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of: Visa Working Party/Mixed Committee (EU-Iceland/Norway/Switzerland)
dated: 20 July 2006

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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

1. At its meeting on 20 July 2006 the Visa Working Party examined all Articles of the attached draft Regulation, except for Articles related to the SIS II Regulation or to the draft Decision on access to the VIS for authorities responsible for internal security ("bridging clause" (Article 1A)). Pending the opinion of the Article 29 Committee¹, Article 11A and related provisions were not examined either. The **Chair** noted that recitals will be examined at a later stage, as their content depend on the final content of the Articles.
2. Responding to a question from **NL**, the **Commission representative (COM)** noted that it would be premature to add any text in the draft "VIS Regulation" regarding long term management before discussions on this issue in relation to SIS II had been finalised by the three institutions (a draft joint statement is currently under examination).

¹ This opinion was delivered on 24 July 2006.

3. By way of conclusion the **Chair** listed the following articles/subjects to be submitted to the Strategic Committee on Immigration, Frontiers and Asylum:

a) Article 1 (2) (e) ("*return of illegal immigrants*")

COM noted that the text as formulated by the Presidency clarified that the purpose was not the return but the identification before such return. This would be reflected by keeping only the first line of paragraph (e), i.e. "to assist in the identification.", as VIS is only to be used for identification. In this connection, COM expressed concern in relation to the European Parliament (EP) amendment to Article 41 (page 97).

FR shared this point of view and, referring to Article 17, noted that coherence was lacking. COM agreed that the wording of Article 1(2)(e) and Article 17 should be coherent.

NL noted that until the "Returns Directive" had been adopted, national legislation applied and wondered how it could be ensured that the VIS could be used for that purpose if the reference to return was deleted. **COM** explained that the objective of the VIS is to support identification and provide the conditions for the access for that purpose whereas the use of data would be a matter for other substantive legislation.

The **Council Legal Service representative (CLS)** shared this point of view, emphasising that the legal basis of the VIS Regulation allowed for the identification of persons but could not cover the consequences of such identification. Intrusion into other areas of legislation should be avoided.

ES supported the DE and FR points of view whereas **IT** supported COM and CLS views.

The **Chair** noted that in the light of the views expressed by COM and CLS and for tactical reasons, the Presidency would recommend to delete the last sentence. **ES, FR, and DE** maintained their reservation on the deletion.

b) Article 2 (3) ("*visa authorities*")

COM explained that the concept of the proposal is to give full access to the VIS including for entering data only to decision making authorities. Consular authorities and the authorities responsible for taking decisions whether to annul, revoke or extend visas would, however, have to other other services with the relevant data, when input from such services were needed for the decision making. The purpose of the current text was not to exclude the consultation of such authorities but rather to ensure that the decision making authorities would remain responsible for selecting the information to be passed on. Moreover EP is opposed to extending the access by introducing a wider definition of "visa authorities". Responding to a request from BE, COM noted that security services were not covered by this provision because of the legal basis and that was exactly why the "third pillar decision" was drawn up.

DE agreed to a large extent with the narrow definition, but referred to the cases where the substantial decision on an application is taken by aliens' authorities, like for instance when an applicant was a national of a "sensitive" country.

AT reminded delegations that despite the wishes at national political level, it was necessary to take account of EP's wishes and recommended that the compromise text be accepted, as the bridging clause would provide for ample possibilities for getting access. **IT** supported this point of view **Chair** added that delegations had been informed of that EP could not accept security services' having direct access to VIS, but given that the need for such access existed, it would be dealt with in the "third pillar" instrument.

c) Article 6 (4) (f) (i) *Details on person issuing the invitation*

See text of footnote 10.

d) Article 10 (2) (c) *"false supporting documents"*

The **Chair** took note and the Presidency would reflect on an appropriate formulation.

e) Article 13 (2) (e) and Articles 16-19 *"photograph as search criteria"*

The **Chair** noted that this issue would be submitted to SCIFA to ask for a confirmation of the agreement on this issue obtained in April 2006.

COM recalled the relationship between Article 16, 17, 18 and 19:

- Article 16 provides access to the VIS for VERIFICATION ("one-to-one" checks) by border control authorities as well as within the Member States,
- Article 17 provides access to the VIS for IDENTIFICATION ("one-to-many" checks) by "immigration authorities", i.e. the authorities competent for checking whether the conditions for entry, stay and residence on the territory of Member States, according to Article 4(3);
- Articles 18 and 19 provide access to the competent "asylum authorities" in order to support, but not to change the Dublin mechanism for data exchange (Article 21 of Regulation (EC) No 343/2003). This means that the consultation of the VIS for "Dublin purposes" shall be carried out only through designated national authorities:

DE stressed the need to use fingerprints for border checks and was somewhat puzzled by the amendments to Articles 16(1), noting that it would seem that fingerprints could be used as search criteria in phase 1 and 3 but not in phase 2. DE wished to know whether border authorities when only using alphanumeric data as search criteria in a first step for consultation of the VIS, could use finger prints in the second phase. **COM** noted that according the Presidency proposal the first two search criteria would be the visa sticker number and fingerprints, and only under certain circumstances alphanumeric data on the person and the passport could be used as additional search criteria.

EE was of the opinion that fingerprints should always be a search criteria and Estonia has already foreseen this in the national call for tender.

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Delegations will find attached the draft Regulation as it results from the meeting of the Visa Working Party (middle column) in the form of a three-column table².

² Please note that blank fields in the Presidency proposal column means that there are no changes to the original Commission proposal. The third column contains the draft report of the European Parliament's Rapporteur (April 2006).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
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		
Having regard to the Treaty establishing the European Community, and in particular Article 62 (2)(b)(ii) and Article 66 thereof,		
Having regard to the proposal from the Commission,		
Acting in accordance with the procedure laid down in Article 251 of the Treaty,		
(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.		(1) deleted

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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.		
(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.	(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 and maintain the VIS.	(3) It is now necessary to give the Commission the mandate to set up and maintain during a transitional period 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. (...)
		(3a) Three years at the latest after the start of operation of the VIS, the operational management should be the responsibility of a European Agency for the Operational Management for large-scale IT-systems.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 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 facilitate the visa application procedures and prevent the ‘visa shopping’ and to facilitate the fight against fraud and checks at external borders and within the territory of the Member States. The VIS should also facilitate the identification of any person who may not, or may no longer fulfil the conditions in force for entry to, stay or residence on the territory of the Member States, including for the purpose of returning such persons 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>(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 doing so it should contribute to facilitating and accelerating the visa applications procedure, preventing ‘visa shopping’ and facilitating the fight against fraud. The VIS should also contribute to facilitating checks on visas at external border crossing points and within the territory of the Member States, assisting in the identification of illegal immigrants, facilitating 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 national³ and preventing threats to the internal security of any of the Member States.</p>
	<p>(4A) <u>This Regulation is based on the acquis on the common visa policy.</u></p>	

