



Council of the
European Union

Brussels, 9 February 2023
(OR. en)

6273/23

VISA 30
FRONT 49
MIGR 58
IXIM 24
SIRIS 13
COMIX 74

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 9 February 2023

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2023) 66 final

Subject: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the state of play of preparations for the full implementation of the VIS Regulation in accordance with Article 11(3) of Regulation (EU) 2021/1134

Delegations will find attached document COM(2023) 66 final.

Encl.: COM(2023) 66 final



Brussels, 9.2.2023
COM(2023) 66 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the state of play of preparations for the full implementation of the VIS Regulation in
accordance with Article 11(3) of Regulation (EU) 2021/1134**

Executive summary

Regulation (EU) 2021/1134¹, amending *inter alia* Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)², requires the Commission to submit an annual **report** to the European Parliament and to the Council on the state of play of preparations for the full implementation of the Regulation. This is the **Commission's first report**.

The implementation of the new IT architecture in the area of migration, borders and security is the cornerstone of establishing one of the most modern border management systems in the world. The Visa Information System is an integral part of this architecture. To achieve full and timely implementation, EU Member States and Schengen associated countries, EU agencies and the Commission have to advance together. **A delay by one will bring delays for everyone** and is also likely to increase **costs**.

Overall, the preparation of the implementation of the revised VIS is on track. Following the adoption of the amending Regulation on 7 July 2021, the Commission immediately started to discuss in the relevant committee and expert group a series of **implementing and delegated acts** necessary for the development of the new VIS components. Currently, work on all 12 implementing and delegated acts has commenced, and they are at various stages in the adoption procedure. Six implementing acts and three delegated acts are being discussed in the relevant committee and expert group, while three implementing acts are already formally adopted.

¹ Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System (OJ L 248, 13.7.2021, p. 11–87)

² Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60)

1. Introduction

The VIS was established by Council Decision 2004/512/EC³ to serve as the technological solution for exchanging visa data between Member States. Regulation (EC) No 767/2008 of the European Parliament and of the Council (VIS Regulation)⁴ laid down the purpose, functionalities and responsibilities for the VIS, as well as the conditions and procedures for the exchange of short-stay visa data between Member States to facilitate the examination of applications for short-stay visas and related decisions. The VIS started operating on 11 October 2011 and was gradually rolled out in all Member States' consulates between October 2011 and February 2016.

The objectives of the VIS are to improve the implementation of the common visa policy, consular cooperation and consultation between central visa authorities by facilitating the exchange of data between Member States on applications and related decisions, in order to:

- facilitate the visa application procedure;
- prevent 'visa shopping';
- facilitate the fight against identity fraud;
- facilitate checks at external border crossing points and within the Member States' territory;
- assist in the identification of any person who does not or no longer fulfils the conditions for entry to, stay or residence in the territory of the Member States;
- facilitate the determination of the Member State responsible for examining an application for international protection under Regulation (EU) No 604/2013 of the European Parliament and of the Council⁵;
- and contribute to the prevention of threats to the internal security of any of the Member States.

On 2 August 2021, Regulation (EU) 2021/1134, amending *inter alia* the VIS Regulation entered into force. It provides visa-issuing authorities with key information on applicants for short-stay Schengen visas while allowing border guards to detect travellers that may pose security risks. The new rules also expand the scope of the VIS – notably by adding applicants and holders of long stay-visas and residence permits – in full respect of the data protection *acquis*, to ensure that the relevant authorities have the information they need, when they need it. The new rules agreed will allow for more thorough background checks on applicants for short-stay visas, long-stay visas and residence permits, better information exchange between Member States on holders of such documents, and full interoperability with other EU information systems.

As per Article 11(1) of Regulation (EU) 2021/1134, the Commission shall adopt a decision by 31 December 2023 to set the date for the entry into operation of the revised VIS.

³ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

⁴ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁵ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

However, the article also lays out a number of conditions before this decision can be adopted, namely that the necessary implementing and delegated acts referred in this report will need to be adopted, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) will have to notify the Commission of the successful completion of all testing activities, and Member States will have to notify the Commission that they have made the necessary technical and legal arrangements.

The VIS will be part of the common interoperability framework established by Regulations (EU) 2019/817⁶ and (EU) 2019/818⁷ of the European Parliament and of the Council, thus the development of its new features and processes should be fully coherent with those in the other EU information systems that are part of the framework.

Under the terms of Article 11(3) of Regulation (EU) 2021/1134, the Commission is required to submit a report to the European Parliament and to the Council on the state of play of preparations for the full implementation of the Regulation. The report should include detailed information about the costs incurred and information as to any risks that may impact the overall costs. Similar reports are to be submitted by the Commission every year until the Commission adopts the decision setting the date of the start of operations of the VIS pursuant to the above-mentioned Regulation.

This is the Commission's first report, and it covers the period from the adoption of the amending Regulation on 7 July 2021 to the preparation of this report in December 2022.

