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## Directives

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**For:**

- Swiss diplomatic/consular missions
- Border control bodies
- Cantonal migration authorities as well as municipal migration authorities of the Towns of Bern, Biel and Thun

**Place, date:** 3003 Bern-Wabern, 4 September 2013

**Reference/file no.:** COO.2180.101.7.266789 / 322.213/Syrien/2010/03648

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### **Facilitated procedure for the issuance of visitor visa for relatives of Syrian nationals living in Switzerland**

Dear Sir/Madam

Given the deteriorating situation in Syria, the Federal Office for Migration (FOM) issued Directives on 27 July 2012 to the Swiss Embassy in Beirut. These Directives were intended to facilitate the visa procedure for specific categories of persons, allowing them to obtain a visa more quickly. The aim was to support the Swiss representation in Beirut which was facing increasing pressure due to the escalation of the situation. The Swiss Embassy in Amman, the Swiss Consulate General in Istanbul and the Swiss Embassy in Ankara were also notified of these Directives. However, an evaluation conducted in the spring of 2013 revealed that very few people were able to take advantage of the facilitated procedure. For this reason, and due to the continually worsening situation in Syria, it was decided that the facilitated procedure for the issuance of visitor visa should be extended to a broader group of Syrian nationals. Neither the Schengen acquis nor national provisions prohibit such a regulation. Art. 5 of the Schengen Borders Code<sup>1</sup> and Art. 2 para 4 of the Ordinance of 22 October 2008 on Entry and Visa Procedure (VGO; SR 142.204) allows individual Schengen states to depart from established entry requirements and authorise entry onto their own national territory on humanitarian grounds. The legal term "humanitarian grounds" has been very broadly defined, which makes it legally possible to adopt facilitated procedure for the

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<sup>1</sup> 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), OJ L 105, 13.4.2006, p. 1.

issuance of visitor visa for family members given the particular situation in Syria. Further developments in the situation of Syria will therefore be closely monitored.

In light of the foregoing, and in agreement with the Federal Department of Foreign Affairs (FDFA), following prior consultation with the cantonal migration authorities, we hereby issue the following

## DIRECTIVES

The competent authorities should take the following into account when processing the visa applications of family members of Syrian nationals living in Switzerland:

### I. Categories of beneficiaries and place of residence

a) The facilitated procedure for the issuance of visitor visa shall apply to:

- Members of the nuclear family (spouse and children under the age of 18);
- Relatives in ascending and descending order as well as members of their nuclear family (grandparents, parents, children over the age of 18, grandchildren); and
- Siblings as well as members of their nuclear family,

if the Syrian national they are related to already lives in Switzerland under a type B residence permit, a type C settlement permit or as a naturalised Swiss citizen.

The family relationship must be credibly and clearly demonstrated, even if the visa applicant is unable to produce official civil status documents due to the difficult situation in Syria. The family relationship must appear likely on the basis of information provided by the applicant(s), taking into account the specific circumstances. A DNA test should only be ordered in exceptional cases following consultation with the FOM.

b) When submitting a visa application, the person in question must be a resident of Syria or be staying in a neighbouring country of Syria or in Egypt and must have only travelled to one of these countries after the crisis broke out in Syria in March 2011. Moreover, the person must not be in possession of a valid residence permit from any of these countries.

### II. Entry requirements

- a) Given the situation in Syria and contrary to the Directives of 29 September 2012 on the Issuance of Humanitarian Visas, the intention to leave the territory of Switzerland before the expiry of the visa will not be examined in depth. Likewise, detailed verification of personal and direct danger will no longer be necessary.
- b) If the person benefiting from the facilitated procedure (see Section I) does not have a valid passport, the visa shall be affixed on the form for affixing visa.
- c) Required financial means in the sense of Art. 5 para 1 let. b of the Foreign Nationals Act (FNA, SR 142.20) will no longer be verified.
- d) For persons who have been issued a national entry ban or who are listed in the Schengen Information System (SIS) as being barred from entering the Schengen Area, the competent Swiss representation must first contact the FOM, which will then decide whether to authorise entry despite these entry bans.
- e) For all other cases, the standard entry requirements shall apply.

### **III. Issuance of visa:**

#### **a) at diplomatic/consular missions**

If the corresponding diplomatic/consular mission feels that the requirements for issuance of a visa under Sections I – II are met, then the diplomatic/consular mission will enter the visa application details into the electronic visa registration system (EVA) and will ask the FOM for approval of a visa with limited territorial validity (only valid for Switzerland, one entry, stay of up to 90 days).

If the competent diplomatic/consular mission feels that the aforementioned visa requirements are *not* met, then the diplomatic/consular mission will reject the application under its own authority using the Schengen form designed for this purpose and will provide the applicant with information on his/her right to appeal.

When in doubt, the diplomatic/consular mission shall ask the FOM to take a stance on the matter.

#### **b) at the external borders of the Schengen Area**

If the person in question (see Section I) submits a visa application at the external border of the Schengen Area, then the border control authorities will immediately forward this application to the FOM.

### **IV. Procedure for pending asylum applications abroad**

If a person who submitted an asylum application to a Swiss embassy abroad prior to 29 September 2012 falls under the category of persons benefitting from the present Directives, then the FOM will notify this person that his/her entry cannot be approved by virtue of the pending asylum application but that he/she may submit an application for an entry visa instead. This application will then be given favourable consideration and approved as long as the personal requirements are met. Upon entry into Switzerland, the person will be asked by the FOM whether he/she wishes to continue to seek asylum. If not, then the asylum application will be withdrawn. Otherwise, the asylum application will be duly processed.

### **V. Rules on extended stay**

After the approved stay of up to 90 days has elapsed, the persons benefitting from this measure will be required to leave Switzerland, unless a Canton is willing to regulate the person's status by virtue of legislation on foreign nationals (e.g. for reasons of marriage, training, etc.). If it is not possible, not permitted or not reasonable to enforce a removal order, the cantons may contact the FOM's Admission and Stays Division to request that the person be temporarily admitted to Switzerland under Art. 83 para 6 of the Foreign Nationals Act (FNA, SR 142.20). In such cases, the FOM will issue a removal order based on Art. 64 para 1 let. b FNA in connection with Art. 98 FNA and will issue a temporary admission order at the same time.

If the person in question submits an asylum application under Art. 18 of the Asylum Act (AsylA, SR 142.31), then this person will be transferred to the competent reception centre under Art. 26 AsylA.

Throughout the entire asylum process and following the temporary admission order, the Confederation shall pay the person's social benefits under applicable legislation.

## **VI. Commencement**

These Directives shall go into effect starting from 4 September 2013. They shall replace the Directives of 27 July 2012 "modifying visa practices for Syrians living in Lebanon", which were issued to the Swiss Embassy in Beirut as well as to other diplomatic/consular missions elsewhere in the region.

Yours sincerely

Federal Office for Migration

Kurt Rohner  
Deputy Director

Copies to:

- Recipients of Border Control Directives
- Recipients of Visa Directives