



IMPORTANT FACTS TO KNOW ABOUT THE COMESA
PROTOCOL ON THE GRADUAL RELAXATION AND
EVENTUAL ELIMINATION OF VISAS

(COMESA VISA PROTOCOL)



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- Article 164 of the Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA) embodies an agreement and commitment by COMESA Member States to adopt individually, at bilateral or regional levels the necessary measures in order to achieve progressively the free movement of persons, Labour, and services and to ensure the enjoyment of the right of establishment and residence by their citizens within the Common Market
- The COMESA Visa Protocol was adopted within the context of the Preferential Trade Area for Eastern and Southern Africa (PTA), the predecessor of COMESA in 1984.
- At the time of transition from the PTA to COMESA, it was saved by Article 164(3) of the COMESA Treaty which provides that the protocol shall remain in force until such time that a protocol on Free Movement of Persons, Labour, Services, Right of Establishment and Residence enters into force.
- The protocol is in force and is being implemented by COMESA Member States at varying degrees within the context of the Principle of Variable Geometry in COMESA.
- The COMESA Treaty and the Visa Protocol which is in force and under implementation, allows two or more Member States to conclude and maintain bilateral or multilateral arrangements on a reciprocal basis among themselves which provides more favourable treatment for their nationals as provided in the Treaty and the protocol.
- Such bilateral or multilateral agreements are of benefit to COMESA as they advance the implementation of the COMESA Free Movement of Persons, Labour and Services of COMESA whilst giving policy space and flexibility to other Member States that are not ready for various reasons such as security or economic or social challenges to address such challenges before implementing the Protocol partially or in full.
- It is under the principle of Variable Geometry that Member States are given the flexibility to implement legal frameworks when they are ready to implement.

The main features of the COMESA Visa Protocol include the following:

- a) Non-Requirement of Visa before travel;
- b) Granting of visa at the point of entry;

- c) Removal or reduction of visa fees;
- d) Total elimination of visa requirement; and
- e) Granting of stay for a maximum period of ninety days in a year.

Some COMESA Member States such as Kenya, Mauritius, Rwanda and Seychelles have attained the highest levels of implementation of the COMES Visa Protocol. Other COMESA Member States are in the process of making efforts of attaining highest levels of implementation of the Protocol.

Refusal of Entry and Expulsion

- Each Member State reserves the right to refuse permission to enter or remain in its territory to any national of another Member State where it considers the entry or presence of such national to be not conducive to the public interest or national security of that Member State.
- A Member State expelling a national of another Member State in pursuance of the reasons stated in the foregoing paragraph shall take all appropriate measures to safeguard the property and interests of such person.

Safeguard Measures

- A Member State may in the public interest or on the grounds of public security suspend temporarily the implementation of provisions of the protocol on relaxation of visa requirements or elimination and such suspension shall be notified to the Secretary General of COMESA who shall notify other COMESA Member States.
- Once the suspension has been lifted, the Secretary General of COMESA shall inform other COMESA Member States of the lifting of the suspension.

Cooperation among Member States

- The Protocol provides an undertaking by COMESA Member States to cooperate among themselves by exchanging information on such matters that are likely to affect the implementation of the Protocol.
- Such information shall also be submitted to the Secretary General of COMESA.

Note:

Article 164(3) of the COMESA Treaty provides that Member States agree that the Protocol on Gradual Relaxation and Eventual Elimination of Visas (Visa Protocol) shall remain in force until such a time that the COMESA Protocol on Free Movement of Persons, Labour, Services, Right of Establishment and Right of Residence shall enter into force.



*Published by COMESA with the Financial Support of the
European Union under the Southern Africa Migration
Management Programme.*