



Council of the
European Union

169737/EU XXVII. GP
Eingelangt am 19/01/24

Brussels, 18 January 2024
(OR. en)

5605/24

VISA 7
FRONT 11
MIGR 20
IXIM 14
SIRIS 3
COMIX 18

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	18 January 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 13 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Second report 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(2024) 13 final.

Encl.: COM(2024) 13 final



Brussels, 18.1.2024
COM(2024) 13 final

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

**Second report 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 second report**.

The implementation of the new IT architecture in the area of migration, borders and security is a cornerstone of the EU's efforts to establish one of the most modern border management systems in the world. The VIS 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. It is important that each party takes responsibility to ensure that the system can be operational at the same time, thus avoiding further delays and increasing 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 the twelve **implementing and delegated acts** necessary for the development of the new VIS components. Work continued in 2023, and currently, the 12 implementing and delegated acts have all been proposed by the Commission and are at various stages in the adoption procedure. Five acts are formally adopted, two acts are under formal adoption, while three implementing acts and two delegated acts are still being discussed in the relevant committee and expert group.

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 allow the exchange of 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. The VIS aims 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 entered into force, amending *inter alia* the VIS Regulation. The revised VIS will provide 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 data protection requirements, 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. The article

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).

also lays out a number of conditions before this decision can be adopted, namely that the necessary implementing and delegated acts referred to 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. The interoperability framework between EU information systems⁸ was set up in order for these systems and their data to supplement each other with the overall objective to improve the effectiveness and efficiency of checks at the external borders, to contribute to the prevention and combating irregular immigration and to contribute to a high level of security and to improve the implementation of the common visa policy. It means that the technical development of new features and processes of the renewed VIS should be fully coherent with those of 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 every year on the state of play of preparations for the full implementation of the Regulation, until the Commission adopts the decision setting the date of the start of operations of the VIS pursuant to the above-mentioned Regulation. The report should include detailed information about the costs incurred and information as to any risks that may impact the overall costs.

The Commission submitted a first report on 9 February 2023.⁹ This is the Commission's second report, and it covers the period from January 2023 to the preparation of this report in November 2023.

2. Implementing legislation of the VIS Regulation

Regulation (EU) 2021/1134 provides that implementing and delegated 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.

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).

⁸ The Entry/Exit System (EES), the Visa Information System (VIS), the European Travel Information and Authorisation System (ETIAS), Eurodac, the Schengen Information System (SIS), and the European Criminal Records Information System for Third-Country Nationals (ECRIS-TCN)

⁹ COM(2023) 66 final

Since the adoption of the Regulation in 2021, the Commission has organised 18 Committee meetings and 10 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. Four implementing acts and one delegated act are already formally adopted, two implementing acts are under formal adoption, while three implementing acts and two delegated acts are still being discussed in the relevant committee and expert group due to their technically complex nature. This is further illustrated in the tables below:

Table 1 State of play of required implementing and delegated acts on 15 November 2023

Regulation	Type of act	Adopted	Under formal adoption	In committee or group	Not yet started
VIS	Delegated	1		2	
	Implementing	4	2	3	

Table 2 State of play of required implementing and delegated acts by 15 November 2023

	Legal base	Type of act	Status
1	Art. 5a	Implementing	Under formal adoption
2	Art. 6(5)	Implementing	Under formal adoption
3	Art. 9	Delegated	Adopted
4	Art. 9h & 22b	Delegated	In group
5	Art. 9j(2)	Delegated	In group
6	Art. 9j(3)	Implementing	In committee
7	Art. 29 & 29a	Implementing	Adopted
8	Art. 45(1)	Implementing	In committee
9	Art. 45(2)	Implementing	In committee
10	Art. 45(3)	Implementing	Adopted
11	Art. 45c & 45d	Implementing	Adopted
12	Art. 50(4)	Implementing	Adopted

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. The interdependencies between the VIS and, the development of other EU information systems and the interoperability components is well understood by all stakeholders. To achieve full and timely implementation, Member States, EU agencies and the Commission have to advance together.

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 was EUR 16.2 million in 2022 and EUR 28.9 million in 2023.

The implementation of the VIS within the common interoperability framework and its adaptations to interact with the other IT systems (for example with the Entry-Exit System) 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 interdependence of the various EU information systems may affect the duration of some parts of the project to implement the new architecture for EU information systems for borders, migration and security.

The renewed Schengen Information System entered into operation in March 2023. On 19-20 October 2023 the Justice and Home Affairs Council endorsed a revised timeline for the remaining systems. According to this roadmap, which envisages implementation waves, the Entry/Exit System will be ready to enter into operation in Autumn 2024 and ETIAS will be ready to enter into operation in Spring 2025. The revised VIS will be ready to enter into operation in Autumn 2026, along with the interoperability architecture.

While 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, 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.

The Commission continues to coordinate and closely monitor the progress of all parties involved to detect and address potential delays of any parts of the EU information systems and interoperability components in order to ensure full availability of the upgraded VIS in Autumn 2026.