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NOTE

from : the Presidency
to : Visa Working Party/Mixed Committee (EU-Iceland/Norway/Switzerland)
No. Cion prop. : 5093/05 VISA 1 CODEC 77 COMIX 5 + COR 1 (COM(2004) 835 final)
Subject : Draft Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas

On 8 December 2006, the Strategic Committee on Immigration, Frontiers and Asylum/Mixed Committee (EU-Iceland/Norway/Switzerland) (SCIFA)¹ examined a number of specific issues related to the draft Regulation on VIS (16229/06 VISA 320 CODEC 1469 COMIX 1031 and 16225/06 VISA 319 CODEC 1472 COMIX 1030).

Agreement was reached on some of these issues, whereas others were referred to the Visa Working Party for further technical examination. As far as the "bridging clause" (Article 1B) is concerned, the Presidency concluded that further examination was needed by the Police Cooperation Working Party and CATS and invited SCIFA delegates to ensure coordination with their third pillar colleagues.

¹ See 16965/06 JAI 730 ASIM 99 COMIX 1069.

Delegations will find attached the Presidency compromise text as it stands after the meeting of SCIFA. In addition, the wording of a number of articles¹ have been aligned to the final version of the SIS II Regulation² and certain linguistic changes have been made. All changes compared to the previous version of the draft Regulation (14359/06 VISA 271 CODEC 1166 COMIX 871) are marked in **bold**. Delegations' comments (in footnotes) on issues not addressed in the SCIFA meeting in December have been maintained.

The Visa Working Party is invited to address, in particular, the following issues:

- 1) Article 10 (2) (c)
- 2) Articles 16(1)-16A(1)-17(1)
- 3) Articles 18(1)-19(1)
- 4) Article 25A
- 5) Article 25B
- 6) Article 29 (alternative drafting)
- 7) Article 36A

8) Comitology (Article 39)

The European Parliament wishes the regulatory procedure with scrutiny to be applicable for the choice of the regions in which the VIS should start to operate (Article 38(3)) and the replacement of the Schengen consultation mechanism (Article 36A). The Presidency has invited the Council and the Commission Legal Services to examine whether this request is appropriate.

9) "Fall back" procedure

The European Parliament has suggested the addition of a provision on procedures for cases where a person claims to have been falsely refused a visa. This issue was not dealt with at SCIFA and it continues to be the view of the Presidency that such a provision, if appropriate, should be covered in the draft Regulation on a Community Code on Visas.

¹ Articles 23 (*Articles 15, 17 of SIS II*); Article 25B (*Article 39*); Article 28A (*Article 13*); Article 34 (*Article 44*); Article 35 (*Article 45*); Article 35A (*Article 46*); Article 35B (*Article 47*); Article 40 (*Article 50*).

² Regulation of the European Parliament and of the Council on the establishment, operation and use of the second generation Schengen Information System (SIS II) (PE-CONS 3662/06 SIRIS 195 SCHENGEN 100 COMIX 935 CODEC 1239 OC 872).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the Visa Information System (VIS) and the exchange of data between Member States on short stay-visas</p>	
<p>Having regard to the Treaty establishing the European Community, and in particular Article 62 (2)(b)(ii) and Article 66 thereof,</p>	
<p>Having regard to the proposal from the Commission,</p>	
<p>Acting in accordance with the procedure laid down in Article 251 of the Treaty,</p>	
<p>(1) Building upon the conclusions of the Council of 20 September 2001, and the conclusions of the European Council in Laeken on 14 and 15 December 2001, in Seville on 21 and 22 June 2002, in Thessaloniki on 19 and 20 June 2003 and in Brussels on 25 and 26 March 2004, the establishment of the Visa Information System (VIS) represents one of the key initiatives within the politics of the European Union aimed at supporting stability and security.</p>	<p>(1) Building upon the conclusions of the Council of 20 September 2001, and the conclusions of the European Council in Laeken in December 2001, in Seville in June 2002, in Thessaloniki in June 2003 and in Brussels in March 2004, the establishment of the Visa Information System (VIS) represents one of the key initiatives within the policies of the European Union aimed at establishing an area of freedom, security and justice.</p>
<p>(2) Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) established the VIS as a system for the exchange of visa data between Member States.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(3) It is now necessary to give the Commission the mandate to set up and maintain the VIS and to define the purpose, the functionalities and responsibilities for the VIS, and to establish the conditions and procedures for the exchange of visa data between Member States to facilitate the examination of visa applications and the related decisions, taking into account the orientations for the development of the VIS adopted by the Council on 19 February 2004.</p>	<p>(3) It is now necessary to define the purpose, the functionalities and responsibilities for the VIS, and to establish the conditions and procedures for the exchange of visa data between Member States to facilitate the examination of visa applications and the related decisions, taking into account the orientations for the development of the VIS adopted by the Council on 19 February 2004 and to give the Commission the mandate to set up the VIS.</p>
	<p>(3a) For a transitional period, the Commission should be responsible for the operational management of the Central VIS, the National Interfaces and of certain aspects of the communication infrastructure between the Central VIS and the National interfaces .</p> <p>In the long term, and following an impact assessment, containing a substantive analysis of alternatives from a financial, operational and organisational perspective, and legislative proposals from the Commission, a permanent Management Authority with responsibility for these tasks should be established. The transitional period should last for no more than five years from the date of entry into force of this Regulation.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(4) The Visa Information System should improve the administration of the common visa policy, consular cooperation and consultation between central consular authorities by facilitating the exchange of data between Member States on applications and on the decisions relating thereto, in order to prevent threats to internal security of any of the Member States and ‘visa shopping’ and to facilitate the fight against fraud and checks at external border checkpoints and within the territory of the Member States. The VIS should also facilitate the identification and return of illegal immigrants and the application of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanism for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national .</p>	<p>(4) The Visa Information System should have the purpose of improving the implementation of the common visa policy, consular cooperation and consultation between central consular authorities by facilitating the exchange of data between Member States on applications and on the decisions relating thereto, in order to facilitate the visa application procedures and prevent the ‘visa shopping’ and to facilitate the fight against fraud and checks at external border crossing points and within the territory of the Member States. The VIS should also assist in the identification of any person who may not, or may no longer fulfil the conditions for entry to, stay or residence on the territory of the Member States,, and the application of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanism for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national, and to contribute to the prevention of threats to internal security of any of the Member States.</p>
	<p>(4a) This Regulation is based on the acquis on the common visa policy. The data to be processed by the VIS should be determined in view of the data provided by the common form for visa applications as introduced by Council Decision 2002/354/EC of 25 April 2002 on the adaptation of Part III of, and the creation of an Annex 16 to, the Common Consular Instructions on visas for the diplomatic missions and consular posts (hereinafter referred to as 'the Common Consular Instructions'), and the information on the visa sticker provided for in Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(5) The Visa Information System should be connected to the national systems of the Member States to enable competent Member States' authorities to process data on visa applications and on visas issued, annulled, revoked or extended.	
(6) The conditions and procedures for entering, amending, deleting and consulting the data in the VIS should take into account the procedures laid down in the Common Consular Instructions on visas for the diplomatic missions and consular posts (hereinafter referred to as 'the Common Consular Instructions').	(6) The conditions and procedures for entering, amending, deleting and consulting the data in the VIS should take into account the procedures laid down in the Common Consular Instructions.
(7) The technical functionalities of the network for consulting the central national authorities as laid down in Article 17(2) of the Convention implementing the Agreement of 14 June 1985 on the gradual abolition of checks at common borders should be integrated into the VIS.	
(8) The data to be processed by the VIS should be determined in view of the data provided by the common form for visa applications as introduced by Council Decision 2002/354/EC of 25 April 2002 on the adaptation of Part III of, and the creation of an Annex 16 to, the Common Consular Instructions, and the information on the visa sticker provided for in Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas.	deleted
(9) To ensure exact verification and identification of visa applicants, it is necessary to process biometric data in the VIS.	(9) To ensure reliable verification and identification of visa applicants, it is necessary to process biometric data in the VIS.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(10) It is necessary to define the competent Member States' authorities, duly authorised staff of which are to have access to enter, amend, delete or consult data for the specific purposes of the VIS, to the extent necessary for the performance of their tasks.</p>	<p>(10) It is necessary to define the competent Member States' authorities, duly authorised staff of which are to have access to enter, amend, delete or consult data for the specific purposes of the VIS, to the extent necessary for the performance of their tasks. Any processing of VIS data should be proportionate to the objectives pursued and necessary for the performance of tasks of the competent authorities. When using the VIS the competent authorities should ensure that the human dignity and integrity of the persons, whose data are requested, are respected and should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p>
	<p>(10a) This Regulation should be complemented by a separate legal instrument adopted under Title VI of the TEU concerning access for consultation of the VIS by authorities responsible for internal security.</p>
<p>(11) The personal data stored in the VIS should be kept for no longer than is necessary for the purposes of the VIS. It is appropriate to keep the data for a period of five years, in order to enable data on previous applications to be taken into account for the assessment of visa applications, including the applicants' good faith and for the documentation of illegal immigrants who may, at some stage, have applied for a visa. A shorter period would not be sufficient for those purposes. The data should be deleted after the period of five years, unless there are grounds to delete it earlier.</p>	<p>(11) The personal data stored in the VIS should be kept for no longer than is necessary for the purposes of the VIS. It is appropriate to keep the data for a maximum period of five years, in order to enable data on previous applications to be taken into account for the assessment of visa applications, including the applicants' good faith and for the documentation of illegal immigrants who may, at some stage, have applied for a visa. A shorter period would not be sufficient for those purposes. The data should be deleted after the period of five years, unless there are grounds to delete it earlier.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(12) Precise rules should be laid down as regards the responsibilities of the Commission for the establishment and operation of the VIS, on the one hand, and of the Member States for the national systems and the use of data by the national authorities, on the other hand.</p>	<p>(12) Precise rules should be laid down as regards the responsibilities for the establishment and operation of the VIS, on the one hand, and of the Member States for the national systems and the access to data by the national authorities, on the other hand.</p>
<p>(13) Rules on the liability of the Member States in respect of damage arising from any breach of this Regulation should be laid down. The liability of the Commission in respect of such damage is governed by the second paragraph of Article 288 of the Treaty.</p>	
<p>(14) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States in application of this Regulation. However, certain points should be clarified in respect of the responsibility for the use of data, of safeguarding the rights of the data subjects and of the supervision on data protection.</p>	<p>(14) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States in application of this Regulation. However, certain points should be clarified in respect of the responsibility for the processing of data, of safeguarding the rights of the data subjects and of the supervision on data protection.</p>
<p>(15) Regulation (EC) No 45/2001 of 18 December 2000 of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the activities of the Commission in relation to the protection of personal data. However, certain points should be clarified in respect of the responsibility for the use of data and of the supervision on data protection.</p>	<p>(15) Regulation (EC) No 45/2001 of 18 December 2000 of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the activities of the Management Authority in relation to the protection of personal data. However, certain points should be clarified in respect of the responsibility for the processing of data and of the supervision on data protection.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(16) The national supervisory authorities established in accordance with Article 28 of Directive 95/46/EC should monitor the lawfulness of the processing of personal data by the Member States, whilst the European Data Protection Supervisor as established by Regulation (EC) No 45/2001 should monitor the activities of the Commission in relation to the protection of such data.	(16) The national supervisory authorities established in accordance with Article 28 of Directive 95/46/EC should monitor the lawfulness of the processing of personal data by the Member States, whilst the European Data Protection Supervisor as established by Regulation (EC) No 45/2001 should monitor the activities of the Management Authority in relation to the protection of such data.
	(16a) The European Data Protection Supervisor and the national supervisory authorities should cooperate actively with each other.
(17) The effective monitoring of the application of this Regulation requires evaluation at regular intervals.	
(18) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented.	
(19) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.	
(20) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(21) The establishment of a common Visa Information System and the creation of common obligations, conditions and procedures for the exchange of visa data between Member States cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, the Regulation does not go beyond what is necessary in order to achieve this objective.</p>	
<p>(22) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is therefore not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the adoption of this instrument whether it will implement it in its national law.</p>	
<p>(23) As regards Iceland and Norway, this Regulation constitutes a development of 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 association of those two States with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(24) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Iceland and Norway, annexed to the above mentioned Association Agreement.	
(25) This Regulation 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; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.	
(26) This Regulation 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 acquis; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(27) This Regulation constitutes an act building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the Act of Accession.</p>	<p>(27) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, point B of the Council Decision 1999/437/EC of 17 May 1999¹ read in conjunction with Article 4 (1) of the Council Decision of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement²,</p>
<p>(28) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 4(1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement,</p>	<p>(28) This Regulation constitutes an act building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the Act of Accession.</p>