³ OJ L 50, 25.2.2003, p. 1.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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').		
(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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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.	(9) To ensure (...) verification and identification of visa applicants, it is necessary to process biometric data in the VIS.
		(9a) It is necessary to provide for appropriate fallback procedures as essential safeguards for the introduction of biometrics since biometrics are neither accessible to all nor completely accurate.
(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.		
	(10a) Access to VIS data by authorities responsible for internal security should be regulated in a separate legal instrument adopted under Title VI of the TEU.	(10a) So as to avoid unregulated access, this Regulation is complemented by Council Decision XX concerning access for the consultation of the VIS by 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 (COM (2005) 600).
	(10b) Before being authorised to process data stored on 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 the sanctions.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>(10b)When the competent authorities are carrying out checks within the territory, they should have indirect access to the VIS in accordance with this Regulation. The competent authority that requests access should make its request to the duly authorised authority, which should access the VIS and process the information requested in accordance with this Regulation.</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. Specific retention periods should be laid down, taking into account the various situations occurring in practice and the different types of visa which may be issued. The data should be deleted after the retention period, unless there are grounds to delete it earlier.</p>
		<p>(11a)It is important that checks in the VIS by authorised officials be carried out in such a way as to respect the human dignity and integrity of the applicant. Checks should be necessary, appropriate and proportionate to the objectives pursued.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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.		
(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.		
(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.		
(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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		(15a) Any processing, accessing and use of personal data contained in the VIS should be necessary, appropriate and proportionate to the objectives laid out in this Regulation.
(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.		
	(16a) The European Data Protection Supervisor and the national supervisory authorities should cooperate actively with each other.	(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.		(19) deleted

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(20) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.		
(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.		
(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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>		
<p>(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.</p>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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.		
(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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 style="text-align: center;">CHAPTER I 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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>2. The VIS shall improve the implementation of the common visa policy, consular cooperation and consultation between central visa authorities by facilitating the exchange of data between Member States on applications and on the decisions thereto, in order:</p>	<p style="text-align: center;">Article 1A</p> <p style="text-align: center;">Purpose</p> <p>The VIS shall 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 so doing, it shall contribute:</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>	<p>(a) to facilitating and accelerating the visa application procedure;</p>
<p>(b) to prevent the bypassing of the criteria for the determination of the Member State responsible for examining the application;</p>		<p>(b) to preventing the bypassing of the criteria for the determination of the Member State responsible for examining the application;</p>
<p>(c) to facilitate the fight against fraud;</p>		<p>(c) to facilitating the fight against fraud;</p>
<p>(d) to facilitate checks at external border checkpoints and within the territory of the Member States;</p>	<p>(d) to facilitate checks on visas at external border crossing points of the Member States and within the territory of the Member States;;</p>	<p>(d) to facilitating checks on visas at external border crossing points;</p>
		<p>(e) to facilitating checks on visas within the territory of the Member States;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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, including for the purpose of returning such person ⁴ ;	(f) to assisting in the identification of illegal immigrants;
(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.	(g) to facilitating the application of Regulation (EC) No 343/2003;
		(h) to preventing threats to the internal security of any of the Member States.

⁴ ES, FR, and DE: reservation on deletion (see introduction).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<p style="text-align: center;">Article 1A 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 the designated⁵ authorities responsible for internal security in a specific cases where there are reasonable grounds, based on factual indications⁶, to consider that consultation of VIS data will substantially⁷ contribute to the prevention, detection or investigation of any of the serious⁸ 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>	<p style="text-align: center;">Article 1B Bridging clause</p> <p>1. During the periods laid down in Article 20(1),(1a) and (1b), the visa authorities shall retain the data referred to in Articles 6 to 12 for consultation, in the course of their duties by the authorities responsible for internal security as defined in Council Decision 2006/XXX and Europol, solely for the purposes of the prevention, detection and investigation of serious criminal offences, that is the offences referred to in Articles 1 to 4 of Council Framework Decision 2002/475/JHA on combating terrorism and the offences referred to in Article 2 of, and the Annex to, the Europol Convention only;</p>

⁵ Wording of Article 3(1) of the "3rd pillar instrument".

⁶ **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.

⁷ **ES** and **FR**: reservation on the corresponding wording in Article 5 (1)(d) in the "3rd pillar instrument".

⁸ **DE** expressed its concerns on the insertion of the term "serious".

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<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>2. The consultation referred in paragraph 1 shall be carried out in accordance with Council Decision 2006/XXX and in compliance with at least the following principles:</p> <p>(a) access shall be an exception granted on a case-by-case basis, according to strict and appropriate authorisation procedures and must be necessary, proportionate and appropriate in each case; access may not be routine;</p> <p>(b) the VIS may be consulted at a single national access point only, and, in the case of Europol, at a specialised unit within Europol;</p> <p>(c) two separate lists, and any changes thereto, shall be published, one of the authorities responsible for the internal security of each Member State that may request access to the VIS; and one of the national access points which will consult the VIS on behalf of the former;</p> <p>(d) the application of Council Decision XX is conditional on the prior entry into force of the Council Framework Decision on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters (2005/XX/JI);</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		(e) data contained in the VIS may not under any circumstances be transmitted to third countries
	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	3. The Regulation is without prejudice to the communication, to the authorities responsible for internal security for the purpose of investigating and prosecuting the related criminal offences, of information on any criminal activity detected by the authorities referred to in Article 4 in the course of their duties.
<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>(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>(b) 'transit visa' as defined in Article 11(1)(b) 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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(d) 'visa with limited territorial validity' as defined in Article 11(2) of the Schengen Convention;		
(e) 'national long-stay visa valid concurrently as a short-stay visa' as defined in Article 18 of the Schengen Convention;		
(2) 'visa sticker' means the uniform format for visas as defined by Regulation (EC) No 1683/95.		
(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.	(3) 'visa authorities' means the authorities of each Member State which are responsible for examining and⁹ for taking decisions on applications or for decisions whether to annul, revoke or extend visas take part in taking decisions on applications or whether to annul, revoke or extend visas, including the central visa authorities and the authorities issuing visas at the border in accordance with Council Regulation (EC) 415/2003.	(3) 'visa authorities' means the authorities of each Member State which are responsible for taking decisions on applications or whether to annul, revoke or extend visas, including the central consular authorities and the authorities responsible for issuing visas at the border in accordance with Regulation (EC) No 415/2003.
		(3a) 'immigration authorities' means the competent authorities of each Member State responsible for issuing residence permits and checking the validity of any such permits;
(4) 'application form' means the uniform application form for visas in Annex 16 to the Common Consular Instructions.		

⁹ DE wished to replace "and" by "or" (see introduction). BE comments (notes page 4).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(5) 'applicant' means a third country national who has lodged an application for a visa.	(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.	(5) 'applicant' means any person subject to the visa requirement pursuant to Regulation (EC) No 539/2001 who has lodged an application for a visa;
(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.	(6) deleted	(6) deleted
(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.	(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		
(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).		
(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.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p style="text-align: center;">ARTICLE 3 Categories of data</p> <p>1. Only the following categories of data shall be recorded in the VIS:</p>		
(a) alphanumeric data on the applicant and on visas requested, issued, refused, annulled, revoked or extended;	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;	(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;	(b) photographs referred to in Article 6(5);	
(c) fingerprint data;	(c) fingerprint data referred to in Article 6(6);	
(d) links to other applications.	(d) links to other applications referred to in Article 5(3) and 5(4).	(d) links to other applications referred to in Article 5(3) and 5(4).
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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>2a. Any other use of data that does not comply with this Regulation shall be considered an infringement of this Regulation and as misuse under the national law of the Member State. It shall be sanctioned pursuant to Article 29.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 23(3) 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, 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>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 including those referred to in Article 23(3), and any changes thereto, immediately. That list shall specify for what purpose each authority may process data in the VIS.</p> <p>Within 3 months after the VIS is brought into operation the Commission shall publish in the Official Journal of the European Union a list comprising the competent authorities designated in accordance with the first subparagraph. Where there are any changes thereto, the Commission shall publish once in the same year, in the Official Journal of the European Union, an updated consolidated list. It shall maintain a constantly updated electronic version of the list on its website.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p style="text-align: center;">Article 4a Conduct of checks¹⁰</p> <p>1. All checks made in the VIS, irrespective of the competent authority initiating the check, shall be necessary, appropriate and proportionate to the objectives laid out in this Regulation. Checks shall be carried out in such a way as to fully respect the human dignity and the integrity of the applicant being checked.</p>
		<p>2. While carrying out checks in the VIS the competent authorities shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p>

