

Access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol: date of effect of Decision 2008/633/JHA

2015/0807(CNS) - 10/07/2015 - Legislative proposal

PURPOSE: to fix the date of effect of Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences.

PROPOSED ACT: Council implementing Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: [Decision 2008/633/JHA](#) provides that it is to take effect from a date to be determined by the Council once the Commission has informed the Council that [Regulation \(EC\) No 767/2008](#) of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) has entered into force and is fully applicable.

The Commission informed the Council that **Regulation (EC) No 767/2008 had entered into force and had been fully applicable as from 27 September 2011.**

The conditions for triggering the exercise by the Council of its implementing powers pursuant to Decision 2008/633/JHA have been met and an implementing decision fixing the date of effect of Decision 2008/633/JHA should therefore be adopted.

To recall, the proposed Decision **replaces Council Decision 2013/392/EU, which was annulled by a judgment of the Court of Justice of the European Union.** In that judgment, the Court maintained the effects of Decision 2013/392/EU until the entry into force of a new act intended to replace it. Therefore, as of the date of entry into force of this Decision, **Decision 2013/392/EU ceases to produce effects.**

In order to ensure the continuity of access rights for consultation of the VIS by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, the date from which Decision 2008/633/JHA took effect should be maintained as set out in Article 1 of Decision 2013/392/EU.

CONTENT: the Council implementing Decision provides that **Decision 2008/633/JHA shall take effect from 1 September 2013,** as set out in Article 1 of Decision 2013/392/EU.

Decision 2013/392/EU shall cease to produce effects from the date of entry into force of this Decision, without prejudice to the date of effect of the proposed Decision.

Given that this Decision constitutes a **development of the provisions of the Schengen acquis,** Iceland, Norway, Switzerland and Liechtenstein shall participate in the application of this Decision.

Denmark is not taking part in the adoption of this Decision but it may, within a period of six months after the Council has decided on this Decision, decide whether it will implement it in its national law.

The United Kingdom and Ireland shall not participate in the adoption of the Decision and shall not be bound by it or subject to its application.