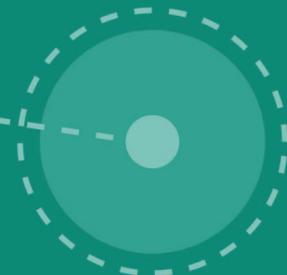




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VISA POLICY AS A MIGRATION CHANNEL IN THE SLOVAK REPUBLIC



Visa Policy as a Migration Channel in the Slovak Republic

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Preface

This study was compiled in 2011 by the IOM International Organization for Migration Bratislava, which is the National Contact Point of the European Migration Network in the Slovak Republic. This report has been prepared in compliance with the common structure and methodology specified by the European Migration Network.

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List of Abbreviations

EEA	– European Economic Area
EMN	– European Migration Network
EP	– European Parliament
EC	– European Communities
EU	– European Union
MoI SR	– Ministry of Interior of the Slovak Republic
MoFA SR	– Ministry of Foreign Affairs of the Slovak Republic
SIS	– Schengen Information System
SR	– Slovak Republic
SO SR	– Statistical Office of the Slovak Republic
BBAP PFP	– Bureau of the Border and Aliens Police of the Police Force Presidium
VIS	– Visa Information System
Coll.	– Collection of Laws

Executive Summary

Visas are closely tied to State sovereignty and the right of States to regulate the conditions of entry and stay in their territories. A 'visa' can broadly be defined as the legal title delivered by a State to a foreigner permitting entry, stay, or transit through that State. Within this definition, a distinction between short-term and long-term visas must be made.¹

The policy and legislation related to short-term visas fall within the competency of the European Union. This area is harmonised at EU level, and Member States (with the exception of the UK and Ireland) have almost no national competency in this field.

On the other hand, long-stay visas or national visas are dealt with only at the EU level by Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010. Hence, this area falls predominantly in the competency of the EU Member States. The study therefore focuses on a closer analysis of these issues. A short-stay visa serves for a stay shorter than three months and, from the point of view of long-term stay, it has no substantial impact on legal migration and its primary objective is rather to regulate short-term migration, such as short-term family visits, tourism, business trips, etc.

Due to their nature, long-stay visas or national visas can be considered as a tool for prevention of irregular migration, and for the regulation or facilitation of legal migration. In this regard, the objective of this study is to analyse the impacts of the national visa policy on migration flows to European Union countries.

With this intention, the study focuses on describing the policies, legislation and agreements with third countries in the field of the regulation and issuance of long-stay national visas.

The first part of the study contains an introduction to the topic, specification of the methodology of preparing the study, and the definition of basic terms used in the study on the basis of EU legislation and Slovak laws.

Chapter 2 deals with the policies and legislation concerning visas in the Slovak Republic (SR), describes the influence of EU legislation, and provides information on legislative differences in short-stay visas and national visas, and on cooperation with third countries in this field.

Chapter 3 focuses on the practical implementation and organisation of visa policies in relation to national visas in the SR, describes the procedure and concrete measures implemented at the time of filing visa applications and the process of their examination, and describes the conditions of entry, residence and departure. This chapter also provides specific information about the influence of individual stages of the process on the regulation of legal migration and the prevention of irregular migration.

Chapter 4 provides a more detailed description of cooperation with third countries in issuing national visas, and their impacts on legal and irregular migration from two specific countries – Canada and the Ukraine.

Chapter 5 describes in detail the influence of EU legislation on national policies and national legislation in the field of visa policy in a broader historic context.

Chapter 6 analyses the statistics and the relation between visa policy, residence, but also detention, expulsion, and returns of third-country nationals from the Slovak Republic.

In line with the focus of the European Migration Network, the study deals with migration flows of third-country nationals, and not of the nationals of the EU or the European Economic Area.

¹ Laws for Legal Immigration in the 27 EU Members States, International Migration Law, No. 16, IOM International Organization for Migration, 2009



Introduction

The elaboration of the study *Visa Policy as a Migration Channel* was approved by the Steering Board of the European Migration Network under its Work Programme for 2011. This study forms part of a synthesis report with the same focus at EU level, summarising the results of national studies prepared by the EU Member States. The main objective of the study is to analyse the relation between visa policy and migration management and control, and its impacts on the facilitation of legal migration and the prevention of irregular migration in the Slovak Republic. The study provides an overview of different strategies and procedures in the field of visa policy that contribute to migration management, including cooperation with third countries specifically through bilateral or multilateral agreements. On the basis of an analysis of the national policy and legislation of the SR, the study also aims to provide information on good practice and experience for other EU Member States in this area. The study also analyses the impacts of EU policy and legislation on the legislation and practice in the SR in the field of visa policy.

The study should become a source of information mainly for ministries and officers at the national and international level who work with visa and migration policy, for non-governmental organisations, researchers, academicians, and the wider public interested in these issues.

1.1 Methodology

Methodologically, the study is based on the processing and analysis of available materials and documents, expert consultations, and available statistical data collected in the period January – June 2011, the main sources being mainly:

- Slovak legal acts, especially Act No. 48/2002 Coll. on Stay of Aliens and on Amending and Supplementing Certain Acts and the new Act on Stay of Aliens and on Amending and Supplementing Certain Acts enacted on 21 October 2011 (hereinafter referred to as the new Act on Stay of Aliens);
- internal regulations of the Ministry of Interior of the SR;

- strategic Slovak foreign policy documents;
- legal acts of the EU regulating migration policy and visa policy issues;
- statistical databases and websites of the Bureau of the Border and Aliens Police of PFP, Ministry of Interior of the SR (www.minv.sk) and the Ministry of Foreign Affairs of the SR (www.mzv.sk), as well as information provided by experts from these institutions;
- websites of other institutions or organisations providing information according to the focus of the study;
- previous studies of the European Migration Network, specifically Annual Reports on Migration and Asylum Policies and Annual Statistical Reports on Migration and International Protection;
- the practical implementation and personal experience of the authors.

No complex research or analysis of visa policy issues or the relation between visa policy and migration management has been conducted so far in the Slovak Republic. Hence, this study should rather be considered as primary research and become a basis for the future deeper research of these issues.

On the other hand, it should be noted that since the issuance of short-stay visas in the SR is harmonised with EU legislation and the granting of national visas is limited to four specific purposes, and a national visa is not a document serving as a temporary or permanent residence permit, the relation between visa policy and migration management in the SR is hardly measurable and, in fact, marginal. Except for the Agreement with Canada which entered into force on 1 July 2011, and the Agreement with New Zealand which was signed on 14 June 2011 but has not entered into force yet, the SR has not concluded any other bilateral agreements regulating the issuance of national visas with the aim to facilitate legal migration or prevention against irregular migration, as a result of which the research scope of this study have been limited. The statistical data in this study are presented in the same form as collected by the competent Slovak authorities. Although this data does not always comply with the requirements for this study, it was sufficient for making an analysis in each chapter.

In spite of the facts described above, no substantial difficulties have been faced in the preparation of this study. All the approached experts and institutions provided information for the purpose of its analysis and subsequent processing in this study, and contributed to making a complex overview of these issues in the Slovak Republic.

1.2 Definitions

This part of the study presents the definitions of the basic terms concerning visa policy. These terms and definitions largely correspond to the terms of the European Migration Network's Glossary which is primarily based on EU legislation. If it was not possible in some cases or if certain terms are not found in the EMN Glossary, the terms provided herein correspond to those defined by national legislation.

Visa means the authorisation or decision of a Member State of the Schengen Area (hereinafter referred to as "Member State") required for transit or entry for an intended stay in that Member State or in several Member States. The nature of the visa shall be determined in accordance with the following definitions:

- a) 'long-stay visa' (D type) means the authorisation or decision of a Member State required for entry for an intended stay in that Member State of more than three months;
- b) 'short-stay visa' (C type) means the authorisation or decision of a Member State required for entry for an intended stay in that State or in several Member States for a period whose total duration does not exceed three months;
- c) 'transit visa' (B type) means the authorisation or decision of a Member State for entry for transit through the territory of that Member State or several Member States, except for transit at an airport; this type of visa is no longer issued in the Member States since the effective date of the Visa Code – 5 April 2010;
- d) 'airport transit visa' (A type) means the authorisation or decision allowing a third-country national specifically subject to this requirement to pass through the transit zone of an airport, without gaining access to the national territory of the Member State concerned, during a stopover or a transfer between two sections of an international flight.

Slovak legislation does not use the term 'long-stay visa'; instead, it uses the term '**national visa**', and these two terms can be considered as equivalent. For the purposes of this study, the term 'national visa' will be used, as defined in the new Act on Stay of Aliens under Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EU) No 562/2006 as regards movement of persons with a long-stay visa (hereinafter referred to as "Regulation No. 265/2010"). National visa is defined as a specific type of visa issued in accordance with national law, and it is in the competency of each Member State to determine the procedure and purposes for issuing such visa.

The legislation of the SR differentiates between the term '**foreigner**' meaning any person who is not a national of the Slovak Republic, and the term '**third country national**' meaning any person who is other than a citizen of the Slovak Republic, any of the European Union Member States, other contracting country of the European Economic Area Agreement, or of the Swiss Confederation. A stateless person is also considered to be a third-country national.

Asylum holder is a foreigner who was granted asylum.

Subsidiary protection is protection against serious absence of law in the country of origin.

Residence permit is any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally in its territory in accordance with the provisions of Article 1(2)(a) of Council Regulation (EC) No 1030/2002 of 13 June 2002, laying down a uniform format for residence permits for third-country nationals. Irrespective of the different form of international protection of foreigners, Slovak legislation defines three types of residence permits: temporary residence, permanent residence and tolerated stay.

Usual residence is the place at which a person normally spends the daily period of rest, regardless of temporary absences for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage or, in default, the place of legal or registered residence.

Irregular migration means the movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or carrying false documents.

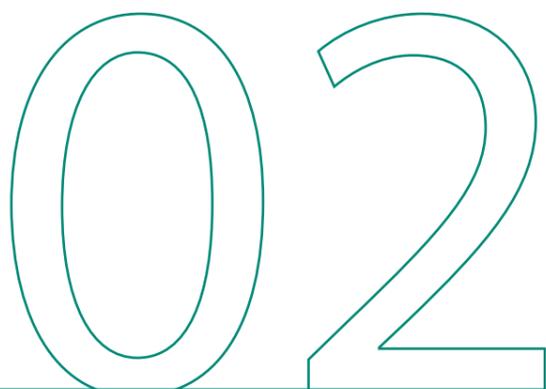
Country of origin is the country (or countries) which are a source of migratory flows and of which a migrant may have citizenship.

Country of nationality is the country (or countries) of which a person holds citizenship.

Host country means the Member State in which a third-country national takes up legal residence.

Visa Information System (VIS) is a system for the exchange of visa data between Member States, which enables authorised national authorities to enter and update visa data and to consult these data electronically.

Since Slovak legislation does not define the term **visa policy** and no generally accepted definition exists at the national level, visa policy for the purposes of this study means a tool for the regulation of legal migration allowing the management of people's influx, as well as a tool to suppress irregular migration and criminal activities and eliminate the intrusion of unwanted persons or persons presenting a safety risk. Visa policy represents a set of procedures, rules and conditions regulating the entry and stay of persons, the issuing of visas, and border controls. The objective of visa policy partly harmonised at EU level is to create mechanisms for the facilitation of legitimate travelling and dealing with irregular migration. Since the Schengen Area Member States only harmonised the conditions of short-term residence in their territories, and long-term residence falls under the national legal frameworks of each country, the Member States share responsibility for visa policy with the EU.



Policy and Legal Framework for the Granting of Visas in the Slovak Republic

2.1 National Policy and Legislative Framework

With regard to Slovakia's membership in the EU and Schengen Area, short-stay visas and their legal regulation are fully harmonised with EU policy and legislation. The legal framework for national visas issued by the SR is currently given by the generally binding legal acts of the EU, namely Regulation No 265/2010, which is fully implemented in the SR and transposed into Slovak national legislation. Yet, it is only partial regulation and national visa issues remain predominantly in the competency of the Member States.

At present, national visas in the SR are issued to a very small number of persons due to the nature of their purpose. The purposes of issuing a national visa in the SR are the following:

- if it is in the interest of the SR;
- to fulfil the commitments arising from international agreements;
- if it is required in connection with issuing a residence permit in the territory of the SR (in practice, this purpose covers the issuing of national visas to take over an already granted residence permit in the SR; in the text below, this purpose will be stated as taking over a residence permit);
- national visas issued to an asylum-holder's family members and family members of a person under subsidiary protection.

The majority of national visas are granted to third-country nationals for the purpose of taking over their residence permit. Since no expansion of the purposes for issuing national visas is planned in the future, it is not expected that the number of third-country nationals who travel to Slovakia as such visa holders for the purposes of legal immigration will increase. The same also applies with regard to irregular migration, since third-country nationals who are granted a national visa for the purpose of

taking over their residence permit in the SR have already been carefully checked in connection with the decision on granting a residence permit. Safety checks undertaken by these persons and the list of documents presented together with the residence permit application seem to be sufficient to eliminate irregular migration or the misuse of their residence permit. In this regard, national visas issued for the purpose of taking over a residence permit in the SR are rather a technicality in the procedure to grant a residence permit. Concerning the other two purposes of granting a national visa – if it is in the interest of the SR or if it is required to fulfil Slovakia's commitments under international treaties, the number of national visas issued is very low and does not present an increased risk of irregular migration.² The purpose of issuing a national visa to the family members of an asylum-holder or of a person under subsidiary protection was introduced with the new Act on Stay of Aliens enacted on 21 October 2011³, and it is therefore not possible to analyse its impacts on the migration flows into the country at present. Due to the relatively low number of persons under international protection in the SR, this impact is not expected to be high.

For these reasons and especially by reason of preventing irregular migration, the SR has not started considering the extension of the purposes for granting a national visa yet, thus preventing the potential risk of irregular migrants who would misuse the institute of national visa for illegal stays.

The visa policy of the SR concerning short-stay visas has been directly governed by common EU legislation. The competencies of the Slovak Republic in the regulation of its visa policy in the form of bilateral agreements and legal regulations are highly limited. At present, legislation in this field focuses rather on concluding bilateral agreements with third countries on visa cancellation for the holders of diplomatic and service passports.