¹⁰ The **Chair** suggested that this amendment could eventually be added in a recital.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p style="text-align: center;">CHAPTER II</p> <p style="text-align: center;">ENTRY AND USE OF DATA BY VISA AUTHORITIES</p>		
<p style="text-align: center;">ARTICLE 5</p> <p style="text-align: center;">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 style="text-align: center;">ARTICLE 5</p> <p>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 as far as this data is required to be provided by the applicant.</p>	<p style="text-align: center;">Article 5</p> <p>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, 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 whether a previous application of the individual applicant has been registered in the VIS by any of the Member States.</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>	<p>2. When creating the application file, the visa authority shall, in accordance with Article 13, 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>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.</p>		
<p>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.</p>	<p>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</p>	<p>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 those persons.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	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'.	4a. 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'.
<p style="text-align: center;">ARTICLE 6 Data upon lodging the application</p> <p>The visa authority shall enter the following data in the application file:</p>	<p style="text-align: center;">ARTICLE 6 Data upon lodging the application</p> <p>The visa authority shall enter the following data in the application file:</p>	
(1) the application number.		
(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.	(3) the authority to which the application has been lodged, 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:		
(a) surname, surname at birth (earlier surname(s)); first names; sex; date, place and country of birth;		
(b) current nationality and nationality at birth;	(b) current nationality and nationality at birth;	(b) current nationality;
(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;		
(e) type of visa requested;		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(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;	(f) deleted (transferred to Article 7)
(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, sex, date, place of birth and address of the person ¹¹	
(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.	
(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.	(6) fingerprints of the applicant of at least 12 years of age and under 80.

¹¹ **DE** wished to add data concerning the sex, date, place of birth and address of the inviting party. **COM** noted that data on the sex, place and date of birth of the inviting person is not required by the current acquis (the uniform application form). The **Chair** recalled that EP was against going beyond the acquis.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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> <p>(1) main destination and duration of the intended stay</p>	<p style="text-align: center;">ARTICLE 7¹²</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> <p>(1) transferred to Article 6(4)(g)</p>	
<p>(2) purpose of travel.</p>	<p>(2) transferred to Article 6(4)(h)</p>	
<p>(3) date of arrival and departure.</p>	<p>(3) transferred to Article 6(4)(i)</p>	
<p>(4) border of first entry or transit route.</p>	<p>(1) intended border of first entry or transit route</p>	
<p>(5) residence.</p>	<p>(3) residence</p>	
<p>(6) current occupation and the employer; for students: name of school.</p>	<p>(4) current occupation and the employer;</p>	
<p>(7) surname and first name(s) of the applicants father and mother.</p>	<p>(2) surname and first name(s) of the applicants father and mother¹³</p>	

¹² **BE** found that there ought to be a reference to refusals made on the basis of prior consultation under Article 17 (2) of the CSA. **COM** noted that this article deals with the data to be entered upon the lodging of an application and would not be the proper place to talk about the result of the consultation. Article 10 lists the reasons for refusal, and the possible negative effect of a consultation is covered (applicant is considered a threat to public security). **BE** argued that since a negative outcome of the consultation procedure did not automatically mean that a visa was not issued and therefore the information should be registered for the purpose of future applications. The **Chair** noted that a new consultation would have been carried out for all applications and that there was little support for **BE**'s request.

¹³ **IT** questioned on the one hand the practical implications of this provision in relation to data protection. **EL** maintained its request to keep this provision.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>(7a) details of the person issuing an invitation and/or liable to pay the costs of living during the stay, being,</p> <p>(i) in the case of a natural person, surname, first name and address of the person;</p> <p>(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;</p>
<p 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 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>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(c) date and place where the visa was issued;	(c) place and date of the decision to issue the visa;	
(d) the type of visa;		
(e) the number of the visa sticker;		
(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;		
(g) the period of validity of the visa;	(g) the commencement and expiry dates of the validity period of the visa;	
(h) the number of entries authorised by the visa in the territory for which the visa is valid;		
(i) the duration of the stay as authorised by the visa;		
	(j) if applicable, number of the policy of the travel medical insurance ¹⁴ , in accordance with the relevant provisions of the Common Consular Instructions; (k) if applicable, the information indicating that the visa has been issued on a separate sheet in accordance with Regulation (EC) No. 333/2002.	

¹⁴ The **Chair** noted that EP has questioned why this provision has been included as it fails to see the purpose of it. **AT** noted that it is important to add this information as the holder of the visa might have to make use of the health insurance in a Member State different from the one that issued the visa.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>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.</p>	<p>2. If an application is withdrawn by the applicant or the application has been closed for other reasons than those referred to in Article 9 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 and the date where the application was closed.</p>	
<p style="text-align: center;">ARTICLE 9 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>1) status information indicating that the examination of the application has been refused, replacing the status information that the visa has been requested.</p>	<p style="text-align: center;">ARTICLE 9 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> <p>(1) status information indicating that the examination of the application has been discontinued.</p>	
<p>(2) the authority that refused the examination of the application and whether this decision was taken on behalf of another Member State.</p>	<p>(2) the authority that discontinued the examination of the application, including its location.</p>	<p>(2) the authority that refused the examination of the application (...);</p>
<p>(3) place and date of the decision.</p>	<p>(3) place and date of the decision to discontinue the examination.</p>	
<p>(4) the Member State competent to examine the application.</p>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 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 and whether this decision was taken on behalf of another Member State;</p>	<p>(b) the authority that refused the visa, including its location;</p>	<p>(b) the authority that refused the visa (...);</p>
<p>(c) place and date of the decision.</p>	<p>(c) place and date of the decision to refuse the visa.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>	<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>	
<p>(a) failure to submit a valid travel document;</p> <p>(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;</p> <p>(c) an alert on the applicant for the purposes to refuse entry;</p>	<p>(a) has no valid travel documents;</p> <p>(b) has a false/counterfeit/forged travel document;</p> <p>(c) does not justify the purpose and conditions of stay;¹⁵</p> <p>(d) is considered to represent a particular risk to illegal immigration;</p> <p>(e) has already stayed for three months during a 6-month period on the territory of the Member States of the European Union;</p> <p>(f) 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;</p> <p>(g) is a person for whom an alert has been issued for the purposes of refusing entry:</p> <ul style="list-style-type: none"> - in the SIS; - in the national register, 	

¹⁵ **FR** maintained its request that for reasons of coherence the following be added in (2) (c): "or presents false, counterfeit or forged proof", adding that this is an essential issue given the fact that in some locations 60% of all supporting documents are false. **CH, DE** and **EL** supported this. **BE** suggested this alternative formulation to meet the French concerns: "does not present credible documents to justify the purpose and conditions of stay;". **COM** suggested to replace "or presents ... " in the current text by "in particular, presents ...".

