collective practices that only apply one nationality.

How does Finland’s solution differ from the restrictions imposed by the Baltic states and Poland?

- In the Baltic states, entry into the country has been restricted on the basis of security. According to the assessment of the Baltic states, Russian tourists are a threat to their security. The states have acted under their own border security laws on this basis. In Finland, the authorities have not yet come to this conclusion in their security assessment. Instead, a foreign policy assessment of Finland’s international relations has been carried out to provide a basis for the Finnish authorities to act on.

What is the visa policy of EU Member States other than the Baltic states and Poland?

- Most Schengen countries have not restricted the issue of visas to Russians. However, some countries have significantly reduced their operations in Russia including the issuing of visas, as the operating conditions of the diplomatic missions have deteriorated.
- Finland is one of the most stringent Member States regarding the Schengen cooperation. On average, the approach adopted by the EU Member States is considerably more permissive than that of Finland, at least for the time being. Most EU Member States do not share a land border with Russia, although people can enter the EU by air via countries that have visa waivers, such as Turkey. Norway has not applied the same restrictions at its border with Russia as the Baltic states and Poland (and soon Finland).

Has the legal logic used by the Baltic states and Poland been tested anywhere?

- Not as far as we know. Ultimately, the lawfulness of the application of EU regulations is decided by the Court of Justice of the European Union, if someone appeals the decision. In any case, obtaining a ruling from the EU Court of Justice would take years.

3. HOW DOES THE GOVERNMENT RESOLUTION RESTRICT ENTRY INTO THE COUNTRY?

How and when will the entry of Russians into Finland and the issuing of visas be restricted?

- The restrictions will enter into force on Friday 30 September and remain in force until further notice. From now on, visas will no longer be issued to Russians if the reason for their travel is tourism. The Government will closely monitor the impact of the resolution and the development of the situation.
- A person applying for a visa must be able to rely on the permanence of the official decision and that the activities of the authorities do not create unfounded expectations for entry if the grounds for entry do not exist. For that reason, the number of visa applications from Russia will be drastically limited.

How will the Border Guard implement the restrictions at Finland's external borders?

- The border authorities will start applying the government resolution on 30 September at midnight.
- As a rule, Russian tourists can no longer enter into Finland or into the EU or Schengen countries. In each case, the decision will be based on an individual overall consideration.
- While the implementation will focus on the eastern border, the government resolution will also apply to Russians arriving across Finland's other external borders.
- The effects of the restrictions on cross-border traffic and border security will be monitored closely.
- The international border crossing points at the eastern border will continue to operate under normal opening hours.

4. ARE THERE EXCEPTIONS TO THE RESTRICTIONS?

What exceptions are there to the restrictions laid down in the resolution?

- The aim is to stop tourism and transit altogether. However, it is important to keep in mind that entry into Finland involves a large number of people and is difficult to fully control.
- According to the Government Resolution, travel on grounds that are essential with respect to fundamental rights should not be prevented.
- People who can still be issued visas and enter Finland include family members and people with an established doctor-patient relationship in a Finnish hospital. These exceptions must in any case be examined in light of how the situation develops. The policy is strict.
- In addition, Finland is not preventing the entry of people with a valid residence permit in Finland, another Schengen country or a non-Schengen country. Russian nationals will not be prevented from returning to Russia.
- The resolution does not provide grounds to prevent travelling when it is deemed necessary for humanitarian reasons, for national interests or for meeting Finland's international obligations. This may involve factors relating to an individual's personal situation or circumstances that make it necessary for the person to travel to Finland.

Will travel by property owners be restricted? Will they still be able to enter Finland?

- Even before the resolution was adopted, owning property no longer made it easier to get a visa. In practice, people who own real estate or shares in housing companies have equal standing with tourists staying in a hotel or rented cabin.
- When tourist visas cease to be issued, this will also apply to property owners. There may be grounds to permit some exceptions, such as necessary maintenance of property. The important thing is that owning property is not a free pass to a visa or to entry. There is no point in purchasing real estate or a dwelling as a means of gaining entry into Finland.

5. HUMANITARIAN ENTRY AND EFFECTS ON ASYLUM APPLICATIONS

What will happen to people in need of international protection if travel under tourist visas ends? How will people in need of international protection get out of Russia?

- (Schengen) visas are not meant to be a means for people in need of international protection to enter the country. If there is reason to suspect that a visa applicant may later seek asylum, the visa application will be denied. However, we know that, in practice, the main way that people fleeing Russia leave is under a tourist visa. Thus, it is clear that it will become more difficult for people who may need international protection to leave (to seek asylum, etc.).

- Finland is looking for solutions to this. The Ministry for Foreign Affairs is examining the introduction of a humanitarian visa. The resolution also states the possibility of considering the use of a regionally restricted visa referred to in Article 25 of the Visa Code.

If a person in need of protection receives a visa for protection purposes from Finland, won't they be exposed to the Russian authorities and be placed in danger?

- Finland does not issue (humanitarian) visas for protection purposes. Preparations for such a visa have been started, but this is an extensive legislative project that must also take security and other effects into account.
- When Finland issues a Schengen visa, the visa itself does not provide the authorities of another country with information on the purpose of the trip. The Finnish authorities at the border have access to the systems of the Ministry for Foreign Affairs and have access to this information.

Can these restrictions limit asylum-seeking at the Finnish-Russian border?

- No. Russian citizens can continue to seek asylum at Finland's external borders.

What happens when a person's right to stay or reside in Finland based on a visa or other permit ends?

- Staying or residing in Finland requires legal grounds, such as a residence permit or visa. If a person does not have such grounds and is in Finland, they must apply for either a residence permit or international protection.
 - Residence becomes legal as soon as the application is submitted.
 - Visas cannot be applied for in Finland. Visas are intended for temporary stays, and are applied for at a Finnish diplomatic mission outside Finland.
- If a person is not legally staying in Finland and is not issued a residence permit or international protection, they must return to their home country.
- When deciding to return a person to their home country, the non-refoulement principle must always be taken into account. According to this principle, no one should be returned to an area where they would face the death penalty, torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm.

6. WHAT HAPPENS NEXT: EFFECTS ON BORDER TRAFFIC AND THE NUMBER OF VISAS

How will these decisions affect border traffic?

- According to a rough estimate by the Finnish border Guard, the new restrictions will reduce the number of people arriving in Finland to about half of the current level, which is about 25% of the normal level (2019). We cannot provide exact figures, because we are not the only actor or variable: the situation in Russia is developing rapidly and this may be reflected at the border.

How will these decisions affect the number of visas?

- The number of tourist visas that can be issued has already been limited to 100 per day. This is about 10% of the number issued in August, about 3% of the normal level (2019) and less than 2% of the highest volumes prior to the war (2013).

How many valid visas have already been issued by Finland or other Schengen countries?

- Finland has issued slightly over 100,000 multiple-entry visas in Russia that are valid for at least two years. The number of valid visas will slowly decline, as so few new visas are being issued. We do not have exact figures on the number of Schengen visas issued by all Schengen countries to Russian nationals, but the scale is about one million.

Will Finland now revoke all Schengen tourist visas at the border?

- Finland can revoke visas that it has issued at the border when the conditions for entry are not met. A decision to revoke a visa can be appealed to the courts.
- With respect to visas issued by other Schengen countries, Finland will deny entry if the conditions for entry are not met. However, Finland will not revoke such visas unless another Schengen country has made a request to do so.