As for long-stay visas, national legislation is still in place. The conclusion of bilateral agreements with third countries for the purpose of issuing long-stay visas (e.g. New Zealand and Canada) is a new issue in this regard. The objective of these agreements is to enable especially students and trainees to have long-term residence and work through visas. Since the Agreement with Canada entered into force on 1 July 2011, and the Agreement with New Zealand was signed on 14 June 2011 but has not entered into force yet, it is not possible to assess their positive or negative impacts on legal or irregular migration. It is therefore hard to predict whether other bilateral agreements with third countries for the purposes of issuing national visas will be concluded.

The issues concerning national visas are currently regulated by Article 15 and 17 of the new Act on Stay of Aliens. The purposes for which a national visa can be granted are highly limited. Persons with the purpose of stay falling under the so-called migration directives – Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, Council Directive

² Information provided by the MoFA SR.

³ New Act on Stay of Aliens approved by the Resolution of the National Council of the SR number 685 on 21 October 2011. Its entry into force is expected as of 1 January 2012, <http://www.nrsr.sk/web/Default.aspx?sid=zakony%2Fzakon&MasterID=3814> (accessed on 3 November 2011)

2003/86/EC of 22 September 2003 on the right to family reunification – are mainly granted residence permits and are granted national visas for the purpose of arriving on the territory of the SR to take over their residence permit.

National visas and short-stay visas are currently issued as separate authorisations for short-term or long-term residence, whereas the purpose of such visas largely differs from residence permits. Visas mainly serve for visits, business trips, tourism, or – in the case of national visas – special purposes. For this reason, visas and residence permits are dealt with separately in two chapters of the new Act on Stay of Aliens. The only link between national visas and residence permits in this Act can be seen in relation to national visas issued for taking over a residence permit on the territory of the SR. In such case, the national visa is granted for 90 days and, in fact, serves for filing the additional documents (health insurance document and medical opinion confirming that the third-country national does not suffer from any disease that would endanger public health) required together with the residence permit application and for taking over the residence permit. In this case, the purpose of the visa complies with the purpose of the residence permit for which the visa is issued.

2.2 Agreements with Third Countries

Except for the Agreement with Canada which entered into force on 1 July 2011 and the Agreement with New Zealand signed on 14 June 2011, the Slovak Republic does not have any other valid agreements with third countries dealing with the issuance of national visas in relation to specific countries. The objective of the Agreement between the SR and Canada on Youth Mobility is to simplify the procedures regulating the entry and stay of young citizens of one contracting party in the territory of the other contracting party. In order to fulfil this Agreement, the SR shall issue a national visa to the applicant complying with the set criteria.⁴ The Agreement on the Labour Holiday Programme with New Zealand, which was signed on 14 June 2011 and has not become effective yet, will increase the possibilities for young citizens of both parties to participate in training and study courses, and to work in the territory of the other contracting state during their stay. Since study and work should only be a secondary aim of the stay, the duration of the course or employment with one employer should not exceed six months, while no employment permit is required. To implement this agreement, the SR shall issue the applicant meeting the set requirements a national visa valid for a maximum period of 12 months, whereas the number of visas issued during one calendar year is limited to 100. Irrespective of these cases, the same rules and procedures apply to all third countries in obtaining a national visa and related residence permit in the territory of the SR.

With the entry of the SR to the European Union on 1 May 2004, the SR harmonised its legislation in relation to Council Regulation (EC) No. 539/2001 of 15 March 2001 listing third countries whose nationals must be in possession of visas when crossing external borders, and those whose nationals are exempt from that requirement. Further to the conclusion of agreements between the European Communities and some third countries on the facilitation of procedures in issuing short-stay visas, agreements on visa regime liberalisation and on the facilitation of visa issuance concluded between the SR and these countries were terminated, with the exception of agreements which are not con-

⁴ For more information on the agreement, refer to Chapter 4.

trary to community law.⁵

Several bilateral treaties exist between the Slovak Republic and third countries which, among others, also deal with the regulation of migration; some also contain a reference to visa or residence issues. The majority of these agreements are limited to expressing the contracting parties' intention to cooperate in determined fields, but do not specify in detail the particular mechanisms and forms of fulfilling these objectives either in the form of visa measures or other measures. The purpose of these bilateral agreements was to establish a framework of cooperation between the contracting parties with the aim of promoting and improving existing relations, without paying specific attention to facilitating legal migration and suppressing illegal migration through visa policy. It can be stated that some such agreements contribute indirectly to the fulfilment of this intention.

In general, these agreements deal with cooperation in the fight against different forms of crimes, one of the plans being the suppression of irregular migration, illegal stay, illegal border crossing, or the falsification of public documents. The suppression and elimination of these negative factors is not regulated further in connection with the issuing of visas. The Slovak Republic concluded this type of agreement on cooperation in the fight against crime with Bosnia and Herzegovina, Kazakhstan, Moldova, Ukraine, Belarus, Croatia, Egypt, Serbia, Former Yugoslav Republic of Macedonia, Turkey, Turkmenistan and Uzbekistan.

The other group of bilateral treaties is represented by agreements on development cooperation concluded between the SR and third countries. These agreements cover visa policy only marginally and aim at facilitating the entry and stay of Slovak staff members of official development aid programmes. However, they do not define the reciprocal conditions of entry and stay of third-country nationals in relation to the Slovak Republic, which is due to the very nature of these agreements. The SR concluded such development cooperation agreements with Moldova, Serbia and Montenegro.

The bilateral treaties on friendly relations and cooperation concluded between the SR and the Ukraine and Russia should also be mentioned here. These treaties declare, among others, the intention to cooperate in combating irregular migration, but without an express reference to implementing these agreements through visa policy. An agreement with a similar nature declaring the intention to cooperate in the fight against irregular migration was also concluded between the SR and Uzbekistan. The SR also entered into an agreement on border issues with Russia; one of the objectives of this agreement is to cooperate in combating irregular migration and exchange experience on state border protection, but again, without reference to visa policy.

The last group is composed of treaties that are no longer enforced in the territories of their signatories, but represented an interesting category as to the regulation of legal migration. Namely, it is the Agreement between the SR and Russia on the organisation of employment within the fulfilment of business treaties or other treaties on the mutual employment of citizens, and the Agreement between the SR and the Ukraine on the mutual employment of their citizens.⁶ Both agreements regulated the temporary and seasonal employment of the citizens of one contracting party in the territory of the other contracting party, and specified quotas for the employment of citizens from both parties

⁵ For more information on the harmonisation of Slovak visa policy with the visa policy of the European Union, refer to Chapter 5.

⁶ For more information on the bilateral agreement with Ukraine, refer to Chapter 4.

depending on the duration of employment. The facilitation of migration under these agreements mainly consisted of recognising documents on education and qualification issued in the territory of the other contracting party, while maintaining the obligation to obtain a work permit and residence permit.

The agreements mentioned above could serve as an inspiration for a more thorough regulation and further development of contractual relations between the SR and third countries in the future, also in connection with the facilitation of legal migration and the suppression of irregular migration through legal acts governing the issuing of national visas.

2.3 Recent Changes to Visa Policy and Legislation within the Context of the Common EU Dimension

As outlined in Chapter 5, the biggest legislative changes in the field of visa policy were brought by Slovakia's entry into the EU and the harmonisation of Slovakia's visa policy with the common visa policy of the EU. Another important period in relation to changes in visa policy was the entry of the SR into the Schengen Area, as a result of which the SR had to fully apply the regulations governing the issuing of Schengen visas. Extensive changes were also made in national legislation (the majority of paragraph texts were removed under the law due to duplicity with EU regulations which governed the issuing of Schengen visas). Ever since, changes in national legislation made in connection with the transposition of new EU legal provisions (VIS regulation, Visa Code) in the field of visa policy have been minimal. With regard to VIS, no substantial changes were made in Act No. 48/2002 Coll. on Stay of Aliens and on Changing and Supplementing Certain Laws (hereinafter referred to as the Act on Stay of Aliens) which was previously in force, since the information systems and databases that collect data on visa applicants at the national level and about persons inviting them had existed in limited form prior to the launch of the visa information system (the only changes in the then valid Act on Stay of Aliens consisted of adding an authorisation to scan biometric data and store personal data in connection with VIS operation). The changes made in relation to the Visa Code introduction were adopted, at the national level, in the form of a new Act on Stay of Aliens. This Act incorporates new text wordings related, in particular, to the new mandatory right of appeal against the non-issue of the visa, against visa revocation, and against the refusal of a visa application. The Act also modifies the text concerning the new principle – "one person one visa", replacing the text stating that a child is included in his/her parent's visa with new wording according to which each person must have his/her own visa.

Besides the legal acts described above, the visa policy of the SR has been largely influenced by Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. As detailed in Chapter 5, the Act on Stay of Aliens and also the new Act on Stay of Aliens regulate in detail the issuing of Schengen visas to family members of EU nationals.

As for other categories of third-country nationals who fall under the effect of migration directives⁷, these nationals are primarily granted a residence permit for the purpose of residence under the migration directives. They can be granted a national visa under the conditions laid down by law – if it is required for taking over their permit for residing in the territory of the SR. That means that when a foreigner is granted a residence permit, he/she is delivered a decision or a notice on granting a residence permit, but the document on residence is issued in person in the territory of the SR. Since such nationals staying abroad do not dispose of a document authorising them to arrive on the territory of the SR in spite of the fact that they have been granted the residence permit, the national visa allows them to arrive on the territory of the SR legally and take over the document permitting residence in the territory of the SR.⁸ Such visa is granted for the period of stay and for a maximum of 90 days, and it is aimed at taking over the residence permit and present the police department that issued the residence permit with documents required under the new Act on Stay of Aliens (document on health insurance and medical opinion confirming that the foreign national does not suffer from any disease threatening public health). In the case the foreigner fails to present these documents within the set deadlines, the police department would cancel the residence permit, and the foreigner must leave the territory of the SR after the expiry of the national visa.

The granting of the national visa for the purpose of taking over the residence permit differs from other purposes of national visas as to the requirement to present support documents. The applicant does not need to present, together with the application for national visa for this purpose, a document proving the applicant's intention to depart from the territory of the SR prior to the visa expiry, since such intention does not exist, as that person would have a long-term stay in the territory of the SR after taking over his/her residence permit.

In general, national visas issued in the SR have a uniform visa format; the decision-making and national visa granting procedure is, in the majority of cases, identical to the procedures applying to short-stay visa, as laid down in the Visa Code.⁹ This process differs from standard procedures typical also for short-stay visas in the procedure concerning the obtaining of an invitation verified by the police department, as well as in visa charges and the possibility to appeal against the non-issue or revocation of the national visa.

Just as a foreign mission can request a foreigner to present, together the application for short-stay visa, an invitation verified by a police department, the same rule applies to filing the application for national visa. Given the nature of the purposes of national visas, an invitation verified by police is not required in the majority of cases. As regards fees for issuing national visa, their amount is other than the amount of fees for short-stay visas¹⁰. Another difference within the process of issuing national visas and short-stay visas is the right of appeal against the non-issue and revocation of the visa. As for national visas, the possibility of appeal against the non-issue and revocation of the visa does not exist; according to the new Act on Stay of Aliens, this right is only granted to the family member of an asylum holder or of a foreigner under subsidiary protection.¹¹

⁷ For more details refer to Chapter 2.1.

⁸ For more details refer to Chapter 3.2.

⁹ The procedure for granting a national visa is described in detail in sub-chapter 3.1.

¹⁰ Further information on fees is provided in Chapter 3.1.

¹¹ Article 17, paragraph 9 of the new Act on Stay of Aliens

2.4 Recent Changes to Visa Policy and Legislation Relating to National Visas

The changes made in Slovak legislation with regard to national visas have not been that significant so far. The need to make these changes arose mainly as a result of practical experience and implementation of EU legislation. As for changes made to meet the needs arising from practical implementation in the SR, it should be mentioned that a new purpose for issuing a national visa was added to the Act on Stay of Aliens in 2008 – issuing a national visa if required for taking over a residence permit. This purpose was introduced in connection with the need arising through the issuing of residence permits and the fact that foreigners, when travelling to the SR, must usually transit other countries of the Schengen Area, since foreigners receive their residence permits in the Slovak Republic. Other news introduced with the new Act on Stay of Aliens is the granting of a national visa to a family member of an asylum-holder or of a foreigner under subsidiary protection. These categories of persons will have the right to appeal against the non-issue and revocation of the national visa. The need to grant national visas to this category of persons arose in connection with their special status and Slovakia's efforts to ensure the family unity of an asylum-holder or a person under subsidiary protection.

Due to the low number of issued national visas, no legislative or practical changes within the process of issuing national visas have been made with the specific aim of reducing irregular migration, which is very scarce in connection with national visas. Since the purpose of national visas differs from the purpose of the residence permits, legal migration is not regulated through visa policy, but through the issuance of residence permits.

03

Practical Implementation and Organisation of Visa Policy

3.1 General Procedures followed in the Stages of Visa Procedure

Filing an application

With regard to national visas, the new Act on Stay of Aliens only defines the basic procedures of a Slovak diplomatic mission or a consulate (hereinafter referred to as “foreign mission”) and lays down the competencies of the Slovak authorities.

A third-country national who falls under the visa obligation and plans to enter the territory of the SR must file a national visa application at the foreign mission accredited for the country the national of which the applicant is or in which the applicant has permitted residence.

A third-country national must file the application for a national visa on an official form, and attach a travel document the validity of which is at least three months longer than the expected validity of the requested visa, a colour photograph of the size 3 x 3.5 cm portraying the applicant's current face, a document proving the purpose of his/her stay, and a certificate of health insurance for covering the costs related to the provision of health care in the territory of the SR. The foreign mission may request submission of other documents beyond the scope stipulated by law depending on the specific circumstances of each case. If it is necessary for making a decision on the application, the applicant can be asked to present other support documents, such as a document on financial means, document proving the way of transport, or an invitation verified by the police department. The invitation is subject to a safety check by the MoI SR. That means that if a foreign mission requests the applicant to submit a verified invitation, the police department can verify the invitation only upon obtaining consent by the MoI SR – after the safety check has been performed.¹²

¹² For more details, refer to Chapter 3.3.

With the filing of the application, a third-country national must pay a consular fee of EUR 33.00 in the case she/he applies for a national visa with the purpose of fulfilling the commitments of the SR arising from international treaties or if it is in the interests of the SR. In the case a third-country national applies for a national visa in order to take over his/her residence permit, the consular fee is EUR 9.50. Family members of Union¹³ and family members of Slovak citizens within the scope of family members of Union citizens are exempt from paying the consular fee. In justified cases and for reasons of general interest or for humanitarian reasons, the MoFA SR can reduce or forgive the fee, and for reasons of mutuality it can increase or reduce the fee in relation to the foreigner.¹⁴ The fee amount can be changed or forgiven, if stipulated by an international treaty by which the SR is bound. The Agreement between the Slovak Republic and the Ukraine on Cancellation of Consular Fees can serve as an example in this respect; this agreement cancelled, among others, the fees for Slovak national visas for the nationals of the Ukraine. In the case an application for national visa is refused, the fee would not be returned to the applicant.

Examination of the application

MoFA SR and Mol SR are the authorities responsible for processing the data provided by foreigners. In general, a foreign mission may grant a national visa only after obtaining an opinion of the Ministry of Interior. Mol SR and MoFA SR can agree in what cases a foreign mission can grant a national visa without the opinion of Mol SR. This mainly applies to urgent cases where it is not possible to obtain the opinion of Mol SR for technical reasons.

A foreign mission must review the application and decide on granting the national visa within 30 days following the receipt of the application; if required, the foreign mission can request the third-country national to appear for a personal interview. In connection with the collection and review of biometric identifiers, the fingerprints of all ten fingers of the applicant can be scanned and entered into the national visa information system together with other data for the decision-making on the application for national visa.¹⁵

The new Act on Stay of Aliens introduces the possibility of granting a national visa to an asylum-holder or a foreigner under subsidiary protection; this category of foreign nationals will also have the possibility of appeal against the non-issue or revocation of a national visa. Other third-country nationals applying for a national visa for other purposes do not automatically have the right to be granted the national visa, and hence, they do not have the right to appeal against the non-issue or revocation of the visa, and the reasons for the non-issue are not communicated to them.

National visas have a uniform format, as specified in Council (EC) Regulation No 1683/95, designating the type of visa with letter "D" in the heading of the visa form. The forms are filled in line with the applicable provisions of Annex VII of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).¹⁶

¹³ Art. 2, par. 5, of the new Act on Stay of Aliens; in the terms of this Act the Union citizen is everyone who is not a Slovak citizen and is a citizen of the EU Member State, EEA citizen or a citizen of Swiss Confederation.

¹⁴ Art. 2, letter c) of Act of the National Council of the Slovak Republic No. 202/1995 Coll. Foreign Exchange Act and Act on Amending and Supplementing Act of the Slovak National Council No. 372/1990 Coll. on Offences, as Amended.

¹⁵ VIS was launched on 11 October 2011.

¹⁶ For more information, refer to Chapter 3.3

Entry, stay and return to the country of origin

After the national visa has been issued, the third-country national is entitled to enter the territory of the SR and stay in this territory during the period for which the visa has been issued. The holder of a valid national visa may stay in the territory of other Member States for a period of three months during any six-month period under the same conditions as the holder of the residence permit issued by any of the Member States. If the national visa has been issued for a period shorter than three months, as it is with the issuing of national visas for taking over the residence permit, the holder of the visa can stay in the territory of other Member States only during the period for which the visa has been issued.

The foreign mission is entitled to determine through which border checkpoint the third-country national has to enter the country and record it into the national visa. The issuing of the national visa does not automatically establish the right to enter the territory of the Schengen Area Member States, and the fulfilment of conditions is examined again upon entry into the territory of the SR or of other Member States. This does not exclude the possibility of denying entry upon crossing the external Schengen borders in line with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). The applicant data obtained upon filing the application and recorded in the visa information system is available to visa authorities and authorities checking visas on the external borders, and to the immigration and asylum authorities of the SR and in other Member States of the Schengen Area for the purpose of checking whether the conditions for legal entry and stay in the territory of the SR or other Member States have been fulfilled, and for checking the identity of persons who fail to meet or do not meet these conditions anymore. Third-country nationals are subject to detailed check both upon entry to and exit from the Member States in accordance with the Schengen Borders Code, especially Articles 6 – 8; the new Act on Stay of Aliens also specifies the rights of the police department in compliance with Article 15(1) of the Schengen Borders Code concerning the withholding of false, counterfeit and forged travel documents and recording of data in travel documents. Upon exit from the Member States territory, especially the validity of the travel document entitling the third-country national to leave the country is checked on the external borders, as well as the visa validity, compliance with the permitted duration of stay in the Member States territory, and possible existence of records in the Schengen Information System (SIS) and in national registries.

A foreign mission or a police department have the right to revoke the national visa in the following cases: if such facts are discovered that would justify the non-issue of the national visa; if the third-country national is administratively expelled; or if he/she has been penalised by expulsion. Appeal against a decision to revoke a national visa is in general not admissible with the exception of or to family members of an asylum holder or to a person under subsidiary protection. It is not possible to extend a national visa since neither the Act on Stay of Aliens nor the new Act on Stay of Aliens provides such an option.

A third-country national can leave the territory of the SR through the internal or external border. Exits from the Schengen countries are only monitored at external borders. The internal borders ensure

free movement of persons without performing border controls. In the case a third-country national leaves the territory of the SR through a frontier crossing on the external border, a police officer would check the legitimacy of stay and exit from the territory of the SR during border control. If it is found out that the foreigner stayed in the country or crossed the state border illegally, the police officer would act in accordance with legal rules (for example, by initiating prosecution or issuing a decision on administrative expulsion). While investigating the reason for exceeding the duration of stay, the police officer can consider the circumstances of the specific cases; if a third-country national proves in a sufficiently credible manner that he/she could not leave the country within the set deadline (e.g. sudden hospitalisation), the police officer would allow him to travel abroad without imposing a sanction or taking a measure. Slovak foreign missions do not systematically monitor departures from the territory of the SR.

3.2 Visa Issuance for the Purpose of Legal Immigration – Specific Procedures followed in the Stages of Visa Procedure

No standard scenarios used in some Member States of the Schengen Area are common in the SR in connection with the issuance of national visas. A national visa is not the main precondition for obtaining a residence permit in the host country; on the other hand, a residence permit cannot be obtained in the applicant's country of origin, and a national visa is not granted as an equivalent document to the residence permit.

A national visa is a separate institute independent from a residence permit. A third-country national can obtain a national visa only if it is necessary for entering the territory of the SR for purposes stipulated by law. National visas are only granted in cases where it is necessary in order to take over a residence permit; to fulfil the commitments of the SR arising from international treaties (e.g. Agreement with Canada on Youth Mobility or Agreement with New Zealand on the Work Holiday Programme); if it is in the interest of the SR (e.g. professional sportsmen or important foreign investors); or to family members of an asylum holder or to a person under subsidiary protection. National visa is issued for a stay over three months or for 90 days if the national visa is granted in order to take over the residence permit in the SR and to the family members of an asylum holder or to a person under subsidiary protection for the necessary period.¹⁷

With regard to taking over a residence permit, which is the primary and most frequent purpose of issuing national visas, there can be specific cases where a national visa must be issued. To make the system of issuing national visas in these cases better understandable, the conditions of filing applications for residence permits in the SR are briefly described below.

In general, foreigners file the application for a temporary residence permit at the police department if the foreigner resides in the SR legally.¹⁸ Another alternative is to file the application at the foreign mission of the SR abroad. Foreign missions in this case represent the first instance in the process of application for temporary residence permit by collecting the applications, conducting personal in-

¹⁷ For more information on the national policy and legal framework of national visas, refer to Chapter 2.1.

¹⁸ Art. 31, par. 3 of new Act on Stay of Aliens.

terviews with the applicants for the purpose of preliminary examination of the application, and, in the case the conditions for accepting the application are met, by sending the complete applicant's file with their position to the Alien Police Department of the Police Corps depending on the future place of residence in the SR of that person. The police department decides on the application; in the case it accords the application, a document on temporary residence is issued. If the third-country national is required to have a visa to enter the territory of the Member States and filed the application for temporary residence for any reason at a foreign mission abroad, or if he/she stays outside of the territory of the SR while a decision is made on his/her application, such person must, further to the positive decision on his/her application, apply for a national visa to be able to enter the territory of the SR and take over the residence permit in the form of the identification card.

The new Act on Stay of Aliens differentiates between three categories of permanent residence: permanent residence for five years, permanent residence for an indefinite period of time, and long-term residence. The same conditions as for filing the application for temporary residence permit pertain to the process of filing the application for the permanent residence permit for five years and the related procedures for the issuance of the national visa, i.e. the application can be filed at the relevant aliens police department in the SR or at the foreign mission abroad. The application for the permanent residence for an indefinite period of time and long-term residence is filed at the police department in the SR. Bearing in mind the type of these residence permits there is no need to apply for the national visa in this relation in a later stage.

With respect to the granting of permits for residence in the SR, a national visa is, under certain circumstances, a precondition for admitting a third-country national and entering the territory of the SR where he/she would take over the residence permit upon presenting the required additional documents. The fulfilment of the conditions of residence is carefully examined in the host country (in the Slovak Republic) within the procedure to grant the temporary or permanent residence permit. Due to the detailed check of a third-country national in the SR and the fact that his/her application has been approved, the fulfilment of the conditions of entry is subsequently checked only formally within the national visa granting procedure at the foreign mission in the country of origin.¹⁹ Yet, the process of issuing a national visa and the process of granting a residence permit are two separate, independent procedures.

3.3 Visa Procedure for the Purpose of Preventing Irregular Migration

Prevention of irregular migration in the process of issuing and monitoring of visas

As already mentioned in the previous chapters, the procedure related to the issuing of national visas is governed by Article 17 of the new Act on Stay of Aliens. Generally speaking, the process of issuing national visas is similar to the process of granting Schengen visas. This process is not very different from the process of filing applications for Schengen visas as to the submission and examination of support documents. The only difference concerns the purpose of stay and support documents which are, naturally, other than the documents submitted by applicants for a Schengen visa. The meth-

¹⁹ For an overview of rules in the different stages of the visa granting procedure, refer to Chapter 3.1.

ods of examining the authenticity of these documents and the procedures conducted by Slovak foreign missions staff abroad and police departments when carrying out safety checks are consistent and identical to those applying to Schengen visas. The records of the persons in the Schengen Information System are checked, also in cooperation with the competent security authorities in order to determine whether that person represents a risk to public order, security or health. Preventive measures include checking of the duration of previous stays and the legal use of previous visas (not exceeding the period of permitted stay) while assessing applications for any types of visa. In the case of a previous negative decision of another Member State, the Slovak consulate contacts the consulate of that state and checks the reasons for refusing to grant a visa. The consulate assesses whether the applicant presents a risk from the point of view of irregular migration and whether the applicant intends to leave the Schengen Area after the expiry of the visa. In the case of countries with a high migration risk and if there are doubts regarding the risk from the point of view of irregular migration, the applicant is requested to present an invitation verified by the police department. Foreign missions do not systematically request extracts from the penal register; such extracts are requested in exceptional cases only. The procedures concerning examination of visa applications are the same for both Schengen visas and national visas. A small difference, for instance, is that the foreigner is not required to present a return ticket when filing the application for a national visa to take over a residence permit, since the applicant does not intend to return home after the expiry of a national visa, but plans to stay in the SR with a residence permit.²⁰ The procedure concerning national visa cancellation and extension is described in Chapter 3.1.

Prevention of irregular migration through other measures in the visa granting process

The Slovak Republic ensures smooth and quality assessment and processing of visa applications (national visas and Schengen visas) through practical instructions and guidelines published centrally – by the Consular Department of the MoFA SR in cooperation with Mol SR. Besides guidelines, consular staff attends trainings on visa practice with the aim to improve the process of visa monitoring. The trainings mainly concern the revelation of false, counterfeit or forged travel documents, and conducting interviews with visa applicants.

Police attachés are usually sent to countries with a high risk of irregular migration. Their task is to assist in revealing cases of organised irregular migration accompanied with the falsification of documents presented with applications for visa or residence permits.

Consular staff abroad and the Mol SR regularly communicate and exchange information on false documents, irregular migration, inviting persons/organisations and travel agencies, proving the purpose of the invitation or provision of tourist services in the territory of the SR, on information (e.g. advertising, campaigns, leaflets) published in printed and electronic media about the possibility to obtain a visa or residence permit in the SR, and any other information from consular work about the entry and stay of foreigners in the SR that could help to identify trends in the misuse of visas or residence permits.

²⁰ Refer to Chapter 2.3

Challenges and successful factors in the prevention of irregular migration

In relation to the measures implemented to prevent or reduce irregular migration and with regard to the restricted purpose of national visas and the low number of those misusing national visas, it was not possible to adopt legal or practical measures in this field. Applications for national visas can only be filed at Slovak foreign missions abroad, and it is not possible to be represented by another Member State in this case. Although the SR has concluded several bilateral agreements with other Member States on representation²¹ in the visa granting procedure, these agreements do not apply to the collection of applications for national visas.

²¹ Agreements on representations between the SR and other Member States have been signed with Hungary, Austria and Slovenia.



Cooperation with Third Countries: Case Studies

The aim of this chapter is to describe the cooperation between the SR and third countries in the field of visa policy with a specific focus on the granting of national visas. This Chapter provides an overview of agreements concluded with third countries for this purpose with the aim to facilitate legal migration or the prevention of irregular migration by describing closer cooperation with two selected third countries.

As outlined in Chapter 2.2 of the study, the Slovak Republic, except for the Agreement with Canada and the Agreement with New Zealand which has not become effective yet, has not concluded any other agreements with third countries that would regulate the issuing of national visas in relation to a particular state. The Agreement with Canada entered into force on 1 July 2011; although it is not possible to provide an overview and an analysis of the impacts of the implementation of this agreement, it can serve as an example of good practice in the future. The Agreement with Canada is described as a case study in the next part of this chapter.

Ukraine was identified as the other country for a case study. In spite of the absence of bilateral agreements between the SR and the Ukraine specifically dealing with the issuance of national visas, Ukraine is the only neighbouring party of Slovakia on the external EU border with which the SR has signed several agreements covering various areas of cooperation. These agreements also have an impact on legal or irregular migration.

4.1 Case Study I – Cooperation with Canada

The bilateral contacts between the SR and Canada are not burdened with any disputes or problems, and can be described as very good.²² The two countries cooperate both at bilateral and multilateral levels as members of NATO and other international organisations.²³ The cooperation is good in the economic field, and also in the field of business, investments, culture and tourism.