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(d) the applicant constitutes a threat to public policy, internal security, public health or the international relations of any of the Member States.	(h) 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	(d) the applicant constitutes 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 Border Code.
		2a. The grounds for refusal referred to in paragraph 2 shall be re-assessed for each new visa application and therefore shall not unjustifiably influence a new decision.
<p align="center">ARTICLE 11</p> <p>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 align="center">ARTICLE 11</p> <p>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>	
(a) status information indicating that the visa has been annulled or revoked, replacing the status information that the visa has been issued;	(a) status information indicating that the visa has been annulled or revoked;	
(b) authority that annulled or revoked the visa and whether this decision was taken on behalf of another Member State;	(b) authority that annulled or revoked the visa or shortened the validity period of the visa, including its location;	(b) authority that annulled or revoked the visa (...);

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(c) place and date of the decision;		
(d) the reduced period of validity of the visa, if appropriate;	(d) the new expiry date of the validity of the visa, if appropriate;	
	(e) the number of the visa sticker, if the reduced period shall take the form of a new visa sticker.	
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;	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(ii) absence of adequate means of subsistence for the initially intended duration of the stay.		
	<p style="text-align: center;">Article 11A¹⁶</p> <p style="text-align: center;"><i>Data to be added for misuse of a visa or failure to comply with a liability to pay the costs of living during the stay</i></p> <p>1. If it is found that the holder of a visa has without authorisation continued to stay in the territory of a Member State following expiry of the visa, has unlawfully taken up employment, there are other grounds which would have justified refusal of the visa, or if a person's liability to pay the costs of living during the stay (Article 6(4)(f)) was not complied with, the central visa authority shall add the following data to the application file:</p>	
	(a) status information indicating that a visa has been issued shall be supplemented with status information indicating that there has been "misuse of the visa" or "failure to comply with the liability to pay the costs of living during the stay",	
	(b) authority which detected the misuse or whose claim arising from a person's liability to pay the costs of living during the stay (Article 6(4)(f)) was not met,	

¹⁶ The **COM** expressed concerns on the introduction of such an additional functionality at this stage of the negotiations with the EP and wondered, in particular, on the practical applications of the measures as well as the impact of these measures on proportionality and data protection principles). **CH, DK** and **FR** expressed their support, in principle, to the **DE** suggestion. **BE**, supported by **EL**, found that it may not be able to implement all these provisions and this fact could eventually create Member States treating the persons concerned differently. **FR**: scrutiny reservation on current drafting. **SE, CZ, IT, EL**: scrutiny reservation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(c) place and date of detection of the misuse,	
	(d) nature of the misuse detected.	
	2. The status information according to paragraph 1 (a) shall be based on a final decision by the competent authority in accordance to national law.	
<p style="text-align: center;">ARTICLE 12 Data to be added for a visa extended</p> <p>1. Where a decision has been taken to extend a visa, the competent visa authority shall add the following data to the application file:</p>	<p style="text-align: center;">ARTICLE 12 Data to be added for a visa extended</p> <p>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:</p>	
(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;	
(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;	(b) the authority that extended the visa (...);
(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;		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(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.	
<p>2. The application file shall also indicate the grounds for extending the visa, which shall be one or more of the following:</p> <p>(a) force majeure;</p> <p>(b) humanitarian reasons;</p> <p>(c) serious occupational reasons;</p> <p>(d) serious personal reasons.</p>	<p>2. The application file shall also indicate the grounds for extending the visa, which shall be one or more of the following:</p> <p>(a) force majeure;</p> <p>(b) humanitarian reasons;</p> <p>(c) serious occupational reasons;</p> <p>(d) serious personal reasons.</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 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 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 decisions whether to annul, revoke or extend 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 the number of the visa sticker of any previous visa issued.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(a) the application number;		(a) deleted
(b) the data referred to in Article 6(4)(a);		(b) deleted
(c) the data on the travel document, referred to in Article 6(4)(c);		(c) deleted
(d) the name of the person or company referred to in Article 6(4)(f);	(d) the data referred to in Article 6(4)(f);	(d) deleted
(e) photographs;	(e) (...) ¹⁷	(e) deleted
(f) fingerprints;	(f) fingerprints;	(f) deleted
(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.	(g) deleted

¹⁷ **ES** wished to reintroduce the reference to photographs as it would be possible to use the photographs as search criteria in future. The **Chair** noted that the Visa WP should not alter text that had been agreed upon by Scifa and in addition been communicated to EP, adding that EP was strongly opposed to using photographs as search criteria.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>2a. Where an applicant cannot present the visa sticker of a previously issued visa, or where there are doubts to the authenticity of the travel document, or where the search with the number of the visa sticker failed, the competent visa authority shall, for the purposes referred to in paragraph 1, have the right to search the VIS with the following data:</p> <p>a) the applicant's fingerprints, sex and date, place and country of birth;</p> <p>b) where the applicant's fingerprints cannot be used, his or her surname, surname at birth (previously used surname(s)) and first names together with his or her sex and date, place and country of birth.</p> <p>c) the travel document data referred to in Article 6(4)(c).</p>
		<p>2b. In the course of the examination of a visa application, the competent visa authority shall have the right to search the VIS with the application number.</p>
		<p>2c. Where an applicant claims to have been falsely rejected the procedure referred to in Article 25.1.1a shall apply.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>2d. Where there are grounds for suspecting that the sponsorship is not bona fide or for the purpose of detecting fraud, the competent visa authority shall have the right to search the VIS with data referred to in Article 7(7a) new.</p>
<p>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.</p>	<p>3.¹⁸ If the search with one or several of the data listed in paragraph 2¹⁹ 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 1.²⁰</p>	<p>3. If the search with the data listed in paragraph 2, 2a, 2b, 2c or 2d 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) pursuant to Article 5(3) and 5(4), solely for the purposes referred to in paragraph 1.</p>
	<p>4. If the search on [the basis of] one or several of the data listed in paragraph 2(d) indicates that data referred to in Article 6(4)(f) on the person or company are recorded in application files and these have been supplemented with the status information "failure to comply with the liability to pay the costs of living during the stay", the consulting authority shall be given access to those application files solely for the purposes referred to in paragraph 1.</p>	

¹⁸ Paragraphs (3) and (4) are outstanding issues, connected to Article 11A.

¹⁹ DE suggested adding in paragraph 2 **(a) to (c) and (e) to (f)** indicates that data on the applicant **are** recorded in the VIS, **the consulting authority shall be ...**".

²⁰ DE suggested adding after the end of the provision the following: "If the search with one or several of the data listed in paragraph 2(d) indicates that data referred to in Article 6(4)(f) on the person or company are recorded in application files and these have been supplemented with the status information "failure to comply with the liability to pay the costs of living during the stay", the consulting authority shall be given access to those application files solely for the purposes referred to in para.1".

