

Access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol

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The committee adopted the report by Baroness Sarah LUDFORD (ALDE, UK) amending - under the consultation procedure - the proposed Council decision on access for consultation of the VIS by the authorities of the Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences:

- in the list of definitions, 'serious criminal offences' shall mean the forms of crime "which correspond or are equivalent to those referred to in Article 2(2) of the Framework Decision of 13 June 2002 on the European Arrest Warrant";

- designated authorities of the Member States may access data contained in the VIS in specific cases and following a substantiated written or electronic request via central access points which will have to check that all the relevant conditions for accessing the data are complied with. In exceptional cases of urgency, the request may be received orally and the required checks can be made afterwards;

- at national level, each Member State should keep a list of the operating units within the designated authorities that are authorised to access the VIS through the central access points;

- the committee adopted a series of amendments aimed at ensuring adequate data protection. It stipulated *inter alia* that "personal data obtained pursuant to this Decision from the VIS shall only be processed for the purposes of the prevention, detection, investigation and prosecution of terrorist offences or other serious criminal offences". Personal data obtained from the VIS should not be transferred or made available to a third country or to an international organisation. However, in "an exceptional case of urgency such data may be transferred (...) exclusively for the purposes of the prevention and detection of terrorist offences and of other serious criminal offences", in which case Member States shall ensure that records are kept of such transfers and make them available to national data protection authorities on request;

- a new article provided for penalties, "including administrative and/or criminal penalties, that are effective, proportionate and dissuasive", in the event of any misuse of VIS data;

- any person has the right to have factually inaccurate data relating to him/her corrected or unlawfully stored data relating to him/her deleted;

- three years after the VIS is brought into operation and every four years thereafter, the Commission shall produce an overall evaluation of the VIS, including an assessment of the application of the Decision in respect of the VIS;

- whereas the Commission's proposal stated that both Ireland and the United Kingdom are taking part in the Decision, in accordance with Article 5 of the Protocol integrating the Schengen *acquis*, the committee pointed out that the Decision "constitutes a development of provisions of the Schengen *acquis*" in which neither the UK nor Ireland take part, and that these two countries were therefore not taking part in the Decision and were not bound by it or subject to its application. However, it added that, "in accordance with Framework Decision 2006/960/JHA, information contained in the VIS can be provided to the United

Kingdom and Ireland by the competent authorities of the Member States whose designated authorities have access to the VIS pursuant to this Decision and information held in the national visa registers of the United Kingdom and Ireland can be provided to the competent law enforcement authorities of the other Member States. Any form of direct access for central authorities of the United Kingdom and Ireland to the VIS would, under the present state of their participation in the Schengen acquis, require an Agreement between the Community and those Member States, possibly to be supplemented by other rules specifying the conditions and procedures for such access."