As for migration, the migration flows and foreign migration of Canada nationals does not have a significant impact on Slovak migration policy and trends in the SR, or on the country's visa policy. As of 31 December 2009, only 114 Canada nationals had usual residence in the SR.²⁴ In the period 2005 – 2008 Canada nationals did not occupy any of the Top 10 third countries as to the number of migrants in the SR with usual residence. In 2009, Canada occupied 9th place with 209 migrants.²⁵ The number of residence permits granted to Canada nationals is also low (for more details, refer to Table 1).²⁶

Table 1 Number of residence permits granted to Canada nationals by purpose and year

Year	Total	Purpose			
		Study	Work	Family reasons	Other reasons
2005	37	6	21	8	2
2006	23	4	13	6	0
2007	43	5	20	10	8
2008	37	2	23	9	3
2009	35	3	19	10	3
2010	8	2	4	1	1

Source: BBAP PFP (2005-2007 and 2010) and Eurostat (2008-2009)

In the period 2008 – 2010 there was not a single case of apprehension or illegal entry or stay of a national of Canada in the territory of the SR.²⁷

On the other hand, a numerous Slovak community lives in Canada²⁸. Canada is interesting for Slovak nationals because of the transparent immigration programme, job opportunities, study and research. Until 29 February 2008, Slovak nationals travelling to Canada were subject to a visa obligation for short-term stays not exceeding a period of six months. The visa obligation was cancelled as of 1 March 2008. The nationals of Canada do not have a visa obligation for short-term stays in the SR not exceeding 90 days within 180 days.

²² More information is available on the website of the Canadian-Slovak Chamber of Commerce <http://www.ksok.sk/vztahy.htm> (accessed on 19 May 2011)

²³ Report on the Fulfilment of Tasks of the Slovak Foreign Policy in 2009; Report on the Fulfilment of Tasks of the Slovak Foreign Policy in 2008;

²⁴ Source: SO SR

²⁵ Ibidem

²⁶ Compared to the total number of residence permits issued in 2008, the number of residence permits granted to the nationals of Canada represented less than 0.5%; in 2009, it was 0.65%. Source: Eurostat

²⁷ Source: Eurostat

²⁸ From the point of view of overall immigration to Canada, the immigrants from the Slovak Republic do not represent a high share (in 2009, the nationals of SR represented a 0.12% share of total immigration to Canada according to Citizenship and Immigration Office of Canada <http://www.cic.gc.ca/english/resources/statistics/facts2009/temporary/07.asp> (consulted on 19 May 2011).

The agreement on youth mobility (Agreement between the Slovak Republic and Canada on Youth Mobility) was signed on 20 July 2010 and entered into force on 1 July 2011. It is therefore not possible to analyse the impacts of this agreement on migration policy of the SR. In spite of this fact, this agreement was chosen to be described in more details in this chapter, since it is the first valid bilateral agreement dealing with the issuance of national visas. The purpose of this agreement is to simplify administrative procedures for young citizens between 18 and 35 years of age of one contracting party in the territory of the other contracting party with the aim to extend their academic or university education, attend professional training with an internship programme or work placement, obtain work experience, or improve their knowledge about the culture and society of the other contracting country with the possibility of flexible employment.

The target group are students and university graduates, students of educational institutions, and citizens interested in casual employment or attending further professional training on the basis of a work contract agreed in advance, who must, at the same time, meet the legal requirements. In order to fulfil this agreement, the SR will issue an applicant meeting the set criteria a national visa for a maximum of 12 months; during the validity period of the visa, the foreigner is entitled to work in the whole territory of the SR regardless of the labour market situation and without a work permit. Both countries will reciprocally set the number of citizens who can make use of the provisions of this agreement. It is assumed that it will be approx. 150 citizens during the first half-year of the agreement validity from 1 July 2011.

With its contents, the agreement is a ground-breaking document and its implementation on the Slovak side will require a coordinated approach by several ministries and direct participation by the MoFA SR, since the contact point for filing applications by Canada nationals will be the Slovak Consulate in Canada.²⁹

4.2 Case Study II – Cooperation with the Ukraine

Ukraine is the only East-European country with which the SR has an external border which, at the same time, forms the external border of the EU. In the Slovak Foreign Policy Guidelines 2011, the Slovak Republic declares: "The priorities of Slovak foreign policy include friendly relations with the country's eastern neighbour - Ukraine."³⁰ In relation to Ukraine, Slovak foreign policy stresses economic cooperation, energy security, promotion of a civil society, and support in the transformation and modernisation processes with an emphasis on adopting European standards and values.³¹

Even if the mutual cooperation between Slovakia and the Ukraine accentuates economic cooperation and relations in the economic and energy field, Ukraine represents an important neighbour of the SR also from the point of view of migration policy. In the period 2005 – 2009, the nationals of the Ukraine represented the most numerous group of third-country nationals with usual residence in

²⁹ Proposal Report on the Agreement between the Slovak Republic and Canada on Youth Mobility, available at <http://www.nrsr.sk/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=5&ID=234> (accessed on 19 May 2011);

³⁰ Slovak Foreign Policy Guidelines 2011, available at: [http://www.foreign.gov.sk/App/wcm/media.nsf/vw_ByID/ID_17E114E56C-CA5135C1257864004F98EC_SK/\\$File/Zameranie_zahranicnej_poliitky_SR_na_rok_2011.pdf](http://www.foreign.gov.sk/App/wcm/media.nsf/vw_ByID/ID_17E114E56C-CA5135C1257864004F98EC_SK/$File/Zameranie_zahranicnej_poliitky_SR_na_rok_2011.pdf) (accessed on 18 May 2011)

³¹ Ibidem

the SR³²; as of 31 December 2009, the number of Ukraine nationals with usual residence in the SR attained 5,907³³. In the period 2005 – 2010 the nationals of the Ukraine always occupied the first place as to the number of residence permits granted to third-country nationals in the SR (more details in Table 2). Ukraine nationals occupied first place also among third-country nationals who were refused entry to the SR in the period 2005 – 2010 (more details in Table 3)³⁴. As for the number of apprehended and returned persons in the period 2005 – 2010, the citizens of Ukraine also occupied the top positions (more details in Table 4).³⁵

Table 2 Number of residence permits granted to the nationals of Ukraine by purpose and year

Year	Total	Purpose			
		Study	Work	Family reasons	Other reasons
2005	590	7	322	115	146
2006	1 008	7	346	201	454
2007	1 287	19	489	241	538
2008	1 761	32	1 051	167	511
2009	1 356	30	834	223	269
2010	969	29	480	212	248

Source: BBAP PFP (2005-2007 and 2010) and Eurostat (2008-2009)

Table 3 Number of refused entries of Ukraine nationals at external borders by selected reasons and year

Year	Total	Selected reasons for denial of entry			
		C - Does not have a valid visa or residence permit	D - Has a false/ counterfeit/ forged visa or residence permit	E - Does not have a document justifying the purpose and conditions of stay	F - The duration of stay in the territory of EU Member States reached 3 months within a 6-month period
2005	4 301	x	x	x	x
2006	1 273	831	10	130	13
2007	1 394	613	9	346	25
2008	1 435	900	10	265	5
2009	750	265	5	295	5
2010	789	187	0	457	42

Source: BBAP PFP (2005-2007 and 2010) and Eurostat (2008-2009)

³² Tables with data from the Annual Statistical Report on Asylum and Migration in the SR in 2007 of the European Migration Report, available at <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?jsessionid=9FC6D0A16C70B481A65FE730FD50E089?entryTitle=00>. Asylum and Migration Statistics (accessed on 18 May 2011);

³³ Katerinková M., Zahranicné sťahovanie a cudzinci v Slovenskej republike v roku 2009, Statistical Office of the SR, December 2010

³⁴ Given the focus of the study, just some reasons for refusal of entry directly related to the focus and objective of the study are provided herein.

³⁵ The nationals of Ukraine occupied the first place in the period 2007 – 2010. In 2005, they occupied 3rd place after the nationals of Russia and Moldova, and 2nd place in 2006 after the nationals of Moldova.

Table 4 Number of apprehended and returned nationals of Ukraine nationals by year

Year	Apprehended	Issued decision on return	Actually departed from SR
2005	1 045	x	x
2006	1 326	1 152	744
2007	1 733	1 449	972
2008	600	582	481
2009	410	400	335
2010	367	353	233

Source: BBAP PFP (2005-2007 and 2010) and Eurostat (2008-2009)

Note:

- issued decisions on return - 2006 and 2007 – nationals of Ukraine apprehended during illegal state border crossing or illegal stay who were issued a decision on administrative expulsion (judicial expulsion and prohibition of entry to the territory of the SR);
- actually departed from the territory of the SR - 2006 and 2007 – nationals of Ukraine who were actually expelled from the territory of the SR (enforcement of the decision on administrative/judicial expulsion)

National visas of the SR, as mentioned in Chapter 2, are granted for four purposes only, one of being the take-over of the residence permit. For this reason, the number of national visas issued to third-country nationals is closely linked to the number of residence permits granted to third-country nationals who need a visa to enter the SR, which is also the case of the Ukraine (more details in Table 5)³⁶. In the period 2008 – 2010, the nationals of the Ukraine occupied the Top10 places as for the number of issued national visas.³⁷

Table 5 Number of national visas issued to the nationals of Ukraine in the period 2008 – 2010³⁸

Year	Total
2008	878
2009	696
2010	434

Source: MoFA SR

In Slovakia, national visas are not issued as a document permitting temporary residence for a certain purpose or permanent residence, as might be the case in some other EU Member States. For this reason, the impacts of national visa policy on legal and irregular migration from the Ukraine and other countries are very small. The migration trends and movement of third-country nationals, including Ukraine, from/to Slovakia can be better analysed on the basis of the data on the number of issued residence permits, apprehensions and refused entries (for more detail, refer to Tables 2, 3 and 4).

³⁶ The data provided in the Table only refer to the period 2008 – 2010 since national visas for the purpose of taking over the residence permit started to be issued after Slovakia entered the Schengen Area in December 2007. By that date, the SR did not issue national visas for the purpose of taking over the residence permit (Slovak C visas were issued at that time, which were other than Schengen visas).

³⁷ In 2008 Ukraine nationals occupied 2nd place after the nationals of Russia. In 2009 and 2010 they occupied 1st place.

³⁸ The SR does not collect data on national visas as to their purpose.

The relations between the Slovak Republic and the Ukraine underwent several development phases. In the period 1993 – 1998, relations with the Ukraine were not paid too much attention and could be characterised as “unconcerned neighbourhood”³⁹. The most problematic period were the years 1998 – 2000 when Slovakia and Ukraine fought for the position of non-permanent member of the UN Security Council, and Slovakia supported the Russian plan for constructing a new gas pipeline bypassing the territory of Ukraine, and when Slovakia introduced visas for the nationals of Ukraine in 2000. The year 2001 meant a new start in Slovak-Ukraine relations when mutual cooperation became more intense and both countries agreed on liberalising their visa regimes.⁴⁰ Further to Slovakia’s entry into the EU, Slovak visa policy was harmonised with that of the EU, and the visa obligation for Ukraine nationals was introduced again.

The mutual relations between Slovakia and the Ukraine have been governed by several bilateral agreements, some having an impact on the migration flows of Ukraine nationals from/to the SR or vice versa, although none of these agreements deals specifically with the issuing of national visas. An example of such an agreement is the Agreement between the Government of the SR and the Government of Ukraine on Mutual Employment of Their Citizens of 5 May 1998 (hereinafter referred to as “Agreement”). The validity of this Agreement terminated on 5 May 2008. Paradoxically, this agreement was discriminatory with respect to the employment of Ukraine nationals in the Slovak labour market, as a result of which the Government of the SR decided to terminate it.⁴¹ The objective of the Agreement was to regulate the issues and conditions of mutual employment of citizens and set the scope of employment. The need to define the scope of employment by setting annual numbers arose from the fact that prior to the conclusion of the agreement Ukraine nationals could travel to the SR without a visa for a maximum period of 90 days. During their stay, they tried to work legally or illegally. Thousands were employed in Slovakia, forcing Slovak labour forces from the labour market.⁴² The Agreement covered the temporary and seasonal employment of citizens of one contracting party in the territory of the other contracting party, setting a quota for the workers of the other party depending on the duration of employment. Migration was mainly facilitated by the recognition of documents on professional training and qualification issued in the other country, while maintaining the obligation to obtain a work permit and residence permit. The annual figures reflected the actual situation in the Slovak labour market and were sufficient until 2006. Important changes occurred in 2007 in relation to Slovakia’s economic growth and integration into the EU, the opening of the labour market of some EU countries to Slovak citizens, and the outflow of Slovak labour forces to other EU countries. Some jobs and qualified labour forces became scarce. Legal acts concerning the employment of foreigners in the SR stipulated that the employment of foreigners in the territory of the SR depends on the labour market situation and the number of vacant jobs. The Slovak Republic does not apply any quota system in relation to the employment of foreigners, their total number, location or profession. With the aim of cancelling these restrictive provisions, the Slovak Government cancelled the Agreement as of 5 May 2008. In connection with legal migration, the cancellation of the Agreement contributed to its facilitation and made it more flexible. It should also be mentioned that the Agreement was implemented unilaterally by employing Ukraine nationals in the SR. Since

³⁹ Duleba, A. Východná politika Slovenska, Britské listy, 19.3. 2003, available at <http://blisty.cz/art/12587.html> (consulted on 18 May 2011).

⁴⁰ Ibidem.

⁴¹ Proposal Report for the Government Resolution No. 929 of 24 October 2007, available at <http://www.rokovania.sk/File.aspx/View-DokumentHtml/Mater-Dokum-103469?prefixFile=m> (consulted on 18 May 2011).

⁴² Ibidem.

the labour market situation is constantly evaluated in connection with the issuance of work permits and temporary residence permits for the purpose of employment, the number of residence permits for the purpose of employment grew in 2008 and subsequently declined in the period 2009-2010, mainly as a result of the economic crisis (refer to Table 2).