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p style="text-align: center;">Article 13a Right of appeal</p> <p>1. Applicants shall have the right to appeal against decisions taken by the competent authorities. Appeals shall be conducted in accordance with national law. Applicants shall be informed in writing of the contact points able to provide information on representatives competent to act on the applicants' behalf in accordance with national law.</p>
		<p>2. Lodging such an appeal shall not have suspensive effect on a decision.</p>
		<p>3. Should the applicant dispute the validity or accuracy of the information contained in the VIS, he or she may have recourse to the procedures set out in Article 31.</p>
<p style="text-align: center;">ARTICLE 14 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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>	<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;		
(2) the competent authorities;	(2) the competent visa authorities, including its location;	(2) the competent visa authority and its location;
(3) current nationality of the applicant;		
(4) border of first entry;		
(5) date and place of the application or the decision concerning the visa;		
(6) the type of visa requested or issued;		
(7) the type of the travel document;		
(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 authorities which previously refused a visa and the respective date;	(9) the competent visa authority, including its location, which refused the visa application and the date of the refusal;

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		(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.	
CHAPTER III USE OF DATA BY OTHER AUTHORITIES		CHAPTER III Access to data by other authorities
ARTICLE 16 Use of data for checks on visas 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:	ARTICLE 16 Access to data for checks on visas²¹ 1. The competent authorities for carrying out checks on visas at external border crossing points in accordance with the Schengen Borders Code 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, the authenticity of the visa and/or whether the conditions for legal entry, stay and residence on the territory of the Member States are fulfilled:	ARTICLE 16 Access to data for checks on visas at external border crossing points 1. The competent authorities for carrying out checks on visas at external borders crossing points in accordance with the Schengen Borders Code , shall have access to search with the number of the visa sticker , for the sole purpose of verifying the identity of the person and/or the authenticity of the visa.
(a) the data referred to in Article 6(4)(a); (b) data on the travel document, referred to in Article 6(4)(c);	(a) deleted - see new para below (b) deleted - see new para below	(a) deleted (see 1a) (b) deleted (see 1a)

²¹ **DE:** scrutiny reservation (see point 3(b) of the introduction, page 2).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(c) photographs;	(c) deleted;	(c) deleted
(d) fingerprints; (e) the number of the visa sticker.	(d) fingerprints of the applicant; (e) the number of the visa sticker.	(d) deleted (see 1a) (e) deleted
	In circumstances where verification of the person or of the visa fails, the duly authorised staff of these competent authorities shall have access to search with the data referred to in Article 6(4)(a) and (c), in addition to the data referred to in this paragraph.	<p>1a. Where the person does not carry a visa or where there are doubts as to the authenticity of the visa and/or the travel document, or where the search with the number of the visa sticker failed:</p> <ul style="list-style-type: none"> (a) his or her fingerprints, sex and date, place, and country of birth; (b) where the person's fingerprints cannot be used, his or her surname, surname at birth (previously used surname(s)) and first names, together with his or her sex and date, place, and country of birth. (c) the travel document data referred to in Article 6(4)(c).
		<p>1b. Where an applicant claims to have been falsely rejected, the procedure referred to in Article 25.1.1a shall apply.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 one or several of 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) of group members, the spouse and/or children travelling together with the applicant, solely for the purposes referred to in paragraph 1:</p>	<p>2. If the search with (...) the data listed in paragraph 1, 1a or 1b indicates that data on the applicant 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(3) and 5(4), for the sole purpose 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>(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 any visa issued, annulled, revoked or whose validity is extended or shortened, referred to in Articles 8, 11 and 12.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p style="text-align: center;">Article 16 a</p> <p style="text-align: center;">Access to data for checks on visas within the territory of the Member States</p> <p>1. The competent authorities for carrying out checks on visas within the territory of the Member States according to national law shall have indirect access to the VIS in accordance with this Regulation for the sole purpose of verifying if the person fulfils the conditions for legal entry and stay on the territory of the Member States.</p>
		<p>2. Where the authorities referred to in paragraph 1 require access to the VIS they shall request access through the intermediary of a competent immigration authority. The provisions of Article 17 apply.</p>
<p style="text-align: center;">ARTICLE 17</p> <p style="text-align: center;">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 17²²</p> <p style="text-align: center;">Access to data for identification</p> <p>1. The competent immigration authorities shall have access to search with the following data, 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, including for the purpose of returning such person:</p>	<p style="text-align: center;">ARTICLE 17</p> <p style="text-align: center;">Access to data for identification (...) of illegal immigrants</p> <p>1. The competent immigration authorities shall have access via one designated national access point per Member State to search with the following data, solely for the purpose of identification (...) of illegal immigrants:</p>

²² **DE:** scrutiny reservation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(a) the data referred to in Article 6(4)(a);	(a) the data referred to in Article 6(4)(a) and (b);	(a) Where the person carries a visa, the visa sticker number;
	(b) data on the travel document, referred to in Article 6(4)(c);	(b) Where the person does not carry a visa or where there are doubts as to the authenticity of the visa and/or the travel document, or where the search with the number of the visa sticker failed: (i) his or her fingerprints, sex and date, place and country of birth; (ii) where the person's fingerprints cannot be used, his or her surname, surname at birth (previously used surname(s)) and first names, together with his or her sex and date, place and country of birth. (iii) the travel document data referred to in Article 6(4)(c).
(b) photographs;	(c) deleted; ²³	(c) deleted;
		(c) Where the applicant claims to have been falsely rejected, the procedure referred to in Article 25.1.1a shall apply.
(c) fingerprints.	(d) fingerprints;	
	(e) the number of the visa sticker.	

²³ **BE** suggested that the reference to photographs be reintroduced with the addition of ""when technically possible". **FR**, **DE** and **ES** supported this suggestion. **AT** noted that although the **BE** suggestion might be right in substance, it would not be wise to unravel what seemed to have been accepted by **EP** at this stage. The **Chair** recalled that **Scifa** had already approved the current text, but maybe it would be necessary to raise the issue again at that level.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>2.²⁴ 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 immigration authority shall be given access to consult the following data of the application file and the linked application file(s), 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 immigration authority shall be given access to consult the following data of the application file and the linked application file(s), pursuant to Article 5(3) and (4), solely for the purpose 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>(b) the data taken from the application form, referred to in Article 6(4) (...);</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>	

²⁴ ES maintained its request to add the data related to fingerprints in the context of this paragraph. COM requested a justification for this suggestion.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p style="text-align: center;">ARTICLE 18 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 18²⁵ Access to data for determining the responsibility for asylum applications</p> <p>1. The competent asylum authorities shall have access only through designated national authorities²⁶ 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 and 21 of Regulation (EC) No. 343/2003:</p>	<p style="text-align: center;">ARTICLE 18 Access to data for determining the responsibility for asylum applications</p> <p>1. The competent asylum authorities shall have access via one designated national access point per Member State, 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 and 21 of Regulation (EC) No 343/2003:</p>
(a) the data referred to in Article 6(4)(a);	(a) the data referred to in Article 6(4)(a) and (c);	(a) the applicant's fingerprints; sex and date, place and country of birth;
(b) photographs;	(b) deleted;	(b) deleted;
		(b) where the applicant's fingerprints cannot be used, his or her surname, surname at birth (previously used surname(s)) and first names, together with his or her sex and date, place and country of birth;

²⁵ **DE:** scrutiny reservation.

