

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

2005/0232(CNS) - 24/11/2005 - Legislative proposal

PURPOSE : to create a legal framework establishing the conditions under which Member States' internal security bodies and Europol may access the Visa Information System (VIS).

PROPOSED ACT: Council Decision.

CONTENT: this proposal complements Council Decision 2004/512, which establishes the Visa information System (VIS). The fight against terrorism is a priority for all Member States. The European Union is committed to combating terrorism and organised crime, hence the creation of the VIS. Access to information stored on the VIS could help Member State authorities' as well as Europol to both prevent and combat terrorist acts. This present proposal has been prepared in order to clarify how and when Member States' internal security bodies as well as Europol, can access VIS information for the dual purposes of preventing and combating terrorism and/or organised crime.

The present initiative does not go beyond what is necessary to achieve its objectives. Importantly, the scope is limited to terrorist offences and to crimes for which Europol is responsible. In addition, the proposed provisions restrict the use of VIS data to specific cases only in order to exclude routine access. Only those national authorities responsible for the prevention, detection or investigation of criminal offences will have access to the VIS. Moreover, those authorities will be obliged to go through a central access point which will consult the VIS on their behalf, on a case-by-case basis and after receipt of a duly motivated request. Furthermore, the Authorities responsible for internal security are clearly listed in the Annex to this Decision, as are the Central Access Points.

In presenting this proposal, the Commission emphasis that the Decision seeks to ensure full respect for the right to liberty and security, the right to respect for private and family life, the right to the protection of personal data and the principles of legality and proportionality of criminal offences and penalties.

The Commission points out that the proposal fulfils both the subsidiarity and proportionality principles. The subsidiarity principle applies in this instance in that the VIS database is established under an EU framework thereby hindering individual Member States from authorising, on their own, access to it. In other words, the objectives of the Decision could not be sufficiently achieved by the Member States acting on their own. As far as the proportionality principle is concerned the initiative does not go beyond what is necessary to achieve its objective. The Decision seeks to ensure full respect for the fundamental rights and the conditions set out for access to VIS data is restricted to specific cases only – in other words routine access is not a possibility.

Given that Ireland and the United Kingdom do not participate in the common visa policy and that they are not a party to the VIS Regulation, the internal security bodies of these Member States do not have direct access to the VIS. However, it is appropriate that VIS data be made available to the Irish and UK authorities. The provisions of the Decision apply to Iceland and Norway.

The proposal has implications for the Community budget in so far as the additional number of access to the VIS generated by the authorities responsible for internal security via the central access points has to be taken into account when setting up and maintaining the system. The implementation of the proposed

Decision would entail only a small amount of additional expenditure, to be charged to the budget of the European Communities for meetings of the secretarial services for the new committee set up by this Decision.

FINANCIAL IMPLICATIONS:

- Policy sector concerned : Justice and Home Affairs; 1806 – Establishing a genuine area of freedom, security and justice in criminal and civil matters.
- Human resources and associated expenditure: EUR 1 134 000.
- Administrative costs, other than human resources and associated costs not included in reference amount: EUR 246 000.
- Total indicative financial costs for intervention (commitment/payment and including human resources): **EUR 1 382 640.**
- Period of application: From 2006.
- Over all total number of human resources: 1,75.
- Financial cost of human resources and associated costs not included in the reference amount: EUR 189 000 per year from 2006-2011.
- Other administrative expenditure not included in reference amount: EUR 41 440 per year from 2006-2011, totalling over the entire period EUR 248 640.