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NOTE

from : Polish delegation
to : Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway and Switzerland)

No. prev. doc.: 9401/08 FRONT 45 VISA 174 CODEC 585COMIX 386

No. Cion prop. 6970/08 FRONT 28 VISA 72 CODEC 300 COMIX 165 (COM(2008) 101 final)

Subject: **Draft Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code**

At the last meeting of the SCIFA on 20 and 21 May 2008, the above proposal for a Regulation amending the Schengen Borders, as regards the use of the Visa Information System (VIS), was discussed.

Following the outcome of the discussion, Poland suggests a new draft of the proposal as attached.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of [...] amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code

*Article 1
Amendment*

In Regulation (EC) No 562/2006, Article 7(3) is amended as follows:

(1) the following point (aa) is inserted:

“(aa) if the third country national holds a visa referred to in Article 5(1)(b), the thorough checks on entry shall also comprise verification of the identity of the holder of the visa and of the authenticity of the visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No xx/2008 of the European Parliament and of the Council;

*By way of derogation, where traffic of such intensity arises that the waiting time at the border crossing point becomes excessive and all resources have been exhausted as regards staff, facilities and organisation and where, on the basis of an assessment of the risk related to internal security and illegal immigration, it is established that the consultation in the Visa Information System **may be carried out only with the number of the visa sticker**, on a random basis for as long as these conditions are met.*

*Consultation of the Visa Information System (VIS) shall, in all cases, be carried out in accordance with Article 18 of Regulation (EC) No xx/2008. **The decision to carry out consultation in the VIS on a random basis shall be taken by the border guard in command at the border crossing point.***

Where a Member State carries out consultation in the VIS on a random basis for a period of more than 6 hours it shall immediately inform the other Member States and the Commission.

Member States shall transmit once a year a report on the application of second subparagraph to the Commission. The report shall include the names of the authorised crossing-points and the date and duration of the introduction of the measure.