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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 767/2008, Regulation (EC) No 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repealing Council Decision 2008/633/JHA
- Outcome of the European Parliament's first reading,
(Strasbourg, 11 to 14 March 2019)

I. INTRODUCTION

The rapporteur, Carlos COELHO (EPP, PT), presented a report on the proposal for a Regulation on behalf of the Committee on Civil Liberties, Justice and Home Affairs. The report contained 251 amendment(s) (amendments number 1-251) to the proposal.

In addition, the Greens/EFA political group tabled 3 amendment(s) (amendments number 252 - 254).

II. VOTE

When it voted on 13 March 2019, the plenary adopted amendments 1-251 and amendment 253 (second part) to the proposal for a Regulation. No other amendments were adopted.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Visa Information System ***I

European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 767/2008, Regulation (EC) No 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repealing Council Decision 2008/633/JHA (COM(2018)0302 – C8-0185/2018 – 2018/0152(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0302),
 - having regard to Article 294(2) and Article 16(2), Article 77(2)(a), (b), (d) and (e), Article 78(2)(d), (e) and (g), Article 79(2)(c) and (d), Article 87(2)(a) and Article 88(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0185/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A8-0078/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
amending Regulation (EC) No 767/2008,
Regulation (EC) No 810/2009, Regulation
(EU) 2017/2226, Regulation (EU)
2016/399, Regulation XX/2018
[Interoperability Regulation], and Decision
2004/512/EC and **repealing** Council
Decision 2008/633/JHA

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
reforming the Visa Information System by
amending Regulation (EC) No
767/2008, Regulation (EC) No 810/2009,
Regulation (EU) 2017/2226, Regulation
(EU)2016/399, Regulation XX/2018
[Interoperability Regulation], and
repealing Decision 2004/512/EC and
Council Decision 2008/633/JHA

Amendment 2

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) The Visa Information System (VIS)
was established by Council Decision
2004/512/EC⁴¹ to serve as the technology
solution to exchange visa data between
Member States. Regulation (EC) No
767/2008 of the European Parliament and
of the Council⁴² laid down the VIS
purpose, functionalities and
responsibilities, as well as the conditions
and procedures for the exchange of short-
stay visa data between Member States to
facilitate the examination of short-stay visa
applications and related decisions.
Regulation (EC) No 810/2009 of the

Amendment

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Regulation (EC) No 810/2009 of the

European Parliament and of the Council⁴³ set out the rules on the registration of biometric identifiers in the VIS. Council Decision 2008/633/JHA⁴⁴ laid down the conditions under which Member States' designated authorities and Europol may obtain access to consult the VIS for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences.

⁴¹ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa information System (VIS) (OJ L 213, 15.6.2004, p. 5).

⁴² Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the *echange* of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁴³ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

⁴⁴ Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129).

European Parliament and of the Council⁴³ sets out the rules on the registration of biometric identifiers in the VIS. Council Decision 2008/633/JHA⁴⁴ laid down the conditions under which Member States' designated authorities and Europol may obtain access to consult the VIS for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. ***The VIS started operations on 11 October 2011^{44a} and was gradually rolled out in all Member States' consulates around the world between October 2011 and February 2016.***

⁴¹ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa information System (VIS) (OJ L 213, 15.6.2004, p. 5).

⁴² Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the *exchange* of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁴³ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

⁴⁴ Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129).

^{44a} ***Commission Implementing Decision 2011/636/EU of 21 September 2011 determining the date from which the Visa Information System (VIS) is to start operations in a first region (OJ L 249, 27.9.2011, p. 18).***

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) The Communication of the Commission of 6 April 2016 entitled 'Stronger and Smarter Information Systems for Borders and Security'⁴⁶ outlined the need for the EU to strengthen and improve its IT systems, data architecture and information exchange in the area of border management, law enforcement and counter-terrorism and emphasised the need to improve the interoperability of IT systems. The Communication also identified a need to address information gaps, including on third country nationals holding a long-stay visa.

⁴⁶ COM(2016)0205.

Amendment

(3) The Communication of the Commission of 6 April 2016 entitled 'Stronger and Smarter Information Systems for Borders and Security'⁴⁶ outlined the need for the EU to strengthen and improve its IT systems, data architecture and information exchange in the area of border management, law enforcement and counter-terrorism and emphasised the need to improve the interoperability of IT systems. The Communication also identified a need to address information gaps, including on third country nationals holding a long-stay visa ***given that Article 21 of the Convention implementing the Schengen Agreