

Schengen Borders Code: use of the Visa Information System (VIS) at the external borders

2008/0041(COD) - 22/02/2008 - Legislative proposal

PURPOSE: to develop an integrated border management of the EU's borders through the adoption of common rules on the use of VIS.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: rules on the conditions, criteria and checks at border crossing points; surveillance at the border; and checks in the Schengen Information System (SIS) are set out in Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (See [COD/2004/0127](#)).

Complementing the Schengen Borders Code Regulation, is the proposed Visa Information System (VIS) Regulation that seeks to improve the implementation of a common visa policy. (See [COD/2004/0287](#)). Once adopted, the VIS Regulation will facilitate both checks at external border crossing points and the fight against fraud.

At the same time the Commission has tabled a proposal for a Regulation amending the Common Consular Instructions (CCI) on visas for diplomatic and consular posts relating to the introduction of biometrics, including provisions on the organisation and processing of visa applications. (See [COD/2006/0088](#)).

The VIS Regulation (Article 18) specifies that border guards will be allowed to search the VIS for verification purposes by using a number affixed to the visa sticker. This can be done in combination with the visa holder's fingerprints. This search may be carried out using the visa sticker number only but for a maximum period of three years only following the start of operations.

However, given that a biometric check is the only reliable way to confirm, with certainty, that the person wishing to enter the Schengen area is the one to whom the visa has been issued, it is necessary that a systematic consultation of the VIS – that includes a biometric check and not just a number check – should be performed for each visa holder.

It should be noted that external border guards are not be obliged to use the VIS. Indeed, the VIS Regulation does not, and cannot, contain provision on the obligations to use the VIS at the external borders. One consequence of this could be that those border crossing points where the VIS is not systematically used will be exploited by illegal immigrants and criminals. Further, failure to use the VIS on a systematic basis could lead to considerable inefficiencies.

CONTENT: the purpose of this proposal, therefore, is to complement the VIS Regulation by establishing common rules on the use of the VIS at the EU's external borders. It is to be done by amending Regulation (EC) No 562/2006.

In short, the proposed provisions include:

- rules on the use of the VIS for (i) entry checks; (ii) exit checks; and (iii) identification;
- compulsory consultation of the VIS for verification purposes at entry, in cases where the third country national holds a visa specified in the Schengen Borders Code (Article 5 (1) (b));
- paragraphs determining the optional use of the VIS;

- verification during exit checks and for identification during entry and exit checks; and
- rules on the when consultations of the VIS should commence at external borders.

In accordance with specifications set out in the Schengen acquis the proposed Regulation will apply to Iceland, Norway and Switzerland. Denmark will not be participating in the adoption of the proposed Regulation; not will the United Kingdom and Ireland.