Since the SR is Member of the European Union and a part of the Schengen Area, migration flows and the Slovak migration policy are largely influenced by these factors. The development in the field of irregular migration has seen a declining trend in recent years. An analysis of the number of persons apprehended on the borders in the period 2005 – 2010 show that the lowest number of irregular migrants was apprehended in 2010.⁴³ This substantial decrease was mainly due to Slovakia's entry into the Schengen Area in 2007, which was accompanied by the reinforcement of external border protection and the cancellation of border controls on the internal border controls.⁴⁴

This fact had an impact on the migration of Ukraine nationals, since in this case too, the number of Ukraine nationals apprehended at external borders and the number of refused entries shows a declining or stable tendency (refer to Tables 3 and 4). One of the particularities in the development of refused entries of Ukraine nationals is that they no longer try to enter the territory of the SR or the Schengen Area without a valid visa or residence permit, but upon border control they do not dispose of documents justifying the purpose and conditions of their stay, although these documents must be presented together with the visa application (refer to Table 3, specifically years 2009 and 2010). This situation could also be influenced by introducing local border traffic with Ukraine (Agreement between the SR and Ukraine on Local Border Traffic of 30 May 2008) and by the facilitation of the visa granting procedures for Ukraine nationals (Agreement between the European Community and Ukraine on Facilitation of Visa Granting, effective from 1 January 2008), and recently also by the Agreement between the Government of the SR and the Cabinet of Ministers of Ukraine on Cancellation of Consular Fees of 6 October 2010, since these agreements make it simpler to obtain documents to legally enter Slovakia.

Besides these agreements, Slovakia concluded an agreement on the construction of frontier crossings⁴⁵, on cooperation in the fight against organised crime⁴⁶ and an agreement on social security or on cooperation in science and research with the Ukraine. None of these treaties and agreements has had a substantial impact on migration from Ukraine to Slovakia or on Slovakia's visa policy against the Ukraine.

⁴³ For more details, refer to Table 22 in Chapter 6.

⁴⁴ Annual Statistical Report on Migration and International Protection in the SR in 2008, European Migration Network, Bratislava, October 2010.

⁴⁵ Agreement between the Government of the Slovak Republic and the Cabinet of Ministers of Ukraine on Constructing a New Frontier Crossing Čierna – Solomonovo of 11 October 2007; Agreement between the Government of the Slovak Republic and the Government of Ukraine on Changing and Supplementing the Agreement between the Government of the Slovak Republic and the Government of Ukraine on Frontier Crossings on the Common State Border signed on 15 June 1995 of 20 December 2005.

⁴⁶ Agreement between the Government of the Slovak Republic and the Cabinet of Ministers of Ukraine on Cooperation in the Fight against Organised Crime of 5 December 2000.

05

Effects of EU Policy and Legislation

The SR became a full member of the EU on 1 May 2004 based on the Accession Agreement signed in Athens on 16 April 2003.

Upon entry into the EU, the Slovak Republic as well as other new EU Member States were required to implement Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, and harmonise their own visa policy in line with that regulation. At the same time, unilateral resolutions introducing or cancelling visa obligations in relation to some third countries had to be cancelled to ensure full compliance with the regulation.

On 1 February 1995, the European Agreement establishing an association between the European Communities and their Member States, as one part, and the Slovak Republic, as the other part (hereinafter referred to as "European Association Agreement")⁴⁷ was concluded, the key interest of the SR being integration into the European economic, security and political structures. In the framework of its foreign policy, Slovakia implemented and intensified its pre-accession preparation on the basis of the Partnership for Accession and the National Programme for Adoption of the Acquis Communautaire, which became, together with internal security, the fundamental platform for defining the grounds and objectives of visa policy.

Upon fulfilment of the European Association Agreement, the Slovak Government declared foreign activities in the field of Slovak law harmonisation with the EU legislation, including international treaties, in its Programme Manifesto of 19 November 1998 as a priority issue. One of the areas which the SR was required to harmonise with the *acquis communautaire* was visa policy.

⁴⁷ Published in the Collection of Laws of the Slovak Republic under No. 158/1997 Coll.

With Resolution No 140 of 15 March 2000, the Slovak Government approved the termination of visa waiver agreements with Belarus, Cuba, Russia and Ukraine. The visa waiver agreements with these countries were terminated on the basis of harmonisation of the Slovak visa relation with the then effective Council Regulation (EC) No 574/1999 of 12 March 1999 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member State.⁴⁸

By approving harmonisation of Slovak visa policy with EU visa policy, and by termination and conclusion of visa waiver agreements with states specified in Government Resolution No 604 of 27 June 2001 on the proposal to harmonise Slovak visa policy with the EU visa policy, the Government of the SR harmonised its visa policy with EU visa policy in accordance with EU legislation.⁴⁹

To ensure Slovakia's preparedness to adopt and apply the Schengen *acquis communautaire*, the Schengen Action Plan of the Slovak Republic was approved in 2001⁵⁰. This plan was evaluated and updated on a yearly basis, adding new measures required for the next period to ensure legislative and also practical compliance in the field of visa policy.

The SR declared its preparedness to start the process of Schengen evaluation by the declaration of the Minister of Interior of 20 December 2004, and entered the Schengen Area on 21 December 2007.

Besides these changes, the Act on Stay of Aliens was also modified and amended further to the entry into the Schengen Area and the issuance of Schengen visas. Act No 342/2007 of 26 June 2007 on changing and amending certain acts in connection with the entry of the SR into the Schengen Area partially amended the Act on Stay of Aliens which was previously in force, and fully harmonised the issuing of Schengen visas with EU legislation. National visas continue to be governed by national legislation – by the Act on Stay of Aliens. The legislation previously in force used the term long-stay visa to designate national visa; long-stay visas were granted exceptionally (approx. 300 visas per year)⁵¹ in cases where it was in the interest of the SR or if it was necessary to comply with the commitments arising from international treaties. Long-stay visas for such purposes were, just as today, issued for a period over 90 days and the maximum validity was not limited by law. Unlike short-stay visas, long-stay visas allow the performance of gainful activities. The list of documents that were required to be submitted together with the application for a long-stay visa was not explicitly defined by law, but in practice, the list of support documents required for the application for a short-stay visa was analogically requested in practice. Due to the very limited categories of purposes for which a long-term visa could be granted, foreign missions abroad did not request, for instance, an invitation verified by alien police although such invitation can be requested in the case of short-stay visas. In 2008, a new Act No. 451/2008 Coll. was approved which added a new purpose for issuing a long-stay visa⁵² – if it is

48 Proposal Report on the Resolution of the Government of the Slovak Republic No. 604 of 27 June 2001 on the proposal to harmonise the visa policy of the Slovak Republic with the visa policy of the European Union.

49 Termination of bilateral visa waiver agreements between the SR and the Seychelles and South Africa in line with Regulation (EC) No 539/2001, and conclusion of bilateral visa waiver agreements for holders of all travel documents of the following countries: Bolivia, Guatemala, Honduras, Costa Rica, Nicaragua, Panama, Paraguay, El Salvador, Brunei-Darussalam, Andorra, Brazil, Ecuador, Japan, Singapore, Mexico, Uruguay, Venezuela, Hong-Kong, and Macao.

50 Government Resolution No 836 of 05 September 2001

51 Source: MoFA SR

52 Act 594/2009 Coll. on changing and supplementing Act No. 48/2002 Coll. on Stay of Aliens replaced the term long-stay visa with the term national visa.

necessary to take over a residence permit. This new purpose was introduced especially with regard to the need arising from practical granting of residence permits where the residence document for a third-country national is issued in the Slovak Republic and must be taken over in person.⁵³ This purpose also applies to the taking over of residence permits in relation to the purposes of directives – Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, and Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. New Act on Stay of Aliens has been enacted on 21 October 2011; this Act is expected to ensure compliance with the recent changes in the legal acts of the European Union in the field of visa policy.⁵⁴ These changes mainly concern long-stay visas, issuing of Schengen visas to family members of EU nationals, as well as the new mandatory right of appeal against the non-issue of the visa, visa revocation, or refusal of a visa application.

At the Community level, long-stay national visas are currently governed only by Regulation 265/2010 which is in force from 5 April 2010. This regulation introduced, at least partly, uniform rules for issuing long-stay visas with regard to the validity of long-stay visas, issuing of visas in uniform format in accordance with Regulation No. 1683/1995⁵⁵, filling in forms according to the Visa Code, and bringing them to the same level as residence permits in connection with residence in other Member States during 90 days within a one-year period. From the point of view of Slovakia which has had, due to its geographical location and limited number of direct air connections, a problem with the departure of long-stay visa holders back home, this regulation is perceived as a positive change. It should also be noted that due to the restricted purposes of national visas issued in the SR and the checking of these foreigners, holders of Slovak national visas present almost no risk to other Schengen countries. It is rather questionable whether long-stay visas issued by other Member States will not be misused for purposes other than short-term residence in the SR (e. g. seasonal work).⁵⁶

The new Act on Stay of Aliens incorporates the changes related to the new Regulation No. 265/2010. All purposes of national visas are retained as in their original wording. Further to the Regulation, the Act limits the period for granting a national visa for a maximum of one year. Other changes dealing with a more detailed description of the process of filing an application for national visas and of the decision-making process have also been incorporated in this act. A new element in the act is the

53 For information on detailed procedures, refer to Chapter 2.3, 3.1 and 3.2.

54 These changes in national legislation implement Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) and Regulation (EU) No. 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention implementing the Schengen Agreement and Regulation (EU) No. 562/2006 as regards movement of persons with a long-stay visa.

55 Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas.

56 The original legislation concerning long-stay visas entitled their holders to transit the territory of Schengen Area Member States to the country which issued the visa. Transit could be refused only in the case the visa holder failed to meet the conditions of entry or was included in the national list of unwanted persons. Such visas could, however, be issued as D+C visas, which meant in practice that during the first three months from the first entry into the Schengen Area territory these visas were valid as Schengen multiple visas (C) in the whole territory of the Schengen Area, and after three months they entitled their holders to stay, until expiry of the visa, in the territory of the country which issued the long-stay visa. In practice, the holders of these visas could only arrive at the country issuing the visas and possibly travel during the next three months from the first entry within the territories of other Member States, but for leaving the country they had to use a direct connection to the other country or had to travel home, because these visas were not valid for return transit home after a maximum period of three months.

granting of a national visa to the family member of an asylum holder or foreigner under subsidiary protection. The act will also enable these categories of citizens to appeal against the non-issue and revocation of the national visa; on the other hand, other third-country nationals who apply for a national visa for other purpose but the visa is not issued but fail to obtain the visa will not have the legal right to be granted visa. The need to grant a national visa to this category of citizens arose in connection with their special status and efforts of the SR to ensure the family unity of the asylum-holder or person under subsidiary protection. This category of persons represents a group of migrants who stay in Slovakia but due to the very low number of persons applying for short-stay visas for this purpose, they do not present a high risk to irregular migration for the Slovak Republic or the EU.

Besides legislation changes in the new Act on Stay of Aliens related to the implementation of EU legislation, there are also other legal acts of the EU that the SR must enforce, especially Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas and Community agreements on facilitating the visa regime representing a special source of community law that forms a part of the common visa policy.⁵⁷

Since VIS was launched only on 11 October 2011, the SR has not had any experience in its implementation.

As for agreements on visa regime facilitation, the SR directly implements the above-mentioned community agreements, as well as bilateral agreements that the community agreements allow to enforce, especially visa waiver agreements for holders of diplomatic and service passports. Bilateral agreements only apply to those categories of persons which are not covered by community agreements, i.e. visa waiver for holders of service passports.⁵⁸

Besides these bilateral agreements, at the time of concluding the first community agreement – Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation, the SR also had a valid bilateral agreement between the Slovak Government and the Government of the Russian Federation on the facilitation of the issuance of visas to Slovak and Russian nationals, signed on 1 October 2001. According to Article 14 of the community agreement, the bilateral agreement could only be implemented in respect of those provisions which were not regulated by the community agreement. Further to this article, only Article 2 of the bilateral agreement has been implemented since 1 June 2007 in connection with Article 1 within the given scope. The right to obtain a multiple visa within a simplified procedure upon request by ministries and other state authorities belongs to the crews of aircrafts and sea or river vessels performing international passenger and cargo transportation in connection with the fulfilment of their official obligations. This bilateral agreement expired on 16 April 2008.

⁵⁷ The EU has so far concluded such agreements with the following countries: Russia, Ukraine, Moldova, Western Balkan countries and Georgia.

⁵⁸ The SR currently has valid visa waiver agreements for holders of diplomatic and service passports with the following countries: Albania, Belarus, Bosnia and Herzegovina, Georgia, Indonesia, South Africa, Kyrgyzstan, FYROM, Mexico, Moldova, Russia, Federal Republic of Yugoslavia (currently Serbia and Montenegro), Tunisia, Ukraine and Vietnam. Due to the liberalisation of the visa regime with the Western Balkans countries, only the bilateral agreements with Moldova, Ukraine, Russian and Georgia are actually implemented.

Besides the above-mentioned EU legal acts governing visas, visa policy is also influenced by other EU legislation which directly govern migration issues and long-term residence of third-country nationals, specifically migration directives.⁵⁹ The most important directive for the SR which largely influenced the Slovak visa policy is Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Further to this Directive, visas are issued to third-country nationals who are family members of EU citizens under facilitated conditions. That means that such persons only have to present, together with their visa application, a travel document and a document proving family ties with the EU citizen. Visas are issued free of charge and under accelerated procedure, and such applicants have the right to appeal against the non-issue of the visa. These principles had to be transposed into national legislation directly and in detail. At present, this area is regulated explicitly and in detail in Article 16 of the new Act on Stay of Aliens.

Other migration directives of the EU⁶⁰ which partially regulate visa issues by stating that selected third-country nationals must be facilitated in all manners in obtaining visas are reflected in Slovak legislation, mainly in the form of residence permits.

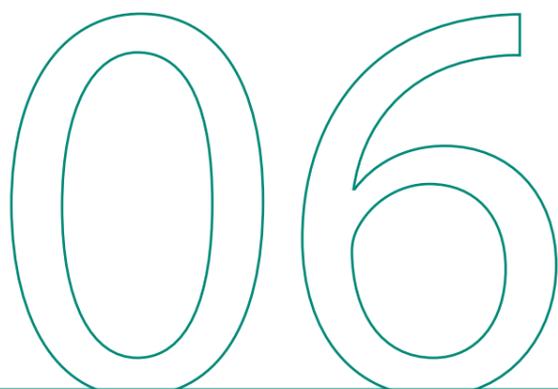
The visa policy of the SR is to a great extent directly regulated by the uniform common rules of the EU. After entering the Schengen Area, irregular migration in Slovakia was reduced not only as a result of improved protection of the external border and adoption of a number of security measures, but also as a result of uniform harmonised rules for issuing Schengen visas. Since national visas are issued in the SR for specific purposes⁶¹, the influence of Slovak visa policy on legal or irregular migration is minimal in this respect.