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COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>1.1. CHAPTER I</p> <p>GENERAL PROVISIONS</p>	
<p style="text-align: center;">Article 1 Subject matter and scope</p> <p>1. This Regulation defines the purpose, the functionalities of and responsibilities for the Visa Information System (VIS), as established by Article 1 of Decision 2004/512/EC. It sets up the conditions and procedures for the exchange of data between Member States on applications for short stay visas and on the decisions taken thereto, including the decision whether to annul, revoke or extend the visa, to facilitate the examination of such applications and the related decisions.</p>	<p style="text-align: center;">Article 1 Subject matter and scope</p> <p>1. This Regulation defines the purpose, the functionalities of and responsibilities for the Visa Information System (VIS), as established by Article 1 of Decision 2004/512/EC. It sets up the conditions and procedures for the exchange of data between Member States on applications for short stay visas and on the decisions taken thereto, including the decision whether to annul, revoke or extend the visa, to facilitate the examination of such applications and the related decisions.</p>
<p>2. The VIS shall improve the administration of the common visa policy, consular cooperation and consultation between central consular authorities by facilitating the exchange of data between Member States on applications and on the decisions thereto, in order:</p>	<p style="text-align: center;">Article 1A Purpose</p> <p>The VIS shall have the purpose of improving 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 on the decisions relating thereto, in order:</p>
<p>(a) to prevent threats to internal security of any of the Member States;</p>	<p>(a) to facilitate the visa application procedure;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(b) to prevent the bypassing of the criteria for the determination of the Member State responsible for examining the application;	(b) to prevent the bypassing of the criteria for the determination of the Member State responsible for examining the application;
(c) to facilitate the fight against fraud;	(c) to facilitate the fight against fraud;
(d) to facilitate checks at external border checkpoints and within the territory of the Member States;	(d) to facilitate checks at external border crossing points and within the territory of the Member States;
(e) to assist in the identification and return of illegal immigrants;	(e) to assist in the identification of any person who may not, or may no longer fulfil the conditions for entry to, stay or residence on the territory of the Member States;
(f) to facilitate the application of Regulation (EC) No 343/2003;	(f) to facilitate the application of Regulation (EC) No 343/2003;
	(g) to contribute to the prevention of threats to internal security of any of the Member States.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p style="text-align: center;">Article 1B¹</p> <p style="text-align: center;">Availability of data for preventing and combating threats to the internal security and serious criminal offences</p> <p>1. During the period laid down in Article 20(1), the visa authorities shall retain data referred to in Articles 6 to 12 for consultation, in the course of their duties, by designated authorities responsible for internal security in a specific case where there are reasonable grounds, based on factual indications², to consider that consultation of VIS data will substantially³ contribute to the prevention, detection or investigation of any of the serious criminal offences as defined in Council Decision concerning access for consultation of the Visa Information System (VIS) by the authorities of 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.</p>

¹ The **Council Legal Service** noted that it would be more logical to insert this Article after the current Article 19.

² **FR** suggested that this formulation be replaced by "clear indications" (in French: "*indices réelles*" or "*indices claires*") and entered a reservation on the current wording.

³ **DE** and **ES**: reservation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p>2. The consultation mentioned in paragraph 1 shall be carried out in accordance with Council Decision concerning access for consultation of the Visa Information System (VIS) by the authorities of 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, in strict compliance with the rules governing the protection of personal data.</p>
	<p>3. This Regulation is without prejudice to the communication of information on any criminal activity, detected by the authorities referred to in Article 4 in the course of their duties, to the authorities responsible for internal security for the purposes of preventing, investigating and prosecuting the related criminal offences</p>
<p style="text-align: center;">ARTICLE 2 Definitions</p> <p>For the purposes of this Regulation, the following definitions shall apply:</p> <p>(1) 'visa' means:</p> <p style="padding-left: 20px;">(a) 'short stay visa' as defined in Article 11(1)(a) of the Convention implementing the Agreement of 14 June 1985 on the gradual abolition of checks at common borders (hereinafter referred to as "the Schengen Convention");</p> <p style="padding-left: 20px;">(b) 'transit visa' as defined in Article 11(1)(b) of the Schengen Convention;</p>	<p style="text-align: center;">ARTICLE 2 Definitions</p> <p>For the purposes of this Regulation, the following definitions shall apply:</p> <p>(1) 'visa' means:</p> <p style="padding-left: 20px;">(a) 'short stay visa' as defined in Article 11(1)(a) of the Convention implementing the Agreement of 14 June 1985 on the gradual abolition of checks at common borders (hereinafter referred to as "the Schengen Convention");</p> <p style="padding-left: 20px;">(b) 'transit visa' as defined in Article 11(1)(b) of the Schengen Convention;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(c) 'airport transit visa' as defined in part I, point 2.1.1, of the Common Consular Instructions on visas for the diplomatic missions and consular posts (hereinafter referred to as "the Common Consular Instructions");</p> <p>(d) 'visa with limited territorial validity' as defined in Article 11(2) of the Schengen Convention;</p> <p>(e) 'national long-stay visa valid concurrently as a short-stay visa' as defined in Article 18 of the Schengen Convention;</p>	<p>(c) 'airport transit visa' as defined in part I, point 2.1.1, of the Common Consular Instructions on visas for the diplomatic missions and consular posts (hereinafter referred to as "the Common Consular Instructions");</p> <p>(d) 'visa with limited territorial validity' as defined in Articles 11(2), 14 and 16 of the Schengen Convention;</p> <p>(e) 'national long-stay visa valid concurrently as a short-stay visa' as defined in Article 18 of the Schengen Convention;</p>
<p>(2) 'visa sticker' means the uniform format for visas as defined by Regulation (EC) No 1683/95.</p>	<p>(2) 'visa sticker' means the uniform format for visas as defined by Regulation (EC) No 1683/95.</p>
<p>(3) 'visa authorities' means the authorities of each Member State which are responsible for examining applications and for decisions taken thereto or for decisions whether to annul, revoke or extend visas.</p>	<p>(3) 'visa authorities' means the authorities which in each Member State are responsible for examining and for taking decisions on applications or for decisions whether to annul, revoke or extend visas , including the central visa authorities and the authorities responsible for issuing visas at the border in accordance with Council Regulation (EC) 415/2003.</p>
<p>(4) 'application form' means the uniform application form for visas in Annex 16 to the Common Consular Instructions.</p>	<p>(4) 'application form' means the uniform application form for visas in Annex 16 to the Common Consular Instructions.</p>
<p>(5) 'applicant' means a third country national who has lodged an application for a visa.</p>	<p>(5) 'applicant' means any person subject to the visa requirement pursuant to Council Regulation (EC) 539/2001, who has lodged an application for a visa.</p>
<p>(6) 'third country national' means any person who is not a citizen of the European Union within the meaning of Article 17(1) of the EC Treaty.</p>	<p>(6) deleted</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(7) 'group members' means other applicants with whom the applicant is travelling together, including the spouse and the children accompanying the applicant.	(7) 'group members' means applicants who are obliged for legal reasons to enter and leave the territory of the Member States together.
(8) 'travel document' means a passport or other equivalent document, entitling the holder to cross the external borders and to which a visa may be affixed	(8) 'travel document' means a passport or other equivalent document, entitling the holder to cross the external borders and to which a visa may be affixed
(9) 'Member State responsible' means the Member State which has entered the data in the VIS.	(9) 'Member State responsible' means the Member State which has entered the data in the VIS.
(10) 'verification' means the process of comparison of sets of data to establish the validity of a claimed identity (one-to-one check).	(10) 'verification' means the process of comparison of sets of data to establish the validity of a claimed identity (one-to-one check).
(11) 'identification' means the process of determining a person's identity through a data base search against multiple sets of data (one-to-many check).	(11) 'identification' means the process of determining a person's identity through a data base search against multiple sets of data (one-to-many check).
	(11a) 'alphanumeric data' means data represented by letters, digits, special characters, space and punctuation marks.
ARTICLE 3 Categories of data	ARTICLE 3 Categories of data
1. Only the following categories of data shall be recorded in the VIS: <ul style="list-style-type: none"> (a) alphanumeric data on the applicant and on visas requested, issued, refused, annulled, revoked or extended; (b) photographs; 	1. Only the following categories of data shall be recorded in the VIS: <ul style="list-style-type: none"> a) alphanumeric data on the applicant and on visas requested, issued, refused, annulled, revoked or extended referred to in Articles 6(1) - 6(4) and Articles 7- 12; (b) photographs referred to in Article 6(5);

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(c) fingerprint data;</p> <p>(d) links to other applications.</p>	<p>(c) fingerprint data referred to in Article 6(6);</p> <p>(d) links to other applications referred to in Article 5(3) and 5(4).</p>
<p>2. The messages transmitted by the infrastructure of the VIS, referred to in Article 14, Article 21(2) and Article 22(2), shall not be recorded in the VIS, without prejudice to the recording of the data processing operations pursuant to Article 28.</p>	<p>2. The messages transmitted by the infrastructure of the VIS, referred to in Article 14, Article 21(2) and Article 22(2), shall not be recorded in the VIS, without prejudice to the recording of the data processing operations pursuant to Article 28</p>
<p style="text-align: center;">ARTICLE 4</p> <p style="text-align: center;">Access for entering, amending, deleting and consulting data</p> <p>1. Access to the VIS for entering, amending or deleting the data referred to in Article 3(1) in accordance with this Regulation shall be reserved exclusively to duly authorised staff of the visa authorities.</p>	<p style="text-align: center;">ARTICLE 4</p> <p style="text-align: center;">Access for entering, amending, deleting and consulting data</p> <p>1. Access to the VIS for entering, amending or deleting the data referred to in Article 3(1) in accordance with this Regulation shall be reserved exclusively to duly authorised staff of the visa authorities</p>
<p>2. Access to the VIS for consulting the data shall be reserved exclusively to duly authorised staff of the authorities of each Member State which are competent for the purposes laid down in Articles 13 to 19, limited to the extent the data is required for the performance of the tasks in accordance with these purposes.</p>	<p>2. Access to the VIS for consulting the data shall be reserved exclusively to duly authorised staff of the authorities of each Member State which are competent for the purposes laid down in Articles 13 to 19, limited to the extent the data is required for the performance of the tasks in accordance with these purposes, and proportionate to the objectives pursued.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>3. Each Member State shall designate the competent authorities, the staff of which shall have access to enter, amend, delete or consult data in the VIS. Each Member State shall communicate to the Commission a list of these authorities.</p> <p>The Commission shall publish these lists in the Official Journal of the European Union.</p>	<p>3. Each Member State shall designate the competent authorities, the duly authorised staff of which shall have access to enter, amend, delete or consult data in the VIS. Each Member State shall without delay communicate to the Commission a list of these authorities, including those referred to in Article 17(3) and Article 34(4) and any amendments thereto. That list shall specify for what purpose each authority may process data in the VIS.</p> <p>Within 3 months after the VIS has become operational according to article 38(1), the Commission shall publish a consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once in the same year an updated consolidated list.</p>
<p>CHAPTER II ENTRY AND USE OF DATA BY VISA AUTHORITIES</p>	
<p>ARTICLE 5 Procedures for entering data upon the application</p>	<p>ARTICLE 5 Procedures for entering data upon the application</p>
<p>1. On receipt of an application, the visa authority shall create without delay the application file, by entering the data referred to in Articles 6 and 7 in the VIS.</p> <p>2. When creating the application file, the visa authority shall check in the VIS whether a previous application of the individual applicant has been registered in the VIS by any of the Member States.</p>	<p>1. On receipt of an application, the visa authority shall create without delay the application file, by entering the data referred to in Articles 6 and 7 in the VIS as far as this data is required to be provided by the applicant.</p> <p>2. When creating the application file, the visa authority shall check in the VIS, in accordance with Article 13, whether a previous application of the individual applicant has been registered in the VIS by any of the Member States.</p>

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3. If a previous application has been registered, the visa authority shall link each new application file to the previous application file on that applicant.	3. If a previous application has been registered, the visa authority shall link each new application file to the previous application file on that applicant.
4. If the applicant is travelling in a group with other applicants, the visa authority shall create an application file for each applicant and link the application files of the group members.	4. If the applicant is travelling in a group or with his spouse and/or children, the visa authority shall create an application file for each applicant and link the application files of the persons travelling together
	5. Where particular data is not required to be provided for legal reasons or factually cannot be provided, the specific data field(s) shall be marked as ‘not applicable’.
ARTICLE 6 Data upon lodging the application The visa authority shall enter the following data in the application file:	ARTICLE 6 Data upon lodging the application The visa authority shall enter the following data in the application file:
(1) the application number.	(1) the application number.
(2) status information, indicating that a visa has been requested.	(2) status information, indicating that a visa has been requested.
(3) the authority to which the application has been lodged, and whether the application has been lodged to that authority on behalf of another Member State.	(3) the authority to which the application has been lodged, including its location, and whether the application has been lodged to that authority representing another Member State.
(4) the following data to be taken from the application form:	(4) the following data to be taken from the application form:
(a) surname, surname at birth (earlier surname(s)); first names; sex; date, place and country of birth;	(a) surname, surname at birth (earlier surname(s)); first names; sex; date, place and country of birth;

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(b) current nationality and nationality at birth;	(b) current nationality and nationality at birth;
(c) type and number of the travel document, the authority which issued it and the date of issue and of expiry;	(c) type and number of the travel document, the authority which issued it and the date of issue and of expiry;
(d) place and date of the application;	(d) place and date of the application;
(e) type of visa requested;	(e) type of visa requested;
(f) details of the person issuing an invitation or liable to pay the costs of living during the stay, being	(f) details of the person issuing an invitation and/or liable to pay the costs of living during the stay, being;
(i) in the case of a natural person, surname, first name and address of the person;	(i) in the case of a natural person, the surname and first name and address of the person;
(ii) in the case of a company, the name of the company and surname and first name of the contact person in that company	(ii) in the case of a company or other organisation, the name and address of the company/other organisation, surname and first name of the contact person in that company / organisation.
	(g) main destination and duration of the intended stay;
	(h) purpose of travel;
	(i) intended date of arrival and departure;
	(j) intended border of first entry or transit route;
	(k) residence;
	(l) current occupation and the employer; for students: name of school;

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	(m) surname and first name(s) of the applicant' father and mother.
(5) the photograph of the applicant, in accordance with Regulation (EC) No 1683/95.	(5) the photograph of the applicant, in accordance with Regulation (EC) No 1683/95;
(6) fingerprints of the applicant, in accordance with the relevant provisions of the Common Consular Instructions.	(6) fingerprints of the applicant, in accordance with the relevant provisions of the Common Consular Instructions;
<p style="text-align: center;">ARTICLE 7</p> <p style="text-align: center;">Additional data in case of a consultation between central authorities</p> <p>If consultation between central authorities is required by any of the Member States according to Article 17(2) of the Schengen Convention, the visa authority shall enter the following additional data to be taken from the application form:</p>	deleted
(1) main destination and duration of the intended stay	
(2) purpose of travel.	
(3) date of arrival and departure.	
(4) border of first entry or transit route.	
(5) residence.	
(6) current occupation and the employer; for students: name of school.	
(7) surname and first name(s) of the applicants father and mother.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">ARTICLE 8 Data to be added for a visa issued</p> <p>1. Where a decision has been taken to issue a visa, the competent visa authority shall add the following data to the application file:</p>	<p style="text-align: center;">ARTICLE 8 Data to be added for a visa issued</p> <p>1. Where a decision has been taken to issue a visa, the visa authority that issued the visa, shall add the following data to the application file:</p>
<p>(a) status information indicating that the visa has been issued, replacing the status information that the visa has been requested;</p>	<p>(a) status information indicating that the visa has been issued;</p>
<p>(b) the authority that issued the visa, and whether that authority issued it on behalf of another Member State;</p>	<p>(b) the authority that issued the visa, including its location, and whether that authority issued it on behalf of another Member State;</p>
<p>(c) date and place where the visa was issued;</p>	<p>(c) place and date of the decision to issue the visa;</p>
<p>(d) the type of visa;</p>	<p>(d) the type of visa;</p>
<p>(e) the number of the visa sticker;</p>	<p>(e) the number of the visa sticker;</p>
<p>(f) the territory in which the holder of the visa is entitled to travel, in accordance with the relevant provisions of the Common Consular Instructions;</p>	<p>(f) the territory in which the holder of the visa is entitled to travel, in accordance with the relevant provisions of the Common Consular Instructions;</p>
<p>(g) the period of validity of the visa;</p>	<p>(g) the commencement and expiry dates of the validity period of the visa;</p>
<p>(h) the number of entries authorised by the visa in the territory for which the visa is valid;</p>	<p>(h) the number of entries authorised by the visa in the territory for which the visa is valid;</p>
<p>(i) the duration of the stay as authorised by the visa;</p>	<p>(i) the duration of the stay as authorised by the visa;</p>

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	(j) if applicable, the information indicating that the visa has been issued on a separate sheet in accordance with Regulation (EC) No. 333/2002.
2. If an application is withdrawn before a decision has been taken whether to issue a visa, the visa authority to which the application was lodged shall replace the status information that the visa has been requested by the status information that the application has been withdrawn, indicating the date of the withdrawal.	2. If an application is withdrawn or not further pursued by the applicant before a decision has been taken whether to issue a visa, the visa authority to which the application was lodged shall indicate that the application has been closed for these reasons and the date when the application was closed.
<p style="text-align: center;">ARTICLE 9</p> <p style="text-align: center;">Data to be added in case of a refusal to examine the application</p> <p>In case of a refusal to examine the application, the visa authority to which the application was lodged shall add the following data to the application file:</p>	<p style="text-align: center;">ARTICLE 9</p> <p style="text-align: center;">Data to be added in case of discontinuing the examination of the application</p> <p>In circumstances where the visa authority representing another Member State is forced to discontinue the examination of the application it shall add the following data to the application file:</p>
(1) status information indicating that the examination of the application has been refused, replacing the status information that the visa has been requested.	(1) status information indicating that the examination of the application has been discontinued.
(2) the authority that refused the examination of the application and whether this decision was taken on behalf of another Member State.	(2) the authority that discontinued the examination of the application, including its location.
(3) place and date of the decision.	(3) place and date of the decision to discontinue the examination.
(4) the Member State competent to examine the application.	(4) the Member State competent to examine the application.

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<p style="text-align: center;">ARTICLE 10 Data to be added for a visa refused</p> <p>1. Where a decision has been taken to refuse a visa, the competent visa authority shall add the following data to the application file:</p> <p>(a) status information indicating that the visa has been refused, replacing the status information that the visa has been requested;</p> <p>(b) the authority that refused the visa and whether this decision was taken on behalf of another Member State;</p> <p>(c) place and date of the decision.</p>	<p style="text-align: center;">ARTICLE 10 Data to be added for a visa refused</p> <p>1. Where a decision has been taken to refuse a visa, then visa authority which refused the visa, shall add the following data to the application file:</p> <p>(a) status information indicating that the visa has been refused;</p> <p>(b) the authority that refused the visa, including its location;</p> <p>(c) place and date of the decision to refuse the visa.</p>

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<p>2. The application file shall also indicate the ground(s) for refusal of the visa, which shall be one or more of the following:</p> <ul style="list-style-type: none"> (a) failure to submit a valid travel document; (b) failure to submit documents proving the purpose and conditions of the intended stay, failure to prove the possession of sufficient means for subsistence during the stay or failure to prove that the applicant is in a position to acquire such means lawfully; (c) an alert on the applicant for the purposes to refuse entry; 	<p>2. The application file shall also indicate the ground(s) for refusal of the visa, which shall be one or more of the following:</p> <ul style="list-style-type: none"> (a) has no valid travel documents; (b) has a false/counterfeit/forged travel document; (c) does not justify the purpose and conditions of stay; in particular is considered to represent a specific risk to illegal immigration because he/she does not present credible information or documents and/or sufficiently persuasive information or document;¹ (d) has already stayed for three months during a 6-month period on the territory of the Member States of the European Union; (e) does not have sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit; (f) is a person for whom an alert has been issued for the purposes of refusing entry: <ul style="list-style-type: none"> - in the SIS; - in the national register,

¹ **BE, DK, FR and AT** preferred maintaining the previous wording:
"(c) does not justify the purpose and conditions of stay; in particular does not present credible information or documents and/or is considered to represent a specific risk to illegal immigration;"

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<p>(d) the applicant constitutes a threat to public policy, internal security, public health or the international relations of any of the Member States.</p>	<p>(g) the applicant is considered to constitute a threat to public policy, internal security, or the international relations of any of the Member States, or to public health, as defined in Article 2(19) of the Schengen Borders Code</p>
<p style="text-align: center;">ARTICLE 11 Data to be added for a visa annulled or revoked</p> <p>1. Where a decision has been taken to annul or to revoke a visa, the competent visa authority shall add the following data to the application file:</p>	<p style="text-align: center;">ARTICLE 11 Data to be added for a visa annulled or revoked or its validity period shortened</p> <p>1. Where a decision has been taken to annul or to revoke a visa, or to shorten the validity period of the visa, the visa authority that has taken this decision shall add the following data to the application file:</p>
<p>(a) status information indicating that the visa has been annulled or revoked, replacing the status information that the visa has been issued;</p>	<p>(a) status information indicating that the visa has been annulled or revoked or the validity period has been shortened;</p>
<p>(b) authority that annulled or revoked the visa and whether this decision was taken on behalf of another Member State;</p>	<p>(b) authority that annulled or revoked the visa or shortened the validity period of the visa, including its location;</p>
<p>(c) place and date of the decision;</p>	
<p>(d) the reduced period of validity of the visa, if appropriate;</p>	<p>(d) the new expiry date of the validity of the visa, if appropriate;</p>
	<p>(e) the number of the visa sticker, if the reduced period takes the form of a new visa sticker.</p>

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2. The application file shall also indicate the grounds for annulment or revocation of the visa, which shall be:	2. The application file shall also indicate the ground(s) for annulment, revocation or shortening the validity period of the visa, which shall be:
(a) in the case of annulment or revocation, one or more of the grounds listed in Article 10(2);	
(b) in the case of a decision to shorten the length of the period of validity of the visa, one or more of the following:	(b) in the case of a decision to shorten, the validity period of the visa, one or more of the following:
(i) for the purposes of the expulsion of the applicant;	(i) for the purposes of the expulsion of the visa holder;
(ii) absence of adequate means of subsistence for the initially intended duration of the stay.	(ii) absence of adequate means of subsistence for the initially intended duration of the stay
	1
ARTICLE 12 Data to be added for a visa extended	ARTICLE 12 Data to be added for a visa extended
1. Where a decision has been taken to extend a visa, the competent visa authority shall add the following data to the application file:	1. Where a decision has been taken to extend a visa, the visa authority which extended the visa shall add the following data to the application file:
(a) status information indicating that the visa has been extended, replacing the status information that the visa has been issued;	(a) status information indicating that the visa has been extended;

¹ Recalling the general wish among delegations of not jeopardizing a rapid adoption of the VIS Regulation, the **Chair** suggested that a joint Council-EP declaration be drawn up committing the Commission to report on the misuse of visa and malpractice of sponsors. **DE** noted that Germany maintained its wish to add provisions on data to be added in the case of misuse of a visa. **DK, AT** and **EL** supported **DE**, while welcoming the idea of an explicitly worded declaration.

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(b) the authority that extended the visa and whether this decision was taken on behalf of another Member State;	(b) the authority that extended the visa, including its location;
(c) place and date of the decision;	(c) place and date of the decision;
(d) the number of the visa sticker, if the extension of the visa shall take the form of a new visa sticker;	(d) the number of the visa sticker, if the extension of the visa takes the form of a new visa (...);
(e) period of the extension of the validity;	(e) the commencement and expiry dates of the extended period;
(f) period of the extension of the authorised duration of the stay;	(f) period of the extension of the authorised duration of the stay;
	(g) the territory in which the holder of the visa is entitled to travel, in accordance with the relevant provisions of the Common Consular Instructions;
	(h) the type of the visa extended.

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<p>2. The application file shall also indicate the grounds for extending the visa, which shall be one or more of the following:</p> <ul style="list-style-type: none"> (a) force majeure; (b) humanitarian reasons; (c) serious occupational reasons; (d) serious personal reasons. 	<p>2. The application file shall also indicate the grounds for extending the visa, which shall be one or more of the following:</p> <ul style="list-style-type: none"> (a) force majeure; (b) humanitarian reasons; (c) serious occupational reasons; (d) serious personal reasons.
<p style="text-align: center;">ARTICLE 13</p> <p style="text-align: center;">Use of the VIS for examining applications</p> <p>1. The competent visa authority shall consult the VIS for the purposes of the examination of applications and the decisions relating to those applications in accordance with the relevant provisions of the Common Consular Instructions.</p>	<p style="text-align: center;">ARTICLE 13</p> <p style="text-align: center;">Use of the VIS for examining applications</p> <p>1. The competent visa authority shall consult the VIS for the purposes of the examination of applications and the decisions relating to those applications including the decision whether to annul, revoke extend or shorten the validity of the visa in accordance with the relevant provisions.</p>
<p>2. For the purposes referred to in paragraph 1, the competent visa authority shall be given access to search with one or several of the following data:</p>	<p>2. For the purposes referred to in paragraph 1, the competent visa authority shall be given access to search with one or several of the following data:</p>
<p>(a) the application number;</p>	<p>(a) the application number;</p>
<p>(b) the data referred to in Article 6(4)(a);</p>	<p>(b) the data referred to in Article 6(4)(a);</p>

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(c) the data on the travel document, referred to in Article 6(4)(c);	(c) the data on the travel document, referred to in Article 6(4)(c);
(d) the name of the person or company referred to in Article 6(4)(f);	(d) the surname, first name and address of the natural person and the name and address of the company/other organisation, referred to in Article 6(4)(f);¹
(e) photographs;	(e) deleted
(f) fingerprints;	(f) fingerprints;
(g) the number of the visa sticker of any previous visa issued.	(g) the number of the visa sticker and date of issuance of any previous visa issued.
3. If the search with one or several of the data listed in paragraph 2 indicates that data on the applicant is recorded in the VIS, the visa authority shall be given access to the application file and the linked application file(s), solely for the purposes referred to in paragraph 1.	3. If the search with one or several of the data listed in paragraph 2 indicates that data on the applicant is recorded in the VIS, the visa authority shall be given access to the application file(s) pursuant to Article 5(3) and 5(4), and the linked application file(s), solely for the purposes referred to in paragraph 1.
<p style="text-align: center;">ARTICLE 14</p> <p style="text-align: center;">Use of the VIS for consultation and requests for documents</p> <p>1. For the purposes of consultation between central national authorities on applications according to Article 17(2) of the Schengen Convention, the consultation request and the responses thereto shall be transmitted in accordance with paragraph 2.</p>	<p style="text-align: center;">ARTICLE 14</p> <p style="text-align: center;">Use of the VIS for consultation and requests for documents</p> <p>1. For the purposes of consultation between central national authorities on applications according to Article 17(2) of the Schengen Convention, the consultation request and the responses thereto shall be transmitted in accordance with paragraph 2.</p>

¹ This provision has been reworded in order to clarify what data can be used as search keys.

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<p>2. The Member State which is responsible for examining the application shall transmit the consultation request with the application number to the VIS, indicating the Member State or the Member States to be consulted.</p> <p>The VIS shall transmit the request to the Member State or the Member States indicated.</p> <p>The Member State or the Member States consulted shall transmit the response to the VIS, which shall transmit that response to the Member State which launched the request.</p>	<p>2. The Member State which is responsible for examining the application shall transmit the consultation request with the application number to the VIS, indicating the Member State or the Member States to be consulted.</p> <p>The VIS shall transmit the request to the Member State or the Member States indicated.</p> <p>The Member State or the Member States consulted shall transmit the response to the VIS, which shall transmit that response to the Member State which launched the request.</p>
<p>3. The procedure set out in paragraph 2 may also apply for the transmission of information on the issuance of visas with limited territorial validity and other messages related to the consular cooperation as well as for the transmission of requests to the competent visa authority to forward copies of travel documents and other documents supporting the application.</p>	<p>3. The procedure set out in paragraph 2 may also apply for the transmission of information on the issuance of visas with limited territorial validity and other messages related to the consular cooperation as well as for the transmission of requests to the competent visa authority to forward copies of travel documents and other documents supporting the application and for the transmission of electronic copies of these documents. The competent visa authorities shall respond to the request without delay.</p>
<p>4. The personal data transmitted pursuant to this Article shall be solely used for the consultation of central national authorities and consular cooperation.</p>	<p>4. The personal data transmitted pursuant to this Article shall be solely used for the consultation of central national authorities and consular cooperation.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">ARTICLE 15</p> <p style="text-align: center;">Use of data for reporting and statistics</p> <p>The competent visa authorities shall have access to consult the following data, solely for the purposes of reporting and statistics:</p>	<p style="text-align: center;">ARTICLE 15</p> <p style="text-align: center;">Use of data for reporting and statistics</p> <p>The competent visa authorities shall have access to consult the following data, solely for the purposes of reporting and statistics without allowing the identification of individual applicants:</p>
(1) status information;	(1) status information;
(2) the competent authorities;	(2) the competent visa authorities, including its location;
(3) current nationality of the applicant;	(3) current nationality of the applicant;
(4) border of first entry;	(4) border of first entry;
(5) date and place of the application or the decision concerning the visa;	(5) date and place of the application or the decision concerning the visa;
(6) the type of visa requested or issued;	(6) the type of visa requested or issued;
(7) the type of the travel document;	7) the type of the travel document;
(8) the grounds indicated for any decision concerning the visa or visa application;	(8) the grounds indicated for any decision concerning the visa or visa application;
(9) the competent authority and the date of the decision refusing any previous visa application.	(9) the competent visa authority, including its location, which refused the visa application and the date of the refusal;
	(9a) the cases in which the same applicant applied for a visa from more than one competent authority, indicating the competent visa authorities, their location and the dates of refusals.
	(10) purpose of travel.

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<p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">USE OF DATA BY OTHER AUTHORITIES</p>	
<p style="text-align: center;">ARTICLE 16</p> <p style="text-align: center;">Use of data for checks on visas</p> <p>1. The competent authorities for carrying out checks at external borders and within the territory of the Member State, shall have access to search with the following data, for the sole purpose of verifying the identity of the person and/or the authenticity of the visa:</p>	<p style="text-align: center;">Article 16</p> <p style="text-align: center;">Access to data for verification at the external border crossing points</p> <p>(1) For the sole purpose of verifying the identity of the holder of the visa and/or the authenticity of the visa and/or whether the conditions for entry to the territory of the Member States according to Article 5 of the Schengen Borders Code are fulfilled the competent authorities for carrying out checks at external border crossing points in accordance with the Schengen Borders Code shall have access to search with</p>
<p>(a) the data referred to in Article 6(4)(a);</p>	<p>(a) the number of the visa sticker, in combination with verification of the fingerprints of the holder of the visa, or</p>
<p>(b) data on the travel document, referred to in Article 6(4)(c);</p> <p>(c) photographs;</p> <p>(d) fingerprints;</p> <p>(e) the number of the visa sticker.</p>	<p>(b) the number of the visa sticker.</p> <p>(c) deleted;</p> <p>(d) deleted</p> <p>(e) deleted .</p>
	<p>This search shall be carried out only with the number of the visa sticker for visa holders who are exempted from providing fingerprints in accordance with the relevant provisions of the Common Consular Instructions.</p>

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<p>2. If the search with one or several of the data the listed in paragraph 1 indicates that data on the applicant is recorded in the VIS, the competent authority shall be given access to consult the following data of the application file as well as of linked application file(s) of group members, for the sole purpose referred to in paragraph 1:</p>	<p>2. If the search with the data listed in paragraph 1 indicates that data on the holder of the visa is recorded in the VIS, the competent border control authority shall be given access to consult the following data of the application file as well as of linked application file(s) pursuant to Article 5(4), solely for the purposes referred to in paragraph 1:</p>
<p>(a) the status information and the data taken from the application form, referred to in Article 6(2), (4) and Article 7;</p>	<p>(a) the status information and the data taken from the application form, referred to in Article 6(2) and (4);</p>
<p>(b) photographs;</p>	<p>(b) photographs;</p>
<p>(c) fingerprints;</p>	<p>(c) deleted</p>
<p>(d) the data entered in respect of any visa previously issued, annulled, revoked or extended.</p>	<p>(d) the data entered in respect of the visa(s) issued, annulled, revoked or whose validity is extended or shortened, referred to in Articles 8, 11 and 12.</p>
	<p>3. In circumstances where verification of the holder of the visa or of the visa fails or where there are doubts as to the identity of the visa holder, the authenticity of the visa and/or the travel document, the duly authorised staff of these competent authorities shall have access according to Article 17 (1) and (2).</p>

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	<p style="text-align: center;">Article 16A</p> <p style="text-align: center;">Access to data for verification within the territory of the Member States</p> <p>1. For the sole purpose of verifying the identity of the holder of the visa and/or the authenticity of the visa and/whether the conditions for entry, stay and residence on the territory of the Member States are fulfilled, the authorities competent for carrying out checks within the territory of the Member States whether the conditions for the entry, stay and residence on the territory of Member States are fulfilled, shall have access to search with the number of the visa sticker in combination with verification of fingerprints of the holder of the visa, or the number of the visa sticker.</p>
	<p>2. If the search with the data listed in paragraph 1 indicates that data on the holder of the visa is recorded in the VIS, the competent authority shall be given access to consult the following data of the application file as well as of linked application file(s) pursuant to Article 5(4), solely for the purposes referred to in paragraph 1:</p>
	<p>(a) the status information and the data taken from the application form, referred to in Article 6(2) and (4);</p>
	<p>(b) photographs.</p>
	<p>(c) the data entered in respect of the visa(s) issued, annulled, revoked or whose validity is extended or shortened, referred to in Articles 8, 11 and 12.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p>3. In circumstances where verification of the holder of the visa or of the visa fails or where there are doubts as to the identity of the visa holder, the authenticity of the visa and/or the travel document, the duly authorised staff of these competent authorities shall have access according to Article 17.</p>
<p style="text-align: center;">ARTICLE 17 Use of data for identification and return of illegal immigrants</p> <p>1. The competent immigration authorities shall have access to search with the following data, solely for the purposes of identification and return of illegal immigrants:</p>	<p style="text-align: center;">ARTICLE 17 Access to data for identification</p> <p>1. Solely for the purpose of identification of any person who may not, or may no longer fulfil the conditions for the entry, stay and residence on the territory of the Member States the authorities competent for carrying out checks at external border crossing points in accordance with the Schengen Borders Code or within the territory of the Member States whether the conditions for the entry, stay and residence on the territory of the Member States are fulfilled, shall have access to search with the fingerprints, Where the fingerprints of this person cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in Article 6(4)(a) and/or (c); this search may be carried out in combination with the data referred to in Article 6(4)(b).</p>
(a) the data referred to in Article 6(4)(a);	deleted
(b) photographs;	deleted
(c) fingerprints.	deleted

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>2. If the search with one or several of the data listed in paragraph 1 indicates that data on the applicant is recorded in the VIS, the competent authority shall be given access to consult the following data of the application file and the linked application file(s), solely for the purposes referred to in paragraph 1:</p>	<p>2. If the search with the data listed in paragraph 1 indicates that data on the applicant is recorded in the VIS, the competent authority shall be given access to consult the following data¹ of the application file and the linked application file(s), pursuant to Article 5(3) and (4) solely for the purposes referred to in paragraph 1:</p>
<p>(a) the status information and the authority to which the application was lodged;</p>	<p>(a) the application number, the status information and the authority to which the application was lodged;</p>
<p>(b) the data taken from the application form, referred to in Article 6(4) and Article 7;</p>	<p>(b) the data taken from the application form, referred to in Article 6(4) and Article 7;</p>
<p>(c) photographs;</p>	<p>(c) photographs;</p>
<p>(d) the data entered in respect of any visa previously issued, refused, annulled, revoked or extended.</p>	<p>(d) the data entered in respect of any visa issued, refused, annulled, revoked or whose validity is extended, or shortened, or of applications for which the examination has been discontinued, referred to in Articles 8 to 12.</p>
	<p>3. The consultation of the VIS pursuant to paragraphs 1 and 2 shall be carried out only by designated national authorities.</p>

¹ ES wished to be able to add fingerprints in order to retrieve it from the VIS for practical reasons. COM queried why the retrieval of fingerprints would be necessary in the cases referred to by ES as the persons would be physically present. COM also recalled the problem of allowing the transfer of data to third countries.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">ARTICLE 18</p> <p style="text-align: center;">Use of data for determining the responsibility for asylum applications</p> <p>1. The competent asylum authorities shall have access to search with the following data for the sole purpose of determining the Member State responsible for examining an asylum application according to Article 9 of Regulation (EC) No 343/2003:</p>	<p style="text-align: center;">ARTICLE 18</p> <p style="text-align: center;">Access to data for determining the responsibility for asylum applications</p> <p>1. For the sole purpose of determining the Member State responsible for examining an asylum application according to Article 9 and 21 of Regulation (EC) No. 343/2003, the competent asylum authorities shall have access to search with the fingerprints of the asylum seeker. Where the fingerprints of this person cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in Article 6(4)(a) and/or (c); this search may be carried out in combination with the data referred to in Article 6(4)(b).</p>
(a) the data referred to in Article 6(4)(a);	
(b) photographs;	
(c) fingerprints.	
<p>2. If the search with one or several of the data listed in paragraph 1 indicates that a visa issued with an expiry date of no more than six months before the date of the asylum application, and/or a visa extended to an expiry date of no more than six months before the date of the asylum application, is recorded in the VIS, the competent authority shall be given access to consult the following data on such visa, for the sole purpose referred to in paragraph 1:</p>	<p>2. If the search with the data listed in paragraph 1 indicates that a visa issued with an expiry date of no more than six months before the date of the asylum application, and/or a visa extended to an expiry date of no more than six months before the date of the asylum application, is recorded in the VIS, the competent asylum authority shall be given access to consult the following data of the application file, and as regards the data listed in subparagraph (f) of the spouse and children, pursuant to Article 5 (4), for the sole purpose referred to in paragraph 1:</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(a) the authority that issued or extended the visa;	(a) the application number and the authority that issued or extended the visa, and whether the authority issued it on behalf of another Member State ;
	(aa) the data taken from the application form, referred to in Article 6(4) (a) and (b);
(b) the type of visa;	(b) the type of visa;
(c) the period of validity of the visa;	(c) the period of validity of the visa;
(d) the duration of the stay;	(d) the duration of the stay;
(e) photographs.	(e) photographs;
	(f) the data referred to in Article 6(4)(a) and (b) of the linked application file(s) on the spouse and children.
	3. The consultation of the VIS pursuant to paragraphs 1 and 2 shall be carried out only by the designated national authorities referred to in Article 21(6) of Regulation (EC) No 343/2003.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">ARTICLE 19</p> <p style="text-align: center;">Use of data for examining the application for asylum</p> <p>1. The competent asylum authorities shall have access in accordance with Regulation (EC) No 343/2003 to search with the following data, for the sole purpose of examining an application for asylum:</p>	<p style="text-align: center;">ARTICLE 19</p> <p style="text-align: center;">Access to data for examining the application for asylum</p> <p>1. For the sole purpose of examining an application for asylum, the competent asylum authorities shall have access in accordance with Article 21 of Regulation (EC) No 343/2003 to search with the fingerprints of the asylum seeker. Where the fingerprints of this person cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in Article 6(4)(a) and/or (c); this search may be carried out in combination with the data referred to in Article 6(4)(b).</p>
(a) the data referred to in Article 6(4)(a);	(a) deleted
(b) photographs;	(b) deleted
(c) fingerprints.	(c) deleted
<p>2. If the search with one or several of the data listed in paragraph 1 indicates that data on the applicant is recorded in the VIS, the competent authority shall have access to consult the following data of the application file and the linked application file(s), for the sole purpose referred to in paragraph 1:</p>	<p>2. If the search with the data listed in paragraph 1 indicates that a visa issued is recorded in the VIS, the competent asylum authority shall have access to consult the following data of the application file and linked application files of the applicant pursuant to Article 5(3), and, as regards the data listed in subparagraph (e) of the spouse and children pursuant to Article 5 (4), for the sole purpose referred to in paragraph 1:</p>
(a) the status information and the authority to which the application has been lodged;	(a) the application number;
(b) the data taken from the application form, referred to in Article 6(4) and Article 7;	(b) the data taken from the application form, referred to in Article 6(4) (a), (b) and (c);

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(c) photographs;	(c) photographs;
(d) the data entered in respect of any visa previously issued, refused, annulled, revoked or extended, or in respect of the refusal to examine the application.	(d) the data entered in respect of any visa issued, , annulled, revoked, or the validity of which is extended or shortened, referred to in Articles 8, 11 and 12;
	(e) the data referred to in Article 6(4)(a) and (b) of the linked application file(s) on the spouse and children.
	3. The consultation of the VIS pursuant to paragraphs 1 and 2 shall be carried out only by the designated national authorities referred to in Article 21(6) of Regulation (EC) No 343/2003.
CHAPTER IV RETENTION AND AMENDMENT OF THE DATA	
Article 20 Retention period for data storage	Article 20 Retention period for data storage
1. Each application file shall be stored in the VIS for five years, without prejudice to the deletion referred to in Article 21 and Article 22 and to the keeping of records referred to in Article 28. That period shall start:	1. Each application file shall be stored in the VIS for a maximum of five years, without prejudice to the deletion referred to in Article 21 and Article 22 and to the keeping of records referred to in Article 28. That period shall start:
(a) with the expiry date of the visa, if a visa has been issued;	(a) with the expiry date of the visa, if a visa has been issued;
(b) with the new expiry date of the visa, if a visa has been annulled, revoked or extended;	(b) with the new expiry date of the visa, if a visa has been extended;

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(c) on the date of the creation of the application file in the VIS, if a visa or the examination of the application has been refused, or the application has been withdrawn.	(c) on the date of the creation of the application file in the VIS, if the application has been withdrawn, closed or discontinued
	(d) on the date of the decision of the visa authority if a visa has been refused, annulled shortened or revoked.
2. Upon expiry of the period referred to in paragraph 1, the VIS shall automatically delete the application file and the link(s) to this file.	2. Upon expiry of the period referred to in paragraph 1, the VIS shall automatically delete the application file and the link(s) to this file as referred to in Article 5(3) and (4).
Article 21 Amendment of data	Article 21 Amendment of data
1. Only the Member State responsible shall have the right to amend data which it has transmitted to the VIS, by up-dating, supplementing or correcting such data, or to delete it pursuant to paragraph 3 of this Article or to Article 22.	1. Only the Member State responsible shall have the right to amend data, which it has transmitted to the VIS by correcting or deleting such data.
2. If a Member State has evidence to suggest that data processed in the VIS is inaccurate or that data was processed in the VIS contrary to this Regulation, it shall advise the Member State responsible immediately. Such message may be transmitted by the infrastructure of the VIS	2. If a Member State has evidence to suggest that data processed in the VIS is inaccurate or that data was processed in the VIS contrary to this Regulation, it shall inform the Member State responsible immediately. Such message may be transmitted by the infrastructure of the VIS
3. The Member State responsible shall check the data concerned and, if necessary, amend or delete it immediately.	3. The Member State responsible shall check the data concerned and, if necessary, correct or delete it immediately.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 22 Advance data deletion</p> <p>1. Application files and the links relating to an applicant who has acquired the nationality of any Member State before expiry of the period referred to in Article 20(1) shall be deleted from the VIS immediately as the Member State responsible becomes aware that the applicant has acquired such nationality.</p>	<p style="text-align: center;">Article 22 Advance data deletion</p> <p>1. Where before expiry of the period referred to in Article 20(1) an applicant has acquired the nationality of any Member State, application files and the links referred to in Article 5(3) and (4) relating to him or her shall be deleted from the VIS by the Member State which created the respective application file(s) without delay.</p>
<p>2. Each Member State shall advise the Member State responsible immediately, if an applicant has acquired its nationality. Such message may be transmitted by the infrastructure of the VIS.</p>	<p>2. Each Member State shall inform the Member State(s) responsible without delay, if an applicant has acquired its nationality. Such message may be transmitted by the infrastructure of the VIS.</p>
	<p>3. If the refusal of a visa has been cancelled by a court or an appeal board, the Member State which refused the visa shall delete the data referred to in Article 10 without delay as the decision to cancel the refusal of the visa becomes final.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
CHAPTER V OPERATION AND RESPONSIBILITIES	
Article 23 Operational management	Article 23 Operational management
<p>1. The Commission shall be responsible for establishing and operating the Central Visa Information System and the communication infrastructure between the Central Visa Information System and the National Interfaces.</p> <p>2. The data shall be processed by the VIS on behalf of the Member States.</p>	<p>1. After a transitory period, a management authority (the "Management Authority"), funded by the budget of the European Union, shall be responsible for the operational management of the Central VIS and the National Interfaces. The Management Authority shall ensure, in cooperation with the Member States, that at all times the best available technology, subject to a cost-benefit analysis, is used for the Central VIS and the National Interfaces.</p> <p>2. The Management Authority shall also be responsible for the following tasks related to the Communication Infrastructure between the Central VIS and the National Interfaces:</p> <ul style="list-style-type: none"> (a) supervision; (b) security; (c) the coordination of relations between the Member States and the provider. <p>3. The Commission shall be responsible for all other tasks related to the Communication Infrastructure between the Central VIS and the National Interfaces, in particular:</p> <ul style="list-style-type: none"> (a) tasks relating to implementation of the budget; (b) acquisition and renewal; (c) contractual matters.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>3. In relation to the processing of personal data in the VIS, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC. Each Member State shall communicate this authority to the Commission</p>	<p>4. During a transitional period before the Management Authority takes up its responsibilities, the Commission shall be responsible for the operational management of the VIS. The Commission may delegate that task and tasks relating to the implementation of the budget, in accordance with the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹, to national public sector bodies, in two different countries.</p>
	<p>5. Each national public sector body, as referred to in paragraph 3, must comply in particular with the following selection criteria:</p> <ul style="list-style-type: none"> (a) it must demonstrate that it has lengthy experience in operating a large-scale information system; (b) it must have considerable expertise in the service and security requirements of a large-scale information system; (c) it must have sufficient and experienced staff with the appropriate professional expertise and linguistic skills to work in an international cooperation environment such as required by the VIS; (d) it must have a secure and custom-built facility infrastructure able, in particular to back-up and guarantee the continuous functioning of large-scale information systems; and (e) its administrative environment must allow it to implement its tasks properly and avoid any conflict of interests.

¹ Official Journal L 248 of 16/09/2002, p. 1-48.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	6. Prior to any delegation as referred to in paragraph 4 and at regular intervals thereafter, the Commission shall inform the European Parliament and the Council of the terms of the delegation, its precise scope, and the bodies to which tasks are delegated
	7. Where the Commission delegates its responsibility pursuant to paragraph 4, it shall ensure that this delegation fully respects the limits set by the institutional system laid out in the Treaty. It shall ensure, in particular, that this delegation does not adversely affect any effective control mechanism under Community law, whether of the Court of Justice, the Court of Auditors or the European Data Protection Supervisor.
	8. Operational management of the VIS shall consist of all the tasks necessary to keep the VIS functioning on a 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary for the smooth running of the system. ¹
	9. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Communities, the Management Authority shall apply appropriate rules of professional secrecy or other equivalent obligations of confidentiality to all its staff required to work with VIS data. This obligation shall also apply after this staff leave office or employment or after the termination of their activities.

¹ **FR** maintained this suggestion for alternative wording: "to ensure that the system continues to display the existing operational quality, in particular as regards the time required for interrogation of the central database by consular posts, which should not in any case exceed ten minutes." **COM** recalled that the present wording had been agreed upon with EP in relation to the "SIS II" Regulation and moreover such implementing measures should not be covered in the legislative text.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p style="text-align: center;">Article 23A Location of the Central Visa Information System</p> <p>The principal Central VIS, which carries out technical supervision and administration, is located in Strasbourg (France) and a backup Central VIS, capable of ensuring all functionalities of the principal Central VIS in case of failure of this system, is located in Sankt Johann in Pongau (Austria).</p>
<p style="text-align: center;">Article 24 Relation to the National Systems</p> <p>1. The VIS shall be connected to the National System of each Member State via the National Interface in the Member State concerned.</p>	<p style="text-align: center;">Article 24 Relation to the National Systems</p> <p>1. The VIS shall be connected to the National System of each Member State via the National Interface in the Member State concerned.</p>
<p>2. Each Member State shall designate a national authority, which shall provide the access of the competent authorities referred to in Article 4(1) and (2) to the VIS, and connect that national authority to the National Interface</p>	<p>2. Each Member State shall designate a national authority, which shall provide the access of the competent authorities referred to in Article 4(1) and (2) to the VIS, and connect that national authority to the National Interface.</p>
<p>3. Each Member State shall observe automated procedures for processing the data.</p>	<p>3. Each Member State shall observe automated procedures for processing the data.</p>
<p>4. Each Member State shall be responsible for:</p>	<p>4. Each Member State shall be responsible for:</p>
<p>(a) the development of the National System and/or its adaptation to the VIS according to Article 2(2) of Decision 2004/512/EC;</p>	<p>(a) the development of the National System and/or its adaptation to the VIS according to Article 2(2) of Decision 2004/512/EC;</p>
<p>(b) the organisation, management, operation and maintenance of its National System;</p>	<p>(b) the organisation, management, operation and maintenance of its National System;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(c) the management and arrangements for access of duly authorised staff of the competent national authorities to the VIS in accordance with this Regulation.	(c) the management and arrangements for access of duly authorised staff of the competent national authorities to the VIS in accordance with this Regulation and to establish and regularly up-date a list of this staff and its profiles.
(d) bearing the costs incurred by the National Systems and the costs for their connection to the National Interface, including the investment and operational costs for the communication infrastructure between the National Interface and the National System.	(d) bearing the costs incurred by the National Systems and the costs for their connection to the National Interface, including the investment and operational costs for the communication infrastructure between the National Interface and the National System.
	4a. Before being authorised to process data stored in the VIS, staff of the authorities with a right to access the VIS shall receive appropriate training about data-security and data-protection rules and shall be informed of any relevant criminal offence and penalties.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 25 Responsibility for the use of data</p> <p>1. Each Member State shall ensure that the data is processed lawfully. The Member State responsible shall ensure in particular that:</p>	<p style="text-align: center;">Article 25 Responsibilities for the use of data</p> <p>1. Each Member State shall ensure that the data is processed lawfully in particular that only duly authorised staff have access to data processed in the VIS for the performance of the tasks in accordance with this Regulation. The Member State responsible shall ensure in particular that:</p>
<p>(a) the data is collected lawfully;</p> <p>(b) the data is transmitted lawfully to the VIS;</p> <p>(c) the data is accurate and up-to-date when it is transmitted to the VIS.</p>	<p>(a) the data is collected lawfully;</p> <p>(b) the data is transmitted lawfully to the VIS;</p> <p>(c) the data is accurate and up-to-date when it is transmitted to the VIS.</p>
<p>2. The Commission shall ensure that the VIS is operated in accordance with this Regulation and its implementing rules. In particular, the Commission shall:</p>	<p>2. The Management Authority shall ensure that the VIS is operated in accordance with this Regulation and its implementing rules referred to in Art. 36 (2). In particular, the Management Authority shall:</p>
<p>(a) take the necessary measures to ensure the security of the Central Visa Information System and the communication infrastructure between the Central Visa Information System and the National Interfaces, without prejudice to the responsibilities of each Member State;</p>	<p>(a) take the necessary measures to ensure the security of the Central Visa Information System and the communication infrastructure between the Central Visa Information System and the National Interfaces, without prejudice to the responsibilities of each Member State;</p>
<p>(b) ensure that only duly authorised staff has access to data processed in the VIS for the performance of the tasks of the Commission in accordance with this Regulation.</p>	<p>(b) ensure that only duly authorised staff has access to data processed in the VIS for the performance of the tasks of the Management Authority in accordance with this Regulation.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
3. The Commission shall inform the European Parliament and the Council of the measures it takes pursuant to paragraph 2.	3. The Management Authority shall inform the European Parliament, the Council and the Commission of the measures it takes pursuant to paragraph 2.
	<p style="text-align: center;">Article 25A</p> <p style="text-align: center;">Copying of VIS data</p> <p>1. Without prejudice to the use of VIS data in accordance with the purposes of the VIS, no copies of VIS data shall be made.</p>
	2. Paragraph 1 shall not prejudice the right of a Member State to keep in its national files data which that Member State has entered in the VIS.
	3. Any use of data which does not comply with paragraphs 1 to 2 shall be considered as misuse under the national law of each Member State.
	<p style="text-align: center;">Article 25B</p> <p>Data processed in the VIS pursuant to this Regulation shall not be transferred or made available to a third country or an international organisation, except when using the results of an identification according to Article 17 in relationship with a third country.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 26 Data security</p> <p>1. The Member State responsible shall ensure the security of the data before and during the transmission to the National Interface. Each Member State shall ensure the security of the data it receives from the VIS.</p>	<p style="text-align: center;">Article 26 Data security</p> <p>1. The Member State responsible shall ensure the security of the data before and during the transmission to the National Interface. Each Member State shall ensure the security of the data it receives from the VIS.</p>
<p>2. Each Member State shall take the necessary measures to:</p> <p>(a) prevent any unauthorised person from having access to national installations in which the Member State carries out operations in accordance with the purposes of the VIS (checks at entrance to the installation);</p>	<p>2. Each Member State shall take the necessary measures to:</p> <p>(a) prevent any unauthorised person from having access to national installations in which the Member State carries out operations in accordance with the purposes of the VIS (checks at entrance to the installation);</p>
	<p>(aa) physically protect data including by making contingency plans for the protection of critical infrastructure;</p>
<p>(b) prevent data and data media from being read, copied, modified or deleted by unauthorised persons (control of data media);</p>	<p>(b) prevent data and data media from being read, copied, modified or deleted by unauthorised persons (control of data media);</p>
<p>(c) ensure that it is possible to check and establish what data has been processed in the VIS, when and by whom (control of data recording);</p>	<p>(c) ensure that it is possible to check and establish what data has been processed in the VIS, when, by whom and for what purpose (control of data recording);</p>
	<p>(ca) ensure that the VIS may be accessed with individual and unique identities of the duly authorised staff and confidential passwords only;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
(d) prevent the unauthorised processing of data in the VIS and any unauthorised modification or deletion of data processed in the VIS (control of data entry);	(d) prevent the unauthorised processing of data in the VIS and any unauthorised modification or deletion of data processed in the VIS (control of data entry);
(e) ensure that, in using the VIS, authorised persons have access only to data which is within their competence (control of access);	(e) ensure that, in using the VIS, authorised persons have access only to data which is within their competence (control of access);
(f) ensure that it is possible to check and establish the authorities to which data recorded in the VIS may be transmitted by data transmission equipment (control of transmission);	(f) ensure that it is possible to check and establish the authorities to which data recorded in the VIS may be transmitted by data transmission equipment (control of transmission);
(g) prevent the unauthorised reading, copying, modification or deletion of data during the transmission of data to or from the VIS (control of transport).	(g) prevent the unauthorised reading, copying, modification or deletion of data during the transmission of data to or from the VIS, in particular by appropriate encryption techniques (control of transport).
	(ga) monitor the effectiveness of the security measures referred to in this paragraph.
3. The Commission shall take measures equivalent to those mentioned in paragraph 2 as regards the operation of the VIS.	3. The Management Authority shall take measures equivalent to those mentioned in paragraph 2 as regards the operation of the VIS. in conformity with the IT data-security standard referred to in Article 36 (2) (e)

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 27 Liability</p> <p>1. Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act incompatible with this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.</p>	<p style="text-align: center;">Article 27 Liability</p> <p>1. Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act incompatible with this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.</p>
<p>2. If failure of a Member State to comply with its obligations under this Regulation causes damage to the VIS, that Member State shall be held liable for such damage, unless and insofar as the Commission failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.</p>	<p>2. If failure of a Member State to comply with its obligations under this Regulation causes damage to the VIS, that Member State shall be held liable for such damage, unless and insofar as the Management Authority failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.</p>
<p>3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the provisions of national law of the defendant Member State.</p>	<p>3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the provisions of national law of the defendant Member State.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 28 Keeping of records</p> <p>1. Each Member State and the Commission shall keep records of all data processing operations within the VIS. These records shall show the purpose of access referred to in Article 4(1) and in Articles 13 to 19, the date and time, the data transmitted, the data used for interrogation and the name of the authority entering or retrieving the data. In addition, each Member State shall keep records of the persons responsible for putting in or retrieving the data.</p>	<p style="text-align: center;">Article 28 Keeping of records</p> <p>1. Each Member State and the Management Authority shall keep records of all data processing operations within the VIS. These records shall show the purpose of access referred to in Article 4(1) and in Articles 13 to 19, the date and time, the transmission of data, the data used for interrogation and the name of the authority entering or retrieving the data. In addition, each Member State shall keep records of staff duly authorised to put in or retrieve the data.</p>
<p>2. Such records may be used only for the data-protection monitoring of the admissibility of data processing as well as to ensure data security. The records shall be protected by appropriate measures against unauthorised access and deleted after a period of one year after the retention period referred to in Article 20(1) has been expired, if they are not required for monitoring procedures which have already begun.</p>	<p>2. Such records may be used only for the data-protection monitoring of the admissibility of data processing as well as to ensure data security. The records shall be protected by appropriate measures against unauthorised access and deleted after a period of one year after the retention period referred to in Article 20(1) has been expired, if they are not required for monitoring procedures which have already begun.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p style="text-align: center;">Article 28a Self-monitoring</p> <p>Member States shall ensure that each authority entitled to access to the VIS data shall take the measures necessary to comply with this Regulation and cooperates, where necessary, with the National Supervisory Authority, as referred to in Article 34 (1) .</p>
<p style="text-align: center;">Article 29 Penalties</p> <p>The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation relating to data protection and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date of the notification referred to in Article 37(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.</p>	<p style="text-align: center;">Article 29¹ Sanctions</p> <p>The Member States shall lay down the rules on penalties or other sanctions applicable to infringements of the provisions of this Regulation relating to data security and data protection and shall take all measures necessary to ensure that they are implemented. Serious infringements shall constitute a criminal offence. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date of the notification referred to in Article 37 at the latest and shall notify it without delay of any subsequent amendment affecting them.</p>

¹ It was agreed that third pillar experts were to examine this text. However, the Presidency suggests the following compromise text which is in line with the final version of the SIS II Regulation (PE-CONS 3662/06), Article 49, as agreed among Council and the European Parliament and which would avoid any reference to criminal offences:

"Penalties

Member States shall ensure that any misuse of data entered in the VIS is subject to effective, proportionate and dissuasive penalties in accordance with national law."

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">CHAPTER VI</p> <p style="text-align: center;">RIGHTS AND SUPERVISION ON DATA PROTECTION</p>	
<p style="text-align: center;">Article 30 Right of information</p> <p>1. Applicants and the persons referred to in Article 6(4)(f) shall be informed of the following by the Member State responsible:</p>	<p style="text-align: center;">Article 30 Right of information</p> <p>1. Applicants and the persons referred to in Article 6(4)(f) shall be informed of the following by the Member State responsible:</p>
<p>(a) the identity of the controller referred to in Article 23(3) and of his representative, if any;</p>	<p>(a) the identity of the controller referred to in Article 23(3),</p>
<p>(b) the purposes for which the data will be processed within the VIS;</p>	<p>(b) the purposes for which the data will be processed within the VIS;</p>
<p>(c) the recipients of the data;</p>	<p>(c) the categories of recipients of the data;</p>
	<p>(d) the data retention period;</p>
<p>(d) that the taking of the data is mandatory for the examination of the application;</p>	<p>(e) that the taking of the data is mandatory for the examination of the application;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>(e) the existence of the right of access to, and the right to rectify, the data concerning that person.</p>	<p>(f) the existence of the right of access to data relating to them, and the right to request that inaccurate data relating to them be corrected or that unlawfully processed data relating to them be deleted, including the right to get information on the procedures for exercising those rights and contact details of the national supervisory authorities referred to in Article 34 (4), which shall hear claims concerning the protection of personal data.</p>
<p>2. The information referred to in paragraph 1 shall be provided to the applicant when the data from the application form, the photograph and the fingerprint data as referred to in Article 6(4), (5), (6) and Article 7 are taken.</p>	<p>2. The information referred to in paragraph 1 shall be provided in writing to the applicant when the data from the application form, the photograph and the fingerprint data as referred to in Article 6(4), (5), (6) and Article 7 are taken.</p>
<p>3. The information referred to in paragraph 1 shall be provided to the persons referred to in Article 6(4)(f) in the forms to be signed by those persons providing proof of invitation, sponsorship and accommodation.</p>	<p>3. The information referred to in paragraph 1 shall be provided to the persons referred to in Article 6(4)(f) in the forms to be signed by those persons providing proof of invitation, sponsorship and accommodation.</p> <p>Where there are not such a form signed by those persons, this information shall be provided in accordance with Article 11 of Directive 95/46/EC.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 31 Right of access, correction and deletion</p> <p>1. Without prejudice to the obligation to provide other information in accordance with Article 12(a) of Directive 95/46/EC, any person shall have the right to obtain communication of the data relating to him recorded in the VIS and of the Member State which transmitted it to the VIS. Such access to data may be granted only by a Member State.</p>	<p style="text-align: center;">Article 31 Right of access, correction and deletion</p> <p>1. Without prejudice to the obligation to provide other information in accordance with Article 12(a) of Directive 95/46/EC, any person shall have the right to obtain communication of the data relating to him recorded in the VIS and of the Member State which transmitted it to the VIS. Such access to data may be granted only by a Member State. Each member state shall record any requests for such access.</p>
<p>2. Any person may request that data relating to him which is inaccurate be corrected or that data recorded unlawfully may be deleted. The correction and deletion shall be carried out without delay by the Member State responsible, in accordance with its laws, regulations and procedures.</p>	<p>2. Any person may request that data relating to him which is inaccurate be corrected and that data recorded unlawfully be deleted. The correction and deletion shall be carried out without delay by the Member State responsible, in accordance with its laws, regulations and procedures.</p>
<p>3. If the request is made to a Member State, other than the Member State responsible, the authorities of the Member State to which the request has been lodged shall contact the authorities of the Member State responsible. The Member State responsible shall check the accuracy of the data and the lawfulness of its processing in the VIS.</p>	<p>3. If the request as provided for in paragraph 2 is made to a Member State, other than the Member State responsible, the authorities of the Member State to which the request has been lodged shall contact the authorities of the Member State responsible within a time limit of 14 days. The Member State responsible shall check the accuracy of the data and the lawfulness of its processing in the VIS within a time limit of one month.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>4. If it emerges that data recorded in the VIS are inaccurate or have been recorded unlawfully, the Member State responsible shall correct or delete the data in accordance with Article 21(3). The Member State responsible shall confirm in writing to the person concerned without delay that it has taken action to correct or delete data relating to him.</p>	<p>4. If it emerges that data recorded in the VIS are inaccurate or have been recorded unlawfully, the Member State responsible shall correct or delete the data in accordance with Article 21(3). The Member State responsible shall confirm in writing to the person concerned without delay that it has taken action to correct or delete data relating to him.</p>
<p>5. If the Member State responsible does not agree that data recorded in the VIS is inaccurate or has been recorded unlawfully, it shall explain in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him.</p>	<p>5. If the Member State responsible does not agree that data recorded in the VIS is inaccurate or has been recorded unlawfully, it shall explain in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him.</p>
<p>6. The Member State responsible shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation provided. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any financial or other assistance that is available in accordance with the laws, regulations and procedures of that Member State.</p>	<p>6. The Member State responsible shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation provided. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the national supervisory authorities referred to in Article 34 (1), that is available in accordance with the laws, regulations and procedures of that Member State.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 32 Cooperation to ensure the rights on data protection</p> <p>1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 31(2), (3) and (4).</p> <p>2. In each Member State, the national supervisory authority shall assist and, where requested, advise the person concerned in exercising his/her right to correct or delete data relating to him/her in accordance with Article 28(4) of Directive 95/46/EC.</p> <p>3. The national supervisory authority of the Member State responsible which transmitted the data shall assist and, where requested, advise the person concerned in exercising his/her right to correct or erase the data relating to him. Both national supervisory authorities shall cooperate to this end. The person concerned may also apply for assistance and advice to the independent supervisory authority referred to in Article 35.</p>	<p style="text-align: center;">Article 32¹ Cooperation to ensure the rights on data protection</p> <p>1. The Member States shall cooperate actively to enforce the rights laid down in Article 31(2), (3) and (4).</p> <p>2. In each Member State, the national supervisory authority shall upon request assist and, advise the person concerned in exercising his/her right to correct or delete data relating to him/her in accordance with Article 28(4) of Directive 95/46/EC.</p> <p>3. The national supervisory authority of the Member State responsible which transmitted the data and the national supervisory authorities of the Member States to which the request has been lodged shall cooperate to this end.</p>
<p style="text-align: center;">Article 33 Remedies</p> <p>1. In each Member State any person shall have the right to bring an action or a complaint before the competent courts of that Member State if he is refused the right of access to or the right of correction or deletion of data relating to him, provided for in Article 31(1) and (2).</p> <p>2. The obligations of the national supervisory authorities to assist and, where requested, advise the person concerned, in accordance with Article 32(3), shall subsist throughout the proceedings.</p>	<p style="text-align: center;">Article 33 Remedies</p> <p>1. In each Member State any person shall have the right to bring an action or a complaint before the competent authorities or courts of that Member State which refused the right of access to or the right of correction or deletion of data relating to him, provided for in Article 31(1) and (2).</p> <p>2. The assistance of the national supervisory authorities referred to in Article 32(2) shall subsist throughout the proceedings.</p>