²⁶ The **Chair** explained that the Commission's proposal had be amended in order to be in line with the "Dublin Regulation" (Article 21). **COM** added that the "Dublin standards" were to be supported by the VIS Regulation but not to be modified by it. Therefore EP's amendment went too far. **DE** maintained a scrutiny reservation on this point.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(c) fingerprints.		(c) where the applicant claims to have been falsely rejected, the procedure referred to in Article 25.1.1a shall apply.
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:	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 asylum authority shall be given access to consult the following data on such visa, for the sole purpose referred to in paragraph 1:	2. If the search (...) 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 on such visa, for the sole purpose referred to in paragraph 1:
(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;	(a) the Member State which issued or extended the visa and whether the decision to issue the visa was taken on behalf of another Member State;
(b) the type of visa;		
(c) the period of validity of the visa;		
(d) the duration of the stay;		
(e) photographs.		(e) deleted

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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. The competent asylum authorities shall have access only through designated national authorities in accordance with Article 21 of 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. The competent asylum authorities shall have access <i>via one designated national access point per Member State</i> in accordance with <i>Article 21 of</i> Regulation (EC) No 343/2003 to search with the following data, for the sole purpose of examining an application for asylum:</p>
(a) the data referred to in Article 6(4)(a);	(a) the data referred to in Article 6(4)(a) and (c);	(a) the applicant's fingerprints; sex and date, place and country of birth;
(b) photographs;	(b) deleted;	deleted
(c) fingerprints.	(c) fingerprints.	(b) where the applicant's fingerprints cannot be used, his or her surname, surname at birth (previously used surname(s)) and first names, together with his or her sex and date, place and country of birth;
		(c) Where the applicant claims to have been falsely rejected, the procedure referred to in Article 25.1.1a shall apply.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
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:	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 asylum authority shall have access to consult the following data of the application file(s), for the sole purpose referred to in paragraph 1:	2. If the search with (...) the data listed in paragraph 1 indicates that data on the applicant is recorded in the VIS, the competent asylum authority shall have access to consult the following data of the application file and the linked application file(s) pursuant to Article 5(3) and (4) , for the sole purpose referred to in paragraph 1:
(a) the status information and the authority to which the application has been lodged;	(a) the application number;	(a) the status information and the authority to which the application has been lodged;
(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);	(b) the data taken from the application form, referred to in Article 6(4) (a), (b) and (c) (...)<<<<
(c) photographs;		(c) deleted
(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;	(d) the data entered in respect of any visa (...) issued, (...), annulled, revoked or extended (...) 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.	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>2a. Any use of data contained in the VIS for examining an application for asylum by the competent authorities shall be necessary, appropriate and proportionate. It shall also be objectively justified, taking into account the circumstances at the time of submission of the application prior to any decision being taken.</p>
		<p>2b. It is understood that such relevant information from reliable sources is not in itself sufficient for the assessment of an application for asylum but it may contribute to the evaluation of other indications relating to the individual asylum seeker.</p>
<p>CHAPTER IV</p> <p>RETENTION AND AMENDMENT OF THE DATA</p>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p style="text-align: center;">Article 20 Retention period for data storage</p> <p>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:</p>	<p style="text-align: center;">Article 20 Retention period for data storage</p> <p>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:</p>	<p style="text-align: center;">Article 20 Retention period for data storage</p> <p>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 and the specific retention periods laid down in paragraphs 1a and 1b.</p>
(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;	
(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	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(d) on the date of the decision of the visa authority if a visa has been refused, annulled shortened or revoked.	
	<p>(e) on the date of the decision of the competent authority of a "misuse of the visa" or "failure to comply with the liability to pay the costs of living during the stay" according to Article 11A.²⁷</p> <p>If data is entered in accordance with sub paragraphs (e) during the retention period, the retention period for any previously stored data arising in connection with that subparagraph shall start again from the date of the decision.</p>	
		<p>1a. The following specific retention periods shall apply:</p> <p>(a) where a visa has been issued, one year;</p> <p>(b) where a visa has been refused on the grounds referred to in Article 10(2)(a), (b) or (d), five years;</p> <p>(c) where a visa has been refused on the ground referred to in Article 10(2)(c), three years;</p> <p>(d) for a transit visa or an airport transit visa, six months.</p>

²⁷ FR maintained a scrutiny reservation on this paragraph.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>1b. Applicants may request that their data be stored for five years.</p> <p>That period shall start:</p> <p>(a) with the expiry date of the visa, if a visa has been issued;</p> <p>(b) with the new expiry date of the visa, if a visa has been annulled, revoked or extended;</p> <p>(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.</p>
<p>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.</p>	<p>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).</p>	<p>2. Upon expiry of the periods referred to in paragraphs 1, 1a and 1b, the VIS shall automatically delete the application file and the link(s) to this file as referred to in Article 5(3) and (4).</p>
<p style="text-align: center;">Article 21 Amendment of data</p> <p>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.</p>	<p style="text-align: center;">Article 21 Amendment of data</p> <p>1. Only the Member State responsible shall have the right to amend data, which it has transmitted to the VIS, or to delete it pursuant to paragraph 3 of this Article or to Article 22.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>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</p>	<p>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</p>	<p>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 and request that the data be corrected. Such message may be transmitted by the infrastructure of the VIS.</p>
<p>3. The Member State responsible shall check the data concerned and, if necessary, amend or delete it immediately.</p>		
<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. Application files and the links referred to in Article 5(3) and (4) 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 by the Member State which created the respective application file without delay.</p>	<p style="text-align: center;">Article 22 Advance data deletion</p> <p>1. Where before expiry of the periods referred to in Article 20(1), (1a) and (1b) an applicant has acquired the nationality of any Member State, or visa - free resident status, application files and the links referred to in Article 5(3) and (4) relating to him or her shall be deleted from the VIS immediately as the Member State responsible becomes aware that the applicant has acquired such nationality or visa - free resident status.</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>2. Where an applicant has acquired the nationality of a Member State or visa- free resident status, the Member State concerned shall ensure that that information is transmitted to the Member State responsible immediately. Such message may be transmitted by the infrastructure of the VIS.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<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>	
<p>CHAPTER V OPERATION AND RESPONSIBILITIES</p>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p style="text-align: center;">Article 23 Operational management</p> <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 style="text-align: center;">Article 23 Operational management</p> <p>1. The Commission shall be responsible for establishing and operating, on a 24 hours a day, 7 days a week basis, 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. In particular, it shall be responsible for the maintenance work and technical developments necessary to ensure that [the system runs smoothly]²⁸.</p>	<p style="text-align: center;">Article 23 Operational management</p> <p>1. The Commission shall be responsible for establishing (...) the Central Visa Information System and the communication infrastructure between the Central Visa Information System and the National Interfaces. The Commission shall also be responsible for the operational management of the VIS until the entry into force of Regulation XX/XXXX/EC on establishing a European Agency for the Operational Management of large-scale IT-systems. This Agency shall be established at the latest three years after the start of operation of the VIS.</p>
		<p>1a. The operational management shall consist of all the tasks necessary to keep the VIS functioning on a 24 hours a day, 7 days a week basis in accordance with this Regulation, in particular the maintenance work and technical developments necessary for the smooth running of the system.</p>

²⁸ Alternative text suggested by FR: "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."