Besides state authorities, visa policy issues focus more on such countries as the Ukraine, Moldova and Russia when presented in public. Various conferences and expert discussions on these topics are organised in Slovakia at present. The main organiser is the Slovak Foreign Policy Associations which often invites foreign partners. These forums also discuss issues concerning bilateral agreements in the field of national visas that would facilitate third-country nationals in obtaining visas with the aim to promote mutual bilateral foreign, cultural and social relations. Every public expert discussion contributes in a certain way to formulating the visa policy of the SR, as reflected in bilateral agreements and practical measures.

⁵⁹ For more details, refer to Chapter 2.1.

⁶⁰ For more details, refer to Chapter 2.1.

⁶¹ For more details, refer to Chapter 2.2.



Statistics and Data Analysis

This Chapter presents the statistical data on A visas (airport transit visa), B visas (transit visa), C visas (short-stay visa) and analyses statistical data on D visas (national visa). Statistical data on residence permits, refusal of entry, and apprehended third-country nationals are also presented and analysed in this Chapter.

With regard to the focus of the study, this chapter mainly deals with an analysis of national visas describing the impacts of visa policy on legal and irregular migration in the SR.

The statistics presented herein cover the period 2005 – 2010, i.e. the period after Slovakia's integration into the EU. Before 2005, statistical data was kept in a different form, and was therefore not considered in the comparison of data in the Tables. B visas have not been issued in EU Member States since the effective date of the Visa Code (5 April 2010), and therefore the tables provide data up to that date only.

Issued visas, applied visas and rejected visa applications

The development in the number of issued and applied visas, refused visa applications and withdrawn visa applications in the given period is shown in Tables 6, 7 and 8.

Table 6 Number of issued visas, applied visas and refused visas by type and year

Year		Total A	Total B ⁶²	Total C	Total D	D – less than 6 months	D – from 6 to 12 months	D – more than 12 months
2005	Issued	0	28 196	104 536	307	306	0	1
2005	Applied	1	35 980	113 911	334	95	142	97
2005	Refused	0	7 596	1 228	0	0	0	0
2006	Issued	0	26 0284	116 960	289	289	0	0
2006	Applied	3	34 326	123 736	296	69	131	96
2006	Refused	0	7 309	1 447	0	0	0	0
2007	Issued	0	1 148	94 384	342	342	0	81
2007	Applied	8	1 291	99 780	391	207	136	48
2007	Refused	0	15	1 827	0	0	0	0
2008	Issued	3	2 864	76 778	2 785	2 706	64	15
2008	Applied	2	2 862	80 065	2 679	2 599	62	18
2008	Refused	0	0	3 045	16	11	0	0
2009	Issued	0	1 173	62 431	1 986	1 866	120	0
2009	Applied	0	1 160	65 399	1 877	1 763	105	9
2009	Refused	0	0	2 500	8	7	0	1
2010	Issued	2	41	56 666	1 147	1 138	22	0
2010	Applied	13	64	58 755	1 164	1 144	14	6
2010	Refused	2	0	1 670	11	11	0	0

Source: MoFA SR

Note: In the case the number of issued visas is higher than the number of received applications, the decisions concerned applications received the year before, or a different type of visa was granted than requested by the applicant.

Table 7 Number of issued visas, applied visas and refused visas in the period 2005 – 2010 by type of visa

	Total A	Total B	Total C	Total D	Total (A, B C, D)
Issued	5	293 706	511 755	6 856	812 318
Applied	27	75 683	541 646	6 741	624 097
Refused	2	14 920	11 717	35	26 674

Source: MoFA SR

⁶² B visas have not been issued in EU Member States since the effective date of the Visa Code (05 April 2010), and therefore the tables contain data by that date only.

Table 8 Number of withdrawn visa applications in the period 2007 – 2010 by type of visa

Year	Total A	Total B	Total C	Total D
2007	0	0	496	5
2008	0	0	560	3
2009	0	0	339	1
2010	0	0	163	0

Source: MoFA SR

The data on withdrawn visa applications by type is available since 2007 only; the previous system of the MoFA did not keep such statistics.

C visas represented the biggest share (62.99%) in the total number of visas issued during the given period. This type of visa is followed by B visas with a 36.16% share in the total number of issued visas. The share of D and A visas in the total number of issued visas was lower than 1%. The analysis of data on visa applications shows a similar situation. The biggest share in the total number of applied visas was represented by C visas (86.79%), B visas (12.12%), D visas (1.08%) and A visas (less than 1%). B visas represented the highest share in the total number of refused visas (55.93%), followed by C visas (43.92%), D visas (0.13%), and A visas with a less than 1% share.

The highest number of withdrawn visas concerned C visas (refer to Table 8). The number of other type of withdrawn visas was very low.

A visas (airport transit visas)

As Table 6 shows, A visas were not requested much. During the monitored period, A visas were only requested by 27 persons, and were granted to 5 persons (which represents 18.5% of the total number of applications). Two applications were refused (representing only 7.4% of the total number of applications for this type of visa filed in the given period)⁶³.

This type of visa was issued in two years only – in 2008 and 2010. In 2008, this type of visa was granted to 3 persons and was requested by 2 persons.⁶⁴ The highest numbers in relation to the given type of visa were reached in 2010 when 13 persons applied for this type of visa; 2 persons were granted visas, and 2 applications were refused.

The low numbers of requested and issued A visas was due to the fact that Slovakia does not have a big international airport with a higher number of flights.

B visas (transit visas)

In the given period, B visas were requested by only 75,683 persons and were issued to 293,706 persons (which is almost four-times the number of requested B visas).⁶⁵ This type of visa was refused to

⁶³ In the given period, other persons could have withdrawn their application for A visa.

⁶⁴ The difference in one (1) application could be due to the fact that the person applied for a visa the year before, and the visa was granted the year after, or the person was granted a different type of visa than requested.

⁶⁵ Refers to decisions on applications accepted the year before, or to the granting of a different type of visa than requested by the applicant.

14,920 persons (which is only 19.72% of the total number of applications for this type of visa filed in the given period).

A small increase in the number of applied and issued visas was only recorded in 2008 against 2007. The recent period has been characterised by a reduction in the number of issued B visas. The same applies to the number of applications for this type of visa. The low numbers of visas applied and issued in 2010 were due to the Visa Code which entered into force in April 2010; since that date, B visas stopped being issued.

C visas (short-stay visas)

C visas were the most requested and most frequently issued type of visa. In the given period, C visas were requested by 541,646 persons and granted to 511,755 persons (which is 94.5% of the total number of applications). 11,717 persons were refused (which represents only 2.2% of the total number of applications filed in the given period).⁶⁶

An increase in the number of requested and issued visas was only reported in 2006 (compared to 2005). The number of requested visas grew by 8.6% and the number of issued visas increased by 11.9% (the ratio between the number of issued visas and the number of applications increased by 2.7%). This increase can be mainly ascribed to Slovakia's entry into the EU in May 2004, as a result of which it became a more attractive country from the point of view of migration.

Since 2006, there has been a clear decline in the number of applications and issued visas. In 2007, the number of applications decreased by 19.4% and the number of issued visas by 19.3% compared to the previous year. This trend continues even after 2007 when the numbers of applications dropped by 16.1% on average, and the numbers of issued visas decreased by 15.5% on average. This decline can be ascribed to the entry of the SR to the Schengen Area in December 2007, when the country stopped issuing short-stay visas for the purpose of taking over the residence permit. National visas started to be issued for this purpose, reporting an increase in the number of applications and C visas issued for this purpose in the given period.

This fact caused an increase in the number of refused applications for C visas in the given period. The number of applications refused in 2008 grew by 66.7% compared to 2007. After 2008, the number of refused applications for C visas started to fall.

As shown in Table 9, C visas were mostly issued for tourism purposes (226,705 issued visas), for the purpose of family and/or friend visit (91,794 issued visas), business trip (56,186 issued visas), and doing business (39,659 issued visas).

⁶⁶ In the given period, other persons could have withdrawn their application for C visa.

Table 9 C visas by purpose and year

Year	Total	Tourism	Business	Family/friend visit	Culture	Sports	Business trip	Health reasons	Transit	Air-port transit	Other reasons ⁶⁷	Study
2005	104 536	47 509	9 425	24 208	0	0	15 710	2 299	167	0	4 495	723
2006	116 960	55 152	9 611	27 417	0	0	15 114	3 168	213	0	3 908	2 377
2007	94 384	41 988	7 138	12 915	4 747	6 929	10 731	2 706	37	0	4 739	2 454
2008	76 778	34 966	4 946	9 406	6 312	7 432	6 692	1 511	0	0	3 158	2 355
2009	62 431	24 066	4 244	9 314	5 979	6 339	5 944	1 560	0	0	2 602	2 383
2010	56 666	23 024	4 295	8 534	3 835	5 940	1 995	1 202	400	0	6 681	757

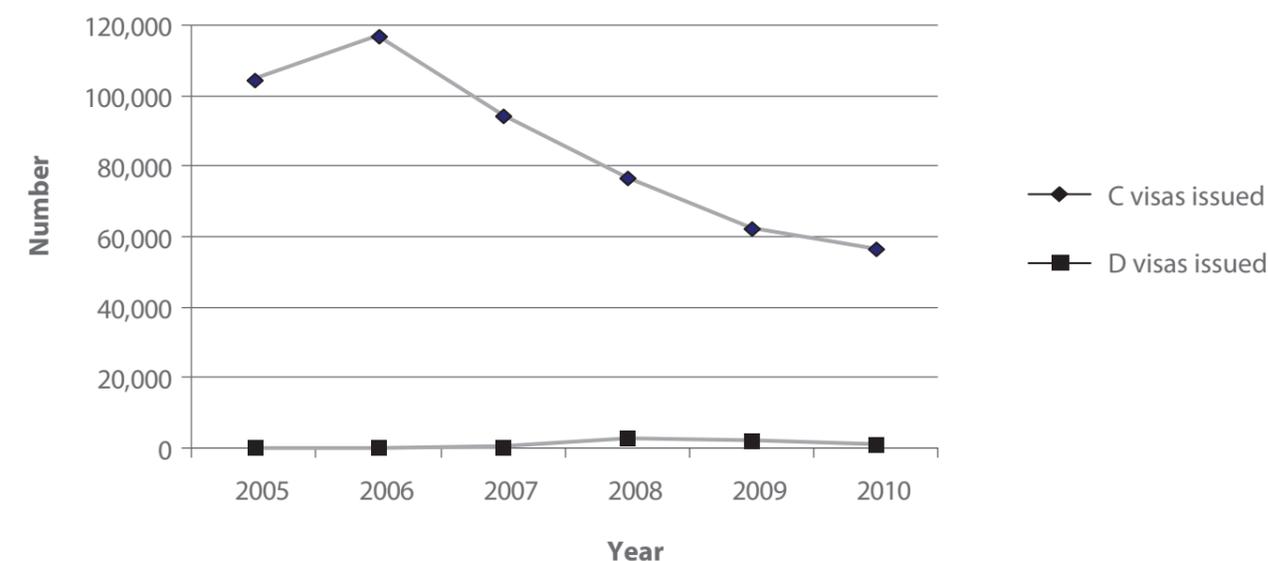
Source: MoFA SR⁶⁷**D visas (national visas)**

As Tables 6 and 7 show, entry to the Schengen Area influenced both the development in the number of applications, and the number of issued and refused national visas. In the given period, national visas were requested by 6,741 persons in total and granted to 6,856 persons⁶⁸; applications for national visas were refused in the case of 35 persons (which represents only 0.5% of the total number of applications filed in the given period).

By 2007, national visas were issued in exceptional cases only (approximately 300 visas per year)⁶⁹; a significant increase in the number of requested and issued national visas was reported in 2008 as a result of Slovakia's entry to the Schengen Area and by starting to issue national visas for the purpose of taking over the residence permit. A comparison of the data on the number of applications and issued C and D visas shows a partial shift of applicants from C visa category to D visa category, mainly as a result of the cessation of issuing short-stay visas for the purpose of taking over the residence permit (refer to Graph 1).

⁶⁷ Other reasons include, for example, participation at conferences, seminars, official visits of delegations, short-term study visits, etc.
⁶⁸ The difference of 115 applications could have been caused by the fact that the given type of visa was requested the year before, and the visa was issued the year after.

⁶⁹ Source: MoFA SR

Graph 1 Development in the number of issued C and D visas in the period 2005 – 2010

Source: MoFA SR

In 2008, the number of applications for national visa increased almost seven times and the number of issued national visas eight times compared to the previous year. In 2008 the number of refusals increased too, but dropped in the years after.

Tables 10 and 11 show that in the period 2005 – 2010 the highest number of national visas was granted to applicants with Ukrainian nationality (2,130 national visas issued). The second place was occupied by Vietnam (1,234 national visas issued) and third place by China (710 visas issued). Significant numbers were reported by Russia (694 applicants) which reached the highest number in the period 2005 – 2007; in the years after, Ukraine, China and Vietnam were ahead of Russia.

