



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 June 2013

**9239/1/13
REV 1**

**ENFOPOL 129
COMIX 273**

NOTE

From: Presidency

To: Law Enforcement Working Party (LEWP)

No prev. doc.: 17981/12 ENFOPOL 427 COMIX 747

Subject: Draft Council Decision fixing 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

1. Article 18(2) of Decision 2008/633/JHA ("VIS Decision") specifies that the Decision shall take effect from a date to be determined by the Council once the Commission has informed the Council that Regulation (EC) No 767/2008 has entered into force and is fully applicable.
2. The Presidency proposed the draft Council Decision fixing the date of effect of the VIS Decision, allowing national law enforcement authorities and Europol access to the VIS for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, set out in Annex.
3. By letter of 13 June 2012, the Commission informed Ministers that the VIS Regulation (EC) No 767/2008 had entered into force and was fully applicable. Awaiting the Commission's formal information, the LEWP on 22 May 2013 agreed on the draft Council Decision subject to confirmation of the date, of taking effect.

DRAFT**COUNCIL DECISION 2013/.../EU****of ... 2013**

fixing 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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council 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 offences¹, and in particular Article 18(2) thereof,

¹ OJ L 218, 13.8.2008, p. 129.

Whereas:

- (1) Article 18(2) of Decision 2008/633/JHA specifies that the Decision shall take effect from a date to be determined by the Council once the Commission has informed the Council that Regulation (EC) No 767/2008 has entered into force and is fully applicable.
- (2) In accordance with Article 18(2) of Decision 2008/633/JHA, the Commission has informed the Council by letter of ... that Regulation (EC) No 767/2008 has entered into force and is fully applicable as from
- (3) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*¹ which fall within the area referred to in Article 1, point H, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement².
- (4) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*³ which fall within the area referred to in Article 1, point H, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁴.

¹ OJ L 176, 10.7.1999, p. 36.

² OJ L 176, 10.7.1999, p. 31.

³ OJ L 53, 27.2.2008, p. 52.

⁴ OJ L 53, 27.2.2008, p. 1.

- (5) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹ which fall within the area referred to in Article 1, point H, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU².
- (6) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law.
- (7) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*³. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

¹ OJ L 160, 18.6.2011, p. 21.

² OJ L 160, 18.6.2011, p. 19.

³ OJ L 131, 1.6.2000, p. 43.

- (8) This Decision constitutes a development of provisions of the Schengen acquis in which Ireland does not take part in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis¹. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (9) This Decision does not affect the position of the Member States in respect of which Regulation (EC) No 767/2008 has not yet been put into effect. In particular it does not affect the application of Article 6 of the Decision 2008/633/JHA with regard to those Member States.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2008/633/JHA shall take effect from [1 September 2013].

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President

¹ OJ L 64, 7.3.2002, p. 20.