

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

2005/0232(CNS) - 07/06/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted 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. The main amendments were as follows:

- 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";
- every Member State shall keep a list of the designated authorities. Within three months after the Decision enters into force every Member State shall notify in a declaration to the Commission and the General Secretariat of the Council their designated authorities. Every Member State shall designate the central access point(s) through which the access is done;
- at national level, each Member State shall keep a list of the operating units within the designated authorities that are authorised to access the VIS through the central access point(s);
- only duly empowered staff of the operational units as well as the central access point(s) shall be authorised to access the VIS in accordance with the Article on the process for access to the VIS. The central access points should process the requests to the VIS following verification whether all conditions for access are fulfilled. In an exceptional case of urgency the central access points shall process the request immediately and only do the verification afterwards;
- Parliament adopted a series of amendments aimed at ensuring adequate data protection. Each Member State shall ensure an adequate data protection level in its national law which at least corresponds to that resulting from the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and, for those Member States which have ratified it, the Additional Protocol of 8 November 2001 to that Convention, and shall take into account Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the Use of Personal Data in the Police Sector;
- personal data obtained 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;
- the competent body or bodies, which in accordance with national law are charged with the supervision of the processing of personal data by the designated shall monitor the lawfulness of the processing of

personal data and. Member States shall ensure that these bodies have sufficient resources to fulfil the tasks entrusted to them;

- Parliament expanded Article 8 to include provisions on the following: data security; liability; self-monitoring; penalties; keeping of VIS data in national files; and right of access, correction and deletion. Any person has the right to have factually inaccurate data relating to him corrected or unlawfully stored data relating to him deleted;

- Parliament inserted a detailed list of records that must be kept;

- three years after the VIS is brought into operation and every four years thereafter, the Commission shall produce an overall evaluation of the VIS;

- the Commission's proposal states that both Ireland and the United Kingdom are taking part in this Decision, in accordance with Article 5 of the Protocol integrating the Schengen acquis. However, Parliament adopted an amendment stating that neither the UK nor Ireland are taking part and are not bound by it or subject to its application. It further stated 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 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.