Table 10 Issued national visas by country of origin and year (Top 10)

Year	Ranking	Country of nationality	Total
2005	1.	Russia	98
2005	2.	Indonesia	36
2005	3.	India	26
2005	4.	Libya	22
2005	5.	Ukraine	16
2005	6.	Angola	14
2005	7.	Yugoslavia	10
2005	8.	Iran	8
2005	9.	Lebanon	7
2005	10.	Armenia	6

2006	1.	Russia	98
2006	2.	Libya	49
2006	3.	Ukraine	37
2006	4.	Taiwan	19
2006	5.	Angola	9
2006	6.	Indonesia	7
2006	7.	Cuba	7
2006	8.	India	6
2006	9.	Moldova	6
2006	10.	Belarus	5
2007	1.	Russia	113
2007	2.	Ukraine	69
2007	3.	Indonesia	28
2007	4.	Iraq	21
2007	5.	Georgia	11
2007	6.	India	10
2007	7.	Angola	9
2007	8.	Kazakhstan	7
2007	9.	Belarus	6
2007	10.	Zimbabwe	5
2008	1.	Vietnam	971
2008	2.	Ukraine	878
2008	3.	China	302
2008	4.	Russia	142
2008	5.	Turkey	91
2008	6.	Serbia and Montenegro	82
2008	7.	India	61
2008	8.	FYROM	46
2008	9.	Saudi Arabia	40
2008	10.	Thailand	34
2009	1.	Ukraine	696
2009	2.	China	225
2009	3.	Vietnam	196
2009	4.	Russia	162
2009	5.	Serbia and Montenegro	111
2009	6.	Thailand	44
2009	7.	Iran	38
2009	8.	Libya	31
2009	9.	India	30
2009	10.	FYROM	30

2010	1.	Ukraine	434
2010	2.	China	183
2010	3.	Turkey	91
2010	4.	Russia	81
2010	5.	Vietnam	67
2010	6.	India	58
2010	7.	Iran	32
2010	8.	Belarus	24
2010	9.	Thailand	22
2010	10.	Libya	16

Source: MoFA SR

Table 11 Total number of issued national visas by country of nationality in the period 2005 – 2010 (Top 10)

Country of nationality	National visas granted
Ukraine	2 130
Vietnam	1 234
China	710
Russia	694
Serbia and Montenegro	193
India	191
Turkey	182
Libya	118
Thailand	100
Iran	78

Source: MoFA SR

In the period 2005 – 2010, the highest number of national visas (refer to Table 12 and 13) were issued in the Ukraine (2,194 national visas issued), by the consulate in the border town Uzhhorod (1,699 national visas issued). At the same time, Ukraine is the most frequent country of origin for third-country nationals arriving at Slovakia. The second place is occupied by Thailand; the consulate in Bangkok issued 943 national visas. In the period until 2009, the consulate in Bangkok also covered Vietnam, since the consulate in Hanoi had been cancelled.⁷⁰ In that period, the highest number of residence permits was granted to the nationals of Vietnam for the purpose of employment. Thailand was followed by China (619 visas issued); the consulate in Shanghai issued 560 visas and the consulate in Beijing 59 visas. The consulate in Moscow issued 596 national visas, and a total of 607 visas were issued in Russia (596 in Moscow and 11 in Saint Petersburg), occupying fourth place.

⁷⁰ The foreign mission in Hanoi opened in 2009.

Table 12 Issued national visas by consulate location and year (Top 10)

Year	Placing	Consulate Location	Total
2005	1.	Russia/Moscow	96
2005	2.	Austria/Vienna	7
2005	3.	Syria/Damascus	7
2005	4.	Ukraine/Kiev	6
2005	5.	Serbia and Montenegro/Belgrade	6
2005	6.	England/London	2
2005	7.	Hungary/Budapest	2
2005	8.	Germany (Berlin/Munich)	1/1
2005	9.	Croatia-Zagreb/Nigeria-Abuja	1/1
2006	1.	Russia/Moscow	80
2006	2.	Ukraine/Kiev	31
2006	3.	Romania/Bucharest	6
2006	4.	Russia/Saint Petersburg	3
2006	5.	Ukraine/Uzhhorod	3
2006	6.	Bulgaria/Sofia	2
2006	7.	Serbia/Belgrade	2
2006	8.	Uzbekistan/Tashkent	2
2007	1.	Russia/Moscow	97
2007	2.	Ukraine/Kiev	40
2007	3.	Ukraine/Uzhhorod	32
2007	4.	Russia/Saint Petersburg	8
2007	5.	Kazakhstan/Astana	5
2007	6.	Belarus/Minsk	4
2008	1.	Thailand/Bangkok	870
2008	2.	Ukraine/Uzhhorod	757
2008	3.	China/Shanghai	251
2008	4.	Ukraine/Kiev	154
2008	5.	Vietnam/Hanoi	135
2008	6.	Serbia/Belgrade	114
2008	7.	Russia/Moscow	111
2008	8.	India/Delhi	57
2008	9.	Egypt/Cairo	52
2008	10.	Turkey/Ankara	47
2009	1.	Ukraine/Uzhhorod	587
2009	2.	Vietnam/Hanoi	196
2009	3.	China/Shanghai	170
2009	4.	Serbia/Belgrade	148

2009	5.	Ukraine/Kiev	142
2009	6.	Russia/Moscow	137
2009	7.	Syria/Damascus	129
2009	8.	Turkey/Istanbul	71
2009	9.	China/Beijing	59
2009	10.	Thailand/Bangkok	50
2010	1.	Ukraine/Uzhhorod	320
2010	2.	China/Shanghai	139
2010	3.	Ukraine/Kiev	122
2010	4.	Russia/Moscow	75
2010	5.	Turkey/Ankara	62
2010	6.	India/Delhi	62
2010	7.	China/Beijing	44
2010	8.	Turkey/Istanbul	37
2010	9.	Iran/Tehran	32
2010	10.	Thailand/Bangkok	23

Source: MoFA SR.

Table 13 Total number of issued visas by consulate location in the period 2005 – 2010 (Top 10)

	Consulate	Number of national visas granted (2005 - 2010)
1.	Ukraine /Uzhhorod	1 699
2.	Thailand/Bangkok	943
3.	Russia/Moscow	596
4.	China/Shanghai	560
5.	Ukraine/Kiev	495
6.	Vietnam/Hanoi	331
7.	Syria/Damascus	136
8.	Serbia and Montenegro/Belgrade	122
9.	India/Delhi	119
10.	Turkey/Istanbul	108

Source: MoFA SR

Residence permits

As mentioned in the previous chapters, national visas are not equivalent documents to residence permits in the SR, and hence, migration is not regulated through visa policy, but through the issuance of residence permits.

Table 14 contains statistics on residence permits issued for a specific purpose.

In the given period, the number of issued residence permits saw a year-to-year increase until 2008 when a total of 8,025 permits were issued. In 2009, this number decreased to 5,336 residence permits being issued. Compared to the year before, it was a decline by 33.5%. The number of issued residence permits also continued to fall in 2010, when only 4,373 permits were issued, which is a drop by 18% compared to the year before (year-to-year decline by 15.5%). The decline in 2009 and 2010 was mainly caused by the economic crisis which had an impact on foreigners' employment. This was also manifested in the statistics concerning the purpose of residence permits, seeing the biggest decline in the number of residence permits for the purpose of gainful activities in 2009 compared to 2008 (by 42.2%).

In this period, most of the residence permits were issued for the purpose of gainful activities (13,869 permits), for other reasons (10,053 permits)⁷¹, for family reasons (6,645 permits), and for the purpose of study (1,892 permits).

Table 14 Number of issued residence permits by purpose and year

Year	Total	Study	Gainful activities	Family reasons	Other reasons (Total)
2005	3 178	280	1 204	742	952
2006	5 688	230	2 337	1 130	1 991
2007	5 949	336	2 266	1 231	2 116
2008	8 025	449	3 984	1 224	2 368
2009	5 336	334	2 302	1 156	1 544
2010	4 373	353	1 776	1 162	1 082

Source: 2005 – 2007 – BBAP PFP SR (IS ECU), 2008-2009 – Eurostat, 2010 – BBAP PFP SR (IS ECU) – data provided to Eurostat

As shown in Tables 15 and 16, the highest number of residence permits in the period from 2005 to 2010 was issued to applicants from the Ukraine (6,971 permits issued). Second place is occupied by Vietnam (3,105 permits issued), and the country with the third highest number of applicants was South Korea (2,990 permits issued). High shares were also reached by Serbia (2,847 permits issued), China (2,343 permits issued) and Russia (1 864 permits issued).

⁷¹ Other reasons include, for instance, all types of tolerated stay (Art. 58, par. 1, 2 and 3 of the new Act on Stay of Aliens), asylum, subsidiary protection, Slovaks living abroad, etc.

Most of the residence permits granted to the nationals of the Ukraine who kept first place as to the highest number of residence permits during the given period were issued for the purpose of gainful activities and for other reasons; the highest number of residence permits were issued in 2008. The situation was similar in relation to the nationals of Vietnam. The number of residence permits issued in 2008 increased significantly. The highest number of residence permits granted to the nationals of Vietnam was issued for the purpose of gainful activities and family reasons. The majority of residence permits granted to the nationals of South Korea, who came to Slovakia mainly following the investment of the Korean KIA car company, was issued for the purpose of gainful activities and family reasons. Serbian citizens obtained the highest number of residence permits for other reasons.⁷²

Table 15 Number of granted residence permits by purpose, country of nationality and year (Top 10)

Year	Placing	Country of nationality	Total	Study reasons	Reasons related to gainful activities	Family reasons	Other reasons (Total)
2005	1.	Ukraine	590	7	322	115	146
2005	2.	South Korea	332	1	98	74	159
2005	3.	USA	256	29	147	51	29
2005	4.	Russia	220	8	89	52	71
2005	5.	China	201	7	89	58	47
2005	6.	Vietnam	198	1	70	78	49
2005	7.	Bangladesh	95	87	1	2	5
2005	8.	Serbia and Montenegro	92	2	18	37	35
2005	9.	Romania	87	1	59	22	5
2005	10.	Turkey	79	14	19	11	35
2006	1.	Ukraine	1 008	7	346	201	454
2006	2.	Serbia and Montenegro	640	3	42	61	534
2006	3.	China	593	7	488	87	11
2006	4.	South Korea	503	3	240	112	148
2006	5.	Ukraine	467	4	315	124	24
2006	6.	Romania	396	5	75	21	295
2006	7.	Russia	342	10	204	92	36
2006	8.	USA	305	21	170	92	22
2006	9.	Yugoslavia	111	0	10	12	89
2006	10.	Croatia	110	3	65	30	12
2007	1.	Ukraine	1 287	19	489	241	538
2007	2.	Vietnam	584	0	416	146	22

⁷² Other reasons include, for instance, all types of tolerated stay (Art. 58, par. 1, 2 and 3 of the new Act on Stay of Aliens), asylum, subsidiary protection, Slovak living abroad, etc. With regard to Serbian citizens, the most frequent purpose of stay was – Slovak living abroad.

2007	3.	South Korea	571	8	230	146	187
2007	4.	Serbia and Montenegro	565	3	36	23	503
2007	5.	China	473	2	364	85	22
2007	6.	USA	332	44	137	107	44
2007	7.	Russia	293	25	110	111	47
2007	8.	Serbia	243	7	17	12	207
2007	9.	Turkey	110	51	19	23	17
2007	10.	Yugoslavia	98	0	8	8	82
2008	1.	Ukraine	1 761	32	1 051	167	511
2008	2.	Vietnam	1 307	1	1 168	89	49
2008	3.	Serbia	1 303	14	160	51	1 078
2008	4.	South Korea	739	5	326	206	202
2008	5.	China	465	8	342	88	27
2008	6.	USA	340	51	160	107	22
2008	7.	Russia	335	30	159	83	63
2008	8.	Turkey	163	87	41	26	9
2008	9.	FYROM	100	3	40	36	21
2008	10.	India	84	2	60	6	16
2009	1.	Ukraine	1 356	30	834	223	269
2009	2.	Serbia	818	11	69	25	713
2009	3.	South Korea	418	6	197	154	61
2009	4.	Russia	366	16	209	113	28
2009	5.	Vietnam	352	0	223	85	44
2009	6.	China	319	17	201	93	8
2009	7.	USA	226	23	103	67	33
2009	8.	Turkey	153	81	30	16	26
2009	9.	FYROM	79	0	29	32	18
2009	10.	Libya	72	18	1	34	19
2010	1.	Ukraine	969	29	480	212	248
2010	2.	Serbia	483	5	62	31	385
2010	3.	South Korea	427	4	201	167	55
2010	4.	Russia	308	10	171	107	20
2010	5.	China	292	8	178	101	5
2010	6.	USA	223	34	99	75	15
2010	7.	Vietnam	197	2	109	64	22
2010	8.	Turkey	175	99	28	31	17
2010	9.	FYROM	85	10	38	36	1
2010	10.	Norway	78	0	0	0	78

Source: 2005 – 2007 – BBAP PFP SR (IS ECU), 2008-2009 – Eurostat, 2010 – BBAP PFP SR (IS ECU) – data provided to Eurostat

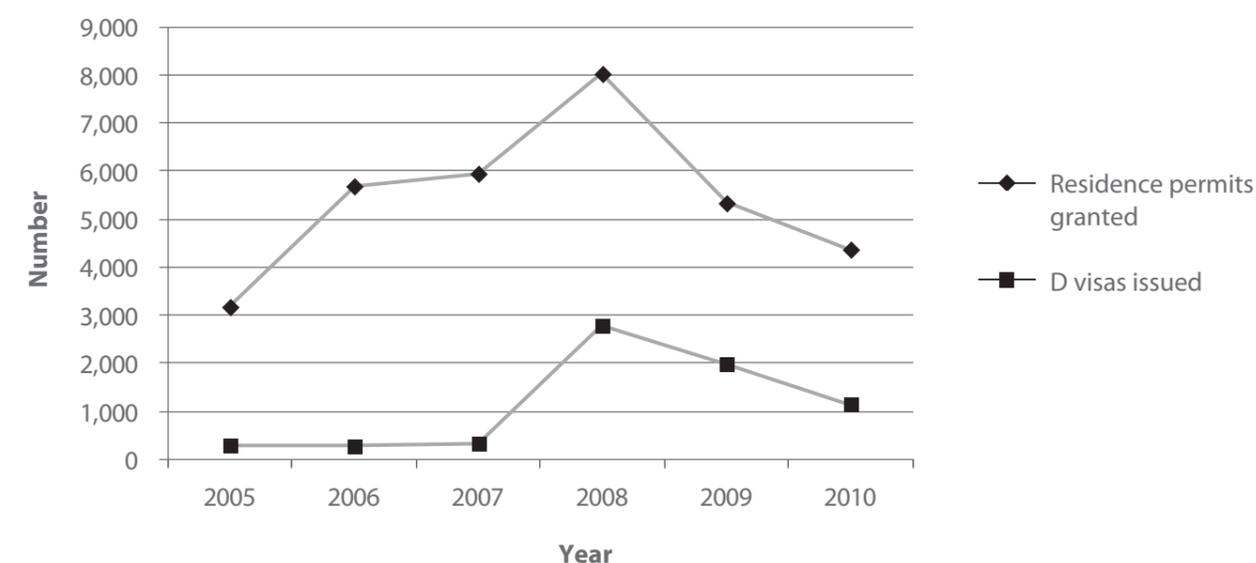
Table 16 Total number of granted residence permit by country of nationality in the period 2005 – 2010 (Top 10)

Country of nationality	Number of granted residence permits (2005 - 2010)
Ukraine	6 971
Vietnam	3 105
South Korea	2 990
Serbia	2 847
China	2 343
Russia	1 864
USA	1 682
Serbia and Montenegro	1 297
Turkey	680
FYROM	264

Source: 2005 – 2007 – BBAP PFP SR (IS ECU), 2008-2009 – Eurostat, 2010 – BBAP PFP SR (IS ECU) – data provided to Eurostat

National visas of the SR, as mentioned in Chapter 2 of this study, are issued for four purposes only, one of which being the take-over of residence permit. Hence, the number of national visas issued to third-country nationals is closely linked with the number of residence permits granted to such third-country nationals. This relation is manifested in Graph 2.