¹ NL: scrutiny reservation in relation to Articles 32 (2)(3), 33 (2), 34. 35 and 35A.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 34 National supervisory authority</p> <p>Each Member State shall require the national supervisory authority or authorities established in accordance with Article 28(1) of Directive 95/46/EC to monitor independently, in accordance with its national law, the lawfulness of the processing, in accordance with this Regulation, of personal data by the Member State in question, including their transmission to and from the VIS.</p>	<p style="text-align: center;">Article 34 Supervision by the National Supervisory Authority</p> <p>1. The authority or authorities designated in each Member State and endowed with the powers referred to in Article 28 of Directive 95/46/EC (the "National Supervisory Authority") shall monitor independently the lawfulness of the processing of personal data, referred to in Article 3 (1), by the Member State in question, including their transmission to and from the VIS.</p>
	<p>2. The National Supervisory Authority shall ensure that, at least every four years, an audit of the data processing operations in the National System is carried out in accordance with relevant international auditing standards at least every four years.</p>
	<p>3. Member States shall ensure that the National Supervisory Authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.</p>
	<p>4. In relation to the processing of personal data in the VIS, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate this authority to the Commission.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p>5. Each Member State shall supply any information requested by the national supervisory authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 24 and 25(1), grant them access to the lists referred to in Article 24(4)(c) and to their records as referred to in Article 28 and allow them access at all times to all their premises.</p>
<p style="text-align: center;">Article 35 Independent Supervisory Authority</p> <p>1. The European Data Protection Supervisor as established by Article 41(1) of Regulation (EC) No 45/2001 shall monitor the activities of the Commission to ensure that the rights of persons covered by this Regulation are not violated by the processing of data in the VIS, including that the personal data is transmitted lawfully between the National Interfaces and the Central Visa Information System.</p>	<p style="text-align: center;">Article 35 Supervision by the European Data Protection Supervisor</p> <p>1. The European Data Protection Supervisor shall check that the personal data processing activities of the Management Authority are carried out in accordance with this Regulation. The duties and powers referred to in Articles 46 and 47 of Regulation (EC) No. 45/2001 shall apply accordingly.</p>
<p>2. In the performance of its tasks, the European Data Protection Supervisor shall, if necessary, be actively supported by the national supervisory authorities.</p>	<p>2. The European Data Protection Supervisor shall ensure that an audit of the Management Authority's personal data processing activities is carried out in accordance with relevant international auditing standards at least every four years. A report of such audit shall be sent to the European Parliament, the Council, the Management Authority, the Commission and the National Supervisory Authorities. The Management Authority shall be given an opportunity to make comments before the report is adopted.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>3. The Commission shall supply information requested by the European Data Protection Supervisor, give him /him access to all documents and to its records referred to in Article 28(1) and allow him/her access to all its premises, at all times.</p>	<p>3. The Management Authority shall supply information requested by the European Data Protection Supervisor, give him /her access to all documents and to its records referred to in Article 28(1) and allow him/her access to all its premises, at any time.</p>
	<p style="text-align: center;">Article 35A Cooperation between National Supervisory Authorities and the EDPS</p> <p>1. The National Supervisory Authorities and the European Data Protection Supervisor, each acting within the scope of their respective competences, shall cooperate actively in the framework of their responsibilities and shall ensure coordinated supervision of the VIS and the National Systems.</p>
	<p>2. They shall, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, study problems with the exercise of independent supervision or in the exercise of the rights of the data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as may be needed.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p>3. The National Supervisory Authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs and servicing of these meetings shall be for the account of the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.</p>
	<p>4. A joint report of activities shall be sent to the European Parliament, the Council, the Commission and the Management Authority every two years. This report shall include a chapter of each Member State prepared by the National Supervisory Authority of this Member State.</p>
	<p style="text-align: center;">Article 35B</p> <p style="text-align: center;">Data protection during the transitional period</p> <p>Where the Commission delegates its responsibilities during the transitional period to another body, pursuant to Article 23(4), it shall ensure that the European Data Protection Supervisor has the right and is able to fully exercise his tasks, including the possibility to carry out on-the-spot checks on the spot or to exercise any other power conferred on him by Article 47 of Regulation (EC) No 45/2001.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
CHAPTER VII FINAL PROVISIONS	
Article 36 Implementation	Article 36 Implementation by the Commission
<p>1. The Central Visa Information System, the National Interface in each Member State and the communication infrastructure between the Central Visa Information System and the National Interfaces shall be implemented in two phases. In the first phase, the functionalities for processing alphanumeric data and the photographs, as referred to in Article 3(1)(a) and (b), shall be implemented by 31 December 2006 at the latest. In the second phase, the functionalities for processing the biometric data referred to in Article 3(1)(c) shall be implemented by 31 December 2007 at the latest.</p>	<p>1. The Central Visa Information System, the National Interface in each Member State and the communication infrastructure between the Central Visa Information System and the National Interfaces shall be implemented by the Commission as soon as possible after the entry into force of this Regulation, including the functionalities for processing the biometric data referred to in Article 3(1)(c).</p>
<p>2. The measures necessary for the technical implementation of the functionalities referred to in paragraph 1 shall be adopted in accordance with the procedure referred to in Article 39(2).</p>	<p>2. The measures necessary for the technical implementation of the Central Visa Information System, the National Interfaces and the communication infrastructure between the Central Visa Information System and the National Interfaces shall be adopted in accordance with the procedure referred to in Article 39(2), in particular:</p>
	<p>(a) for entering the data and linking applications in accordance with Article 5;</p>
	<p>(b) for accessing the data in accordance with Article 13 and Articles 15-19;</p>
	<p>(c) for amending, deleting and advance deleting of data in accordance with Articles 20-22;</p>
	<p>(d) for keeping and accessing the records in accordance with Article 28;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	(e) the identification and implementation of an IT data-security standard and the implementation of the other rules on data security referred to in Article 26 (3);
	(f) for the consultation mechanism and the procedures referred to in Article 14.
	<p style="text-align: center;">Article 36A</p> <p style="text-align: center;">Integration of the technical functionalities of the Schengen consultation network</p> <p>The consultation mechanism referred to in Article 14 shall replace the Schengen Consultation Network from the date determined in accordance with the procedure referred to in Article 39(2a) when all those Member States which use the Schengen Consultation Network at the date of entry into force of this regulation, have notified the legal and technical arrangements to use the VIS for the purpose of consultation between central visa authorities on visa applications according to Article 17(2) of the Schengen Convention.¹</p>
<p style="text-align: center;">Article 37 Start of transmission</p> <p>1. Each Member State shall notify the Commission that it has made the necessary technical and legal arrangements to transmit data to the Central Visa Information System via the National Interface in accordance with Article 36.</p>	<p style="text-align: center;">Article 37 Start of transmission</p> <p>Each Member State shall notify the Commission that it has made the necessary technical and legal arrangements to transmit the data referred to in Article 3(1) to the Central Visa Information System via the National Interface.</p>

¹ DE was of a using the VIS for the purpose of consultation from an earlier stage and suggested a transitional arrangement whereby the two system could run in parallel during this period. This issue will be dealt with as a separate item at the meeting of the Visa Working Party on 8-9 January 2007.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
2. The Member States referred to in Article 38 shall start to collect and enter the data by the date referred to in that Article.	
3. A Member State which notifies that it has made the necessary arrangements after the date referred to in Article 38, shall start to collect and enter the data by the date specified in the notification to the Commission.	
4. No Member State shall consult the data transmitted by other Member States to the VIS before it starts entering data in accordance with paragraphs 2 and 3.	
<p style="text-align: center;">Article 38 Start of operations</p> <p>When the measures referred to in Article 36(2) have been adopted in respect of the first phase of implementation and at least five Member States have notified the Commission that they have made the necessary technical and legal arrangements to transmit data to the VIS in accordance with Article 37(1) the Commission shall determine the date from which the VIS is to start operations. It shall publish that date in the Official Journal of the European Union.</p>	<p style="text-align: center;">Article 38 Start of operations</p> <p>1. The Commission shall determine the date from which the VIS is to start operations, when:</p> <ul style="list-style-type: none"> (a) the measures referred to in Article 36(2) have been adopted; (b) the Commission has declared the successful completion of a comprehensive test of the VIS, which shall be conducted by the Commission together with Member States; (c) following validation of technical arrangements, the Member States have notified the Commission that they have made the necessary technical and legal arrangements to collect and transmit the data referred to in Article 3(1) to the VIS for all applications in the first region determined according to paragraph 3, including arrangements for the collection and/or transmission of the data on behalf of another Member State.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
	<p>2. In each other region, the Commission shall determine the date from which the transmission of the data in Article 3(1) becomes mandatory when Member States have notified the Commission that they made the necessary technical and legal arrangements to collect and transmit the data referred to in Article 3(1) to the VIS for all applications in the region concerned, including arrangements for the collection and/or transmission of the data on behalf of another Member State. Before this date, each Member State may start operations in any of these regions, as soon as it has notified to the Commission that it has made the necessary technical and legal arrangements to collect and transmit at least the data referred to in Article 3(1)(a) and (b) to the VIS.</p>
	<p>3. The regions referred to in paragraphs 1 and 2 shall be determined in accordance with the procedure referred to in Article 39 (2a)</p>
	<p>4. The Commission shall publish the dates for the start of operations in each region in the official Journal of the European Union.</p>
	<p>5. No Member State shall consult the data transmitted by other Member States to the VIS before it or another Member State representing this Member State starts entering data in accordance with paragraphs 1 and 2.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 39 Committee</p> <p>1. The Commission shall be assisted by the committee set up by Article 5(1) of Regulation (EC) No 2424/2001.</p>	<p style="text-align: center;">Article 39 Committee¹</p> <p>1. The Commission shall be assisted by the committee set up by Article 35(1) of the SIS II Regulation (EC) No</p>
<p>2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.</p> <p>The period laid down in Article 4(3) of Decision 1999/468/EC shall be two months.</p>	<p>2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.</p> <p>The period laid down in Article 4(3) of Decision 1999/468/EC shall be two months.</p>
	<p>2a. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.</p> <p>The period laid down in Article 5(6) of Decision 1999/468/EC shall be two months.</p>
<p>3. The committee shall adopt its Rules of Procedure.</p>	<p>3. The committee shall adopt its Rules of Procedure.</p>
<p style="text-align: center;">Article 40 Monitoring and evaluation</p> <p>1. The Commission shall ensure that systems are in place to monitor the functioning of the VIS against objectives, in terms of outputs, cost-effectiveness and quality of service</p>	<p style="text-align: center;">Article 40 Monitoring and evaluation</p> <p>1. The Management Authority shall ensure that procedures are in place to monitor the functioning of the VIS against objectives, relating to output, cost-effectiveness, security and quality of service</p>
	<p>2. For the purposes of technical maintenance, the Management Authority shall have access to the necessary information related to the processing operations performed in the VIS.</p>

¹ See introduction.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p>2. Two years after the VIS starts operations and every two years hereafter, the Commission shall submit to the European Parliament and the Council a report on the technical functioning of the VIS. This report shall include information on the performance of the VIS against quantitative indicators predefined by the Commission.</p>	<p>3. Two years after the VIS is brought into operation and every two years thereafter, the Management Authority shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the VIS, including the security thereof.</p>
<p>3. Four years after the VIS starts operations and every four years thereafter, the Commission shall produce an overall evaluation of the VIS including examining results achieved against objectives and assessing the continuing validity of the underlying rationale and any implications of future operations. The Commission shall submit the reports on the evaluations to the European Parliament and the Council.</p>	<p>4. Three years after the VIS is brought into operation and every four years thereafter, the Commission shall produce an overall evaluation of the VIS. This overall evaluation shall include the examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in respect of the VIS, the security of the VIS and any implications of future operations. The Commission shall transmit the evaluation to the European Parliament and the Council.</p>
	<p>5. Member States shall provide the Management Authority and the Commission with the information necessary to draft the reports referred to in paragraph 3 and 4.</p>
	<p>6. The Management Authority shall provide the Commission with the information necessary to produce the overall evaluations referred to in paragraph 4.</p>
	<p>7. During a transitional period before the Management Authority takes up its responsibilities, the Commission shall be responsible for producing and submitting the reports referred to in paragraph 3.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL
<p style="text-align: center;">Article 41 Entry into force and applicability</p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p>	<p style="text-align: center;">Article 41 Entry into force and applicability</p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p>
<p>2. It shall apply from the date referred to in the first paragraph of Article 38.</p>	<p>2. It shall apply from the date referred to in the first paragraph of Article 38.</p>
	<p>2a. Articles 23,23a, 36 and 39 shall apply from the date referred to in paragraph 1.</p>
	<p>2b. During the transitional period referred to in Article 23(4), references in this Regulation to the Management Authority shall be construed as a reference to the Commission</p>
<p>3. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.</p>	<p>3. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community</p>