2. Implementing legislation of the VIS Regulation

Regulation (EU) 2021/1134 provides that implementing legislation should be adopted in order to supplement and implement certain detailed technical aspects of the Regulation. Some of these acts are necessary to fully enable eu-LISA to commence the design and development of the new functionalities in the context of the overall IT system architecture, especially as this requires defining technical specifications. Other acts are needed to lay down technical rules to facilitate use of the VIS by the relevant Member State authorities and EU agencies.

Since the adoption of the Regulation in 2021, the Commission has organised 14 Committee meetings and 6 Expert Groups on the VIS to discuss a series of draft implementing and delegated acts necessary for the development of the revised VIS.

Currently, work on all 12 implementing and delegated acts has commenced, and they are at various stages of the adoption procedure. Six implementing acts and three delegated acts are being discussed in the relevant committee and expert group, while three implementing acts are already formally adopted. This is further illustrated in the table below:

⁶ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

⁷ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).

Table 1 State of play of required implementing and delegated acts on 7 December 2022

Regulation	Type of act	Adopted	Under formal adoption	In committee or group	Not yet started
VIS	Delegated			3	
	Implementing	3		6	

3. Monitoring of implementation by Member States and EU agencies

The importance of timely implementation of the revised VIS is well recognised at EU and Member State level, as are the interdependencies between the VIS and the development of other EU information systems and of the interoperability components. To achieve full and timely implementation, Member States, EU agencies and the Commission have to advance together to avoid that the lack of action by any one of them leads to a delayed entry into operation for all.

4. Costs and risks

The Commission proposal for the Amending Regulation was adopted on 7 July 2021, one year later than originally envisaged. The Legislative Financial Statement annexed to the European Commission's proposal for the Amending Regulation revising the VIS Regulation was amended in July 2021 due to the updated time schedule of the revised VIS implementation and to ensure the availability of sufficient financial and human resources for eu-LISA.

The amended Legislative Financial Statement indicated that the proposal requires in total EUR 178.6 million from the EU budget over the period 2021-2027. This amount includes the relevant budget for the Member States (EUR 45 million) for adaptation of their national systems, for Europol (EUR 29.8 million) for the necessary upgrade of the agency's IT systems and staffing needs, for the European Border and Coast Guard Agency (EBCGA) (EUR 5.4 million) for setting up a new access to the VIS within the Agency, staffing needs and meetings, and for eu-LISA (EUR 98.2 million) for the development of all IT strands of the proposal and operation of the updated VIS, as well as for temporary staffing needs.

Based on the Commission proposal for the Amending Regulation, the impact on the operational expenditure for eu-LISA for the development of the revised VIS is estimated at EUR 16.2 million for the year 2022 and EUR 28.9 million in 2023.

The implementation of VIS within the common interoperability framework and its adaptations to interact with the other IT systems involve a succession of different modifications that result each time in a new version of the system. These different versions of VIS have to be implemented in a sequence. The economic consequences of the Covid-19 crisis have also had an impact on public procurements and implementation procedures in the Member States and Union agencies. The above-mentioned aspects may affect the duration of some parts of the project to implement the new architecture for EU information systems for borders, migration and security.

Following a decision of the eu-LISA Management Board of 23 June 2022 and further to the decision of the informal Justice and Home Affairs Council of 11-12 July 2022, the timeline for the implementation of the new IT architecture for EU information systems and their interoperability has been revised. Following the delayed entry into operation of the Schengen Information System, the entry into operation timeline of the different EU information systems is now as follows: March 2023 for SIS, mid-May 2023 for EES, mid-November 2023 for ETIAS and for ECRIS-TCN and a progressive start of operation of the interoperability components by June 2024.

The potential impact of the revised timeline for the EU information systems and interoperability on the costs of implementation of VIS is not measurable at this stage. Nevertheless, according to the available data on expenditure incurred in 2021 and 2022 by the Member States and the relevant EU agencies, no risk of overspending of the amounts estimated in the amended legislative financial statement has been identified to date.

5. Conclusion

Member States, Schengen associated countries and EU agencies share a general commitment to ensure full implementation of the revised VIS, also as part of the wider interoperability framework of EU information systems. For its part, the Commission continues to coordinate and closely monitor the progress of all involved with a view to having full availability of the new and upgraded IT systems and the interoperability components by June 2024. In June 2022, eu-LISA's Management Board invited the agency to explore the possibility to integrate the timeline for the implementation of the revised VIS more closely into the overall revised Interoperability timeline, which was confirmed by the Justice and Home Affairs Council of 11-12 July 2022.

Overall, work on the implementation of the revised VIS is on track. However, ensuring that this remains the case requires all involved to advance together on the development and implementation of all EU information systems and interoperability components and risks for delays to be continuously monitored. The Commission continues to engage with all concerned stakeholders to detect potential delays that could arise and to keep any such delays to a minimum in order to respect the agreed implementation timeline.