Graph 2 Development in the number of granted residence permits and national visas in the period 2005 – 2010



Source: 2005 – 2007 – BBAP PFP SR (IS ECU), 2008-2009 – Eurostat, 2010 – BBAP PFP SR (IS ECU) – data provided to Eurostat

The table above shows the relation between the number of national visas issued to third-country nationals and the number of issued residence permits. The trend in the number of visas issued since 2007 almost copies the trend in the number of issued residence permits (the table curves show a similar decline). Until 2007, short-term C visas were issued for the purpose of taking over residence permits. Since Slovakia's entry into the Schengen Area, the country started issuing national visas.

Refused entries at external borders

As Table 17 suggests, the number of refused entries at borders during the period 2005 –2010 gradually declined. In 2005, the number of refused entries reached 7,793, compared to 841 refused entries in 2010. The biggest decline was reported in 2006, when the number of refused entries dropped by 62.6% compared to the previous year. A big decline was also reported in 2009, when the number of refused entries decreased by 44.5% against the previous year.

The highest share in selected reasons for refusing an entry was represented by entries due to a missing valid visa or residence permit, followed by exceeding the permitted 3-month period of stay within the 6-month period, and by presenting false visas or residence permits.

Table 17 Refused entry at external border by reason and year⁷³

	2005	2006	2007	2008	2009	2010
Refused entry (total)	7 793	2 911	1 832	1 540	855	841
Refused entry due to a missing valid visa or residence permit	-	1 995	766	965	305	201
Refused entry due to presenting a false visa or a false residence permit	-	10	22	15	10	2
Refused entry due to exceeding the permitted 3-month stay within a 6-month period	-	14	25	5	10	42

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Note: In the period 2005-2007, the SR did not have external and internal borders; hence, the data of these years refer to all borders. Since 2008 (after entry into the Schengen Area), the data presented herein refer to external borders only. The refusals in 2005 are not divided as per reasons of refusal.

With respect to the countries of nationality of third-country nationals with the highest number of refusals at the border (refer to Table 18 and 19), the first place is occupied – just as the case of residence permits – by Ukraine (9,942 refusals). Ukraine always occupied the first place during the given period. The second most frequent country of nationality the citizens of which were refused entry to the SR was Romania⁷⁴ (784 refusals), followed by Serbia and Montenegro and Moldova in the same TOP10 order every year, and Turkey.

⁷³ Selected reasons related to the study focus are stated only.

⁷⁴ Prior to Romania's entry into the EU in 2007.

Table 18 Number of refused entries at borders by country of nationality and year (Top 10)

Year	Order	Country of nationality	Total
2005	1.	Ukraine	4 301
2005	2.	Romania	576
2005	3.	Bulgaria	466
2005	4.	Turkey	359
2005	5.	Serbia and Montenegro	345
2005	6.	Russia	227
2005	7.	Moldova	207
2005	8.	South Africa	171
2005	9.	China	137
2005	10.	Croatia	67
2006	1.	Ukraine	1 273
2006	2.	Serbia and Montenegro	232
2006	3.	Romania	208
2006	4.	Turkey	161
2006	5.	China	121
2006	6.	Moldova	111
2006	7.	Vietnam	86
2006	8.	Russia	83
2006	9.	India	59
2006	10.	South Africa	59
2007	1.	Ukraine	1 394
2007	2.	Moldova	174
2007	3.	India	65
2007	4.	China	35
2007	5.	Syria	35
2007	6.	Russia	26
2007	7.	Turkey	18
2007	8.	South Africa	17
2007	9.	Vietnam	13
2007	10.	Iraq	8
2008	1.	Ukraine	1 435
2008	2.	Russia	35
2008	3.	Moldova	30
2008	4.	India	10
2008	5.	Belarus	5
2008	6.	Ecuador	5
2008	7.	Iran	5
2009	1.	Ukraine	750
2009	2.	Moldova	30

2009	3.	Russia	25
2009	4.	India	25
2009	5.	Belarus	5
2009	6.	Turkey	5
2009	7.	Georgia	5
2010	1.	Ukraine	789
2010	2.	Russia	15
2010	3.	Moldova	13
2010	4.	Belarus	3
2010	5.	India	3
2010	6.	Albania	2
2010	7.	Morocco	2
2010	8.	Turkey	2
2010	9.	Algeria	1
2010	10.	Montenegro	1

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Table 19 Total number of refused entries at the border by country of nationality in the period 2005 – 2010 (Top 10)

Country of nationality	Number of refused entries on the borders (2005 - 2010)
Ukraine	9 942
Romania	784
Serbia and Montenegro	594
Moldova	565
Turkey	545
Bulgaria	466
Russia	411
China	293
South Africa	230
India	162

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Most refusals due to missing valid visa or residence permit also related to Ukrainian nationals (refer to Table 20). Second place, with a certain distance, is occupied by the nationals of Serbia and Montenegro, followed by Russia, China, Turkey and Vietnam.⁷⁵

⁷⁵ Only selected purposes related to the focus of the study are provided herein.

Table 20 Number of refused entries at borders due to a missing visa or residence permit by country of nationality (Top 10) (2006 – 2010)

Country of nationality	Number of refused entries at borders due to a missing visa or residence permit
Ukraine	2 795
Serbia and Montenegro	243
Russia	154
China	153
Turkey	143
Vietnam	90
India	71
South Africa	56
Moldova	49
Thailand	46

Source: 2006 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Ukraine occupies the first places (refer to Tables 21 and 22) in the given period also as a country of origin for citizens who were refused entry due to presenting a false visa or false residence permit (34 refusals), and for exceeding the permitted 3 months stay within a 6-month period (90 refusals).

Table 21 Total number of refused entries at the border due to presenting a false visa or a false residence permit as per country of nationality in the period 2006 – 2010

Country of nationality	Number of refused entries at borders due to presenting a false visa or false residence permit
Ukraine	34
India	12
Moldova	1
Turkey	1
Georgia	6

Source: 2006 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Table 22 The total number of refused entries at borders due to exceeding the allowed 3-month stay deadline within a 6-month period as per country of nationality in 2006 – 2010

Country of nationality	Number of refused entries at borders due to exceeding the allowed period of 3 months stay within a 6-month period
Ukraine	90
Romania	1

Source: 2006 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Apprehended foreigners illegally staying in the territory of the SR

Table 23 shows a clear trend of a year-to-year decline in the number of third-country nationals who stayed illegally in the territory of the SR during the given period. In 2005, up to 7,821 illegally staying foreigners were apprehended in the SR; in 2010 it was only 1,438. The biggest decline was reported in 2008 when the number of apprehended foreigners fell by 65.2% compared to the previous year. This significant decline was due to Slovakia's entry to the Schengen Area in December 2007, which was accompanied by a significant reinforcement of external borders protection and the end of internal border controls.

Table 23 Number of apprehended foreigners illegally staying in the territory of the SR in the period 2005 – 2010

Year	2005	2006	2007	2008	2009	2010
Number of third-country nationals illegally staying in the territory of the SR	7 821	7 515	6 662	2 320	1 715	1 438

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

An overview of the countries of nationality of third-country nationals (refer to Tables 24 and 25), who stayed in the territory of the SR illegally and were apprehended, shows that Ukraine occupied first place (first place since 2007). In the given period 5,481 Ukrainian citizens were apprehended. Ukraine was followed by Moldova (5,403 apprehended), India (3,279 apprehended), Russia (3,118 apprehended), and Pakistan (2,141 apprehended).

Table 24 Number of apprehended foreigners illegally staying in the SR by country of nationality and year (Top 10)

Year	Ranking	Country of nationality	Total
2005	1.	Russia	1 654
2005	2.	Moldova	1 415
2005	3.	Ukraine	1 045
2005	4.	India	970
2005	5.	China	581
2005	6.	Georgia	495
2005	7.	Pakistan	322
2005	8.	Bangladesh	306
2005	9.	Vietnam	167
2005	10.	Palestine	159
2006	1.	Moldova	1 855
2006	2.	Ukraine	1 326
2006	3.	India	1 185
2006	4.	Russia	732
2006	5.	Pakistan	407
2006	6.	China	396
2006	7.	Bangladesh	354
2006	8.	Iraq	321
2006	9.	Georgia	296
2006	10.	Palestine	158
2007	1.	Ukraine	1 733
2007	2.	Moldova	1 163
2007	3.	Pakistan	990
2007	4.	India	931
2007	5.	Russia	441
2007	6.	Georgia	325
2007	7.	Iraq	176
2007	8.	Bangladesh	174
2007	9.	China	156
2007	10.	Afghanistan	103
2008	1.	Ukraine	600
2008	2.	Moldova	470
2008	3.	Georgia	230
2008	4.	Pakistan	190
2008	5.	Russia	160
2008	6.	Afghanistan	135
2008	7.	India	120

2008	8.	Bangladesh	70
2008	9.	China	70
2008	10.	Korea	55
2009	1.	Ukraine	410
2009	2.	Moldova	260
2009	3.	Pakistan	200
2009	4.	Vietnam	140
2009	5.	Georgia	130
2009	6.	Afghanistan	115
2009	7.	Russia	80
2009	8.	India	50
2009	9.	China (incl. Hong-Kong)	40
2009	10.	Serbia	30
2010	1.	Ukraine	367
2010	2.	Moldova	240
2010	3.	Afghanistan	194
2010	4.	Somalia	151
2010	5.	Georgia	83
2010	6.	Russia	51
2010	7.	China	59
2010	8.	Vietnam	47
2010	9.	Pakistan	32
2010	10.	India	23

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Table 25 Total number of apprehended foreigners illegally staying in the territory of the SR in the period 2005 – 2010 (Top 10)

Country of nationality	Number of apprehended foreigners illegally staying in the territory of the SR (2005 – 2010)
Ukraine	5 481
Moldova	5 403
India	3 279
Russia	3 118
Pakistan	2 141
Georgia	1 559
China	1 302
Bangladesh	904
Afghanistan	547
Iraq	497

Source: 2005 – 2007 – BBAP PFP SR, 2008-2009 – Eurostat, 2010 – BBAP PFP SR – data provided to Eurostat

Final Analysis

The number of national visas issued in the SR is very low. The highest number of national visas is issued for the purpose of taking over a granted residence permit in the SR.⁷⁶ This implies that the visa policy concerning national visas issued by the SR and the issuing of national visas do not have a substantial impact on migration flows to the SR.

⁷⁶ Information provided by the MoFA SR.



Conclusion

In general, visa policy serves as a tool to regulate legal migration and control the influx of people, as well as a tool to suppress irregular migration and criminal activities and to prevent the entry of unwanted persons or persons presenting a security risk.

As mentioned in the study, the Slovak Republic is a Member of the European Union and part of the Schengen Area, and therefore, short-term visa issues are fully harmonised with EU policy and legislation in this area.

At the EU level, the issuing of long-stay national visas is only dealt with by Regulation 265/2010 of 25 March 2010, and therefore remains predominantly within the competencies of the Member States. The Slovak Republic issues national visas for four specifically defined purposes: if it is in the interest of the SR; if it is required for fulfilling commitments arising from international treaties; if required in connection with taking over a residence permit in the territory of the SR; and visas issued to the family members of an asylum holder or person under subsidiary protection. In general, the number of national visas is low. The highest number of national visas has been issued for the purpose of taking over residence permits in the SR. This implies that the visa policy in the field of national visas in the SR, as well as the issuing of national visas, do not affect migration flows to the SR. These flows are affected and regulated by the granting of residence permits on the basis of an independent and special procedure. As a result, the relation between visa policy and the regulation of legal migration and/or prevention of irregular migration is minimal. The entry, residence, and departure from the territory of the SR by third-country nationals are primarily regulated by residence policy, and not by visa policy.

Except for one agreement, the Slovak Republic has not entered into any bilateral or multilateral agreement covering national visa issues. The treaties on legal migration or prevention against irregular migration signed with third countries do not contain any provisions that would explicitly concern or regulate the issue of granting national visas. Similar treaties from the past concerning employment served to regulate the entry and residence of third-country nationals through employment permits and residence permits.

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- Proposal Report on the Treaty between the Slovak Republic and Canada on Youth Mobility
- Draft Treaty between the Slovak Republic and Canada on Youth Mobility
- Treaty between the SR and Ukraine on Small Frontier Traffic

Agreement between the European Community and Ukraine on the Facilitation of the Issuance of Visas

Agreement between the Government of the SR and Cabinet of Ministries of Ukraine on the Cancellation of Consular Fees

European Agreement on establishing an association between the European Communities and their members, of the one part, and the Slovak Republic, of the other part

Laws of the SR

Act No. 48/2002 Coll. on Residence of Foreigners and on changes and amendments to certain acts

Act on Stay of Aliens and on changes and amendments to certain acts from 21 October 2011

Act No. 342/2007 on changing and amending certain laws in relation to the entry of the SR to the Schengen Area

Act No. 451/2008 Coll. on changing and amending Act No. 480/2002 Coll. on asylum and on changing and amending certain laws in the wording of later regulations and on changing and amending certain acts

Act of the National Council of the Slovak Republic 202/1995 Coll. Foreign Exchange Act and act on changing and amending the Act of the Slovak National Council No. 372/1990 Coll. on offences, as amended

European Legislation

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)

Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa

Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals

Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement

Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)

Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas

Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

Websites

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