



Council of the  
European Union

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Eingelangt am 20/10/15

Brussels, 15 October 2015  
(OR. en)

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#### "I/A" ITEM NOTE

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| From:           | General Secretariat of the Council  |
| To:             | Permanent Representatives Committee/Council   |
| No. prev. doc.: | 10506/15 + COR 1 (en)   |
| Subject:        | Draft COUNCIL IMPLEMENTING 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 |

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1. On 22 July 2013 the Council adopted Council Decision [2013/392/EU](#) 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<sup>1</sup>.

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<sup>1</sup> OJ L 198, 23.7.2013, p. 45.

2. This Decision was annulled by the Court of Justice of the European Union ('the Court') by its judgment of 16 April 2015 in in Case C-540/13. The Court ruled that the Council should have consulted the European Parliament before adopting that Decision as stipulated by Article 39(1) of the former Treaty on European Union<sup>2</sup>. At the same time, the Court decided to maintain the legal effects of that Decision until the entry into force of new act intended to replace it.
3. Taking into consideration this ruling, a revised proposal for a Council Implementing Decision was prepared (9599/15) and agreed by the Law Enforcement Working Party (LEWP) at its meeting on 25 June 2015.
4. After the agreement by the LEWP, the text of the draft Council Implementing Decision has undergone the lawyer-linguist revision as set out in 10506/15 + COR 1 (en).
5. The European Parliament was consulted on the draft Council Implementing Decision and gave its opinion on 14 October 2015.
6. *On this basis, COREPER is requested to invite the Council to:*
  - *adopt the draft Council Implementing 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, as set out in 10506/15 + COR 1 (en), and*
  - *request its publication in the Official Journal of the European Union.*

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<sup>2</sup> For more information on this case, see the note by the Legal Service addressed to Coreper: 8541/15.