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>1b. The Commission shall ensure that at all times the best available technology, subject to a cost-benefit analysis, is used for the VIS.</p>
<p>2. The data shall be processed by the VIS on behalf of the Member States.</p>	<p>2. The data shall be processed in the VIS on behalf of the Member States.</p>	<p>2. The data shall be processed in the VIS on behalf of the Member States.</p>
<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>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 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>
		<p style="text-align: center;">Article 23a</p> <p>At the same time as the VIS is brought into operation, the Commission shall launch a campaign informing the public of the objectives pursued, the data stored in, and the authorities with access to the VIS and the rights of individuals. Such campaigns shall be conducted regularly.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>3. Each Member State shall observe automated procedures for processing the data.</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>(b) the organisation, management, operation and maintenance of its National System;</p>		
<p>(c) the management and arrangements for access of duly authorised staff of the competent national authorities to the VIS in accordance with this Regulation.</p>	<p>(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 the staff and its profiles.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(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.</p>		
		<p>4a. Before being authorised to process data stored on the VIS, staff of the authorities with a right to access the VIS shall receive appropriate training on the use of the system, including data-security and data-protection rules. They shall also be informed of the criminal offence and penalties referred to in Article 29.</p>
<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 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 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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>1a. Member States shall establish a procedure for cases where a person claims to have been falsely rejected in which the dignity and the integrity of the person shall be fully respected.</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 Commission 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 Commission 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>(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>3. The Commission shall inform the European Parliament and the Council of the measures it takes pursuant to paragraph 2.</p>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p 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>(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>(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>(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>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(ca) ensure that the VIS may be accessed with individual and unique identities of the duly authorised staff and confidential passwords only;	(ca) ensure that the VIS may be accessed with individual and unique user identities and confidential passwords only;
		(cb) ensure that all the authorities with a right of access to the VIS develop precise user profiles and maintain an up-to-date list of user identities, which shall be made available to the national supervisory authorities referred to in Article 34;
(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);		
(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).	(g) prevent the unauthorised reading, copying, modification or deletion of data during the transmission of data to or from the VIS, through the utilisation of secure encryption techniques (control of transport).

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(ga) monitor the effectiveness of the security measures referred to in this paragraph.	(ga) monitor the effectiveness of the security measures referred to in this paragraph (self-auditing) in accordance with Article 28a.
3. The Commission shall take measures equivalent to those mentioned in paragraph 2 as regards the operation of the VIS.		
		3a. The measures referred to in paragraphs 2 and 3 shall be in conformity with the IT data-security standard referred to in Article 36(2)(b).
<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>		
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.		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 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 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 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 the persons responsible for putting in or retrieving staff duly authorised to put in or retrieve the data.</p>	<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 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 and to carry out self-auditing in accordance with Article 28a. The records shall be protected by appropriate measures against unauthorised access and deleted after a period of one year after the retention periods referred to in Article 20(1), (1a) and (1b) have been expired, if they are not required for monitoring procedures which have already begun.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p style="text-align: center;">Article 28a Self-auditing</p> <p>Each authority with a right of access to the VIS shall have an internal monitoring service responsible for ensuring compliance with this Regulation and reporting directly to its senior management. Each authority shall send a regular report to the national supervisory authorities referred to in Article 34 and shall cooperate with them.</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 29 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(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.</p>	<p style="text-align: center;">Article 29 Criminal offence and penalties</p> <p>The Member States shall provide for effective, proportionate and dissuasive criminal and/or administrative penalties or other sanctions applicable to infringements of the provisions of this Regulation (...) and shall take all measures necessary to ensure that they are implemented. Serious intentional infringements shall constitute a criminal offence. (...) 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>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
CHAPTER VI RIGHTS AND SUPERVISION ON DATA PROTECTION		
Article 30 Right of information		
1. Applicants and the persons referred to in Article 6(4)(f) shall be informed of the following by the Member State responsible:		
(a) the identity of the controller referred to in Article 23(3) and of his representative, if any;	(a) the identity of the controller referred to in Article 23(3),	(a) the identity of the controller referred to in Article 23(3), including his contact details;
(b) the purposes for which the data will be processed within the VIS;		
(c) the recipients of the data;	(c) the categories of recipients of the data as they are mentioned in Article 4(3);	
	(d) the data retention period;	(ca) the data retention period;
(d) that the taking of the data is mandatory for the examination of the application;	(e) that the taking of the data is mandatory for the examination of the application;	(d) that the taking of the data is mandatory for the examination of the application;

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(e) the existence of the right of access to, and the right to rectify, the data concerning that person.	(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, which shall hear claims concerning the protection of personal data.	(e) 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 information on how to exercise those rights and the responsibilities and contact details of the national supervisory authorities referred to in Article 34.
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.		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.
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.	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, unless the provision of this information is impossible or disproportionate under Article 11 of Directive 95/46/EC.	3. The information referred to in paragraph 1 shall be provided to the persons referred to in Article 7(7a) in the forms to be signed by those persons providing proof of invitation, sponsorship and accommodation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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. Member States shall designate the authorities responsible for giving effect to the right of access, correction and deletion. Whenever a person requests data relating to him or her, the authority responsible shall keep records of those requests at the disposal of the competent national supervisory authority as referred to in Article 34.</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>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>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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. 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 Article 31(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>
<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>		

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 from the national authorities referred to in Article 34 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, 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, on the fact that legal assistance can be sought from the national supervisory authorities and how to go about this and any financial or other assistance, that is available in accordance with the laws, regulations and procedures of that Member State.</p>
<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 style="text-align: center;">Article 32 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 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>2. In each Member State, the national supervisory authority may 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>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>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. The person concerned may also apply for assistance and advice to the EDPS referred to in Article 35.</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>2. The assistance of the national supervisory authorities referred to in Article 32(2) shall subsist throughout the proceedings.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 National supervisory authority</p> <p>1. 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. <u>The authority or authorities designated in each Member State and endowed with the powers referred to in Article 28 of Directive 95/46/EC shall monitor independently the lawfulness of the processing of personal data, referred to in Article 3 (1),</u> by the Member State in question, including their transmission to and from the VIS.</p> <p>2. 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) and grant them access 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 34 National supervisory authority</p> <p>The authority or authorities designated in each Member State and endowed with the powers referred to in Article 28 of Directive 95/46/EC shall monitor independently the lawfulness of the processing of VIS personal data held on or transmitted from their territory.</p> <p>To that end, the authorities referred to in Article 23(3) 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 their records as referred in Article 28 and allow them access at all times to all their premises.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<p><u>3. The authority or authorities referred to in paragraph 1 shall ensure that, at least every four years, an audit of the data processing operations in the National system is carried out according to relevant international auditing standards²⁹.</u></p>	<p>1a. The authority or authorities referred to in paragraph 1 shall ensure that, at least every four years, an audit of the data processing operations in the national part of the VIS is carried out according to international auditing standards.</p>
		<p>1b. Member States shall ensure that the authority or authorities referred to in paragraph 1 have sufficient resources to fulfil the tasks entrusted to them under this Regulation.</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 EDPS</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 The European Data Protection Supervisor</p> <p>1. The European Data Protection Supervisor (...) shall monitor whether the (...) Commission's processing of personal data is in conformity with this Regulation, (...) including that the personal data is transmitted lawfully between the National Interfaces and the Central Visa Information System. The duties and powers referred to in Article 46 and 47 of Regulation (EC) No 45/2001 shall apply accordingly.</p>

²⁹ DE wondered what this referred to and what was the relation to the data protection issues in Article 34. DE wished to get back to this issue at a later stage.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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 and the national supervisory authorities shall cooperate actively with each other.</p>	<p>2. The European Data Protection Supervisor shall (...) ensure that, at least every four years, an audit of the Commission's data processing activities is carried out according to international auditing standards. The report of the audit shall be sent to the European Parliament, the Council, the Commission and the national supervisory authorities referred to in Article 34. The Commission shall be given an opportunity to make comments before the report is adopted.</p>
<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 Commission 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. Two years after the VIS has started to operate and every two years thereafter, the EDPS shall submit to the European Parliament, the Council and the Commission a report on the monitoring of the lawfulness of the processing of personal data in the VIS. This report shall include a chapter on each Member State prepared by the National Supervisory Authority of this Member State.</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p style="text-align: center;">Article 35a Joint responsibilities</p> <p>1. The national supervisory authorities referred to in Article 34 and the European Data Protection Supervisor shall cooperate actively with each other and bear joint responsibility for the supervision of the VIS.</p>
		<p>2. They shall exchange relevant information, conduct joint investigations, including joint 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 subject, 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	EUROPEAN PARLIAMENT
		<p>3. The European Data Protection Supervisor and the national supervisory authorities shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly according to need. A joint report of activities shall be sent to the European Parliament, the Council and the Commission every two years.</p>
<p align="center">CHAPTER VII FINAL PROVISIONS</p>		
<p align="center">Article 36 Implementation</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 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 align="center">Article 36 Implementation by the Commission</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>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
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).	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:	2. The following measures necessary for the technical implementation of the central VIS, the national interfaces and the communication infrastructure between the Central VIS and the national interfaces shall be adopted in accordance with the procedure referred to in Article 39.
	(a) for entering the data and linking applications (in accordance with Article 5(3) and (4);	(a) measures necessary for: entering, linking applications, accessing, amending, deleting, advance deleting, keeping and accessing the records;
	(b) for accessing the data (in accordance with Article 13 and Articles 15-19);	
	(c) for amending, deleting and advance deleting of data (in accordance with Articles 20-22);	
	(d) for keeping and accessing the records (in accordance with Article 28);	
	(e) the identification and implementation of an IT data-security standard;	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(f) for the consultation mechanism and the procedures referred to in Article 14.	(c) implementation of the procedures provided for in Article 14.
	<p style="text-align: center;">Article 36a³⁰</p> <p>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 according to Article 37(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>1. 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 in accordance with Article 36.</p>	

³⁰ **FR** maintained a scrutiny reservation, pending the Commission's additional clarifications in relation to Vision (cf non-paper discussed in May 2006). COM confirmed that a revised version of the non-paper was currently under preparation and the **Chair** indicated that a Visa/Vision WP meeting would be convened in autumn.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
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.	2. The Member States, which transmit data in accordance with the first paragraph of Article 38 shall start to collect and enter the data by the date referred to in that provision.	
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.	3. A Member State which notifies that it has made the necessary arrangements to transmit data after the date referred to in Article 38 (1), shall start to collect and enter data by the date specified in the notification to the Commission in accordance with the second paragraph of Article 38 (2) ³¹ .	
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.	4. 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 2 and 3 ³² .	

³¹ **FR** maintained a reservation of substance on Article 37(3) and (4), finding that paragraph 3 does not appear to be very consistent with the objective adopted by the Council in its conclusions of December 2005, which mention that the Member States should plan for the collection of biometric data region by region.

If paragraph 3 refers to the case of a Member State which is represented by another Member State until it is able to equip its posts to collect biometric data, this must be clearly stated in the body of the text. In that case, the paragraph should begin as follows: "A Member State, represented by another Member State in accordance with II.1.2 of the Common Consular Instructions, which notifies ...". **COM** noted that Article 37 does NOT refer to representation which is covered by Article 38 (see footnote 35).

³² **FR** reservation - see footnote 31.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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.</p> <p>It shall publish that date in the Official Journal of the European Union.</p>	<p style="text-align: center;">Article 38³³ Start of operations</p> <p>1. The Commission shall determine the date from which the VIS is to start operations, when:</p> <p>(a) the measures referred to in Article 36(2) have been adopted;</p> <p>(b) a comprehensive test of the VIS has been conducted successfully by the Commission together with at least six³⁴ Member States;</p> <p>(c) following validation of technical arrangements, the Member States have notified the Commission that they have made the necessary technical and legal arrangements to transmit the data referred to in Article 3(1) to the VIS for all applications in the first region determined according to paragraph 3.</p>	<p style="text-align: center;">Article 38</p> <p>Start of operations</p> <p>1. The VIS shall be brought into operation only after the successful completion of a comprehensive test of the system, to be conducted by the Commission together with at least six Member States. The Commission shall inform the European Parliament of the results thereof.</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.</p> <p>It shall publish that date in the <i>Official Journal of the European Union</i>.</p>

³³ Responding to a request from NL, COM noted that this Article is based on the Council conclusions on the roll out of the VIS. Sub-paragraphs a - c are cumulative conditions; b) is a request from EP (however, tests would be always be carried out) and c) is a safeguard that everything must be in order before roll-out.

³⁴ COM noted that the number of at least six Member States would be in line with the technical requirements for testing.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<p>2. In each other region, the Commission shall determine the date from which the transmission of the data in Article 3(1)(c) becomes mandatory when Member States have notified the Commission that they made the necessary technical and legal arrangements to transmit the data referred to in Article 3(1) to the VIS for all applications in the region concerned. 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 arrangements³⁵ to 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 <i>Official Journal of the European Union</i>.</p>	
<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 Committee</p> <p>1. The Commission shall be assisted by a committee hereinafter "the Committee". It shall be composed of the representatives of the Member States and chaired by the representative of the Commission.</p>

³⁵ COM noted that this formulation was intended to embrace arrangements for the collection and/or transmission on behalf of another Member State and suggested that the point made by FR be clarified here.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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. The Committee shall adopt its rules of procedure.</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. Where this Regulation imposes procedural requirements for the adoption of implementing measures, the representative of the Commission shall submit a draft of those measures to the Committee and to the European Parliament.</p> <p>The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter which shall not be less than one month. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>4. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee and if no objection has been raised in the meantime by the competent committee of the European Parliament.</p>
		<p>5. Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, or an objection has been raised by the competent committee of the European Parliament, the Commission shall, without delay, submit to the Council and to the European Parliament a proposal relating to the measures to be taken.</p>
		<p>6. If, within a period which may not exceed three months from the referral, the proposal has not been rejected either by the European Parliament, by an absolute majority of its members, or by the Council, acting by qualified majority, it shall be adopted by the Commission. Otherwise the Commission shall submit an amended proposal or present a legislative proposal on the basis of the Treaty.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p>7. Without prejudice to any implementing measures already adopted, application of the provisions of this Regulation which provide for the adoption of technical rules and decisions shall cease four years after the entry into force of this Regulation. Acting on a proposal from the Commission, the European Parliament and the Council may extend the period of validity of the relevant provisions, in accordance with the procedure laid down in Article 251 of the Treaty, and, with that aim in view, shall review those provisions prior to expiry of the four-year period.</p>
		<p>3a. The authorities referred to in Articles 34 and 35 shall be consulted on the draft measures prior to adoption.</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 Commission shall ensure that systems are in place to monitor the functioning of the VIS against objectives, in terms of outputs, cost-effectiveness, quality of service and lawfulness of processing.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>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 lawfulness of processing and technical functioning of the VIS. This report shall include an evaluation of the records referred to in Article 28 and information on the performance of the VIS against quantitative indicators predefined by the Commission. It shall be examined by the European Parliament and the Council. Member States shall answer any questions raised by the institutions in that context.</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>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, which include the lawfulness of processing, 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. They shall be examined by the European Parliament and the Council. Member States shall answer any questions raised by the institutions in that context.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<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>2a. Articles 23, 36 and 39 shall apply from the date referred to in paragraph 1.</p>	<p>2a The scope of the VIS shall be extended to include in Article 17 the purpose of return once Member States have transposed Directive 200X/XX/EC [on common standards and procedures in Member States for returning illegally staying third-country nationals].</p> <p>The Commission shall determine the date from which the scope shall be extended and publish a notification to this end including that date in the Official Journal of the European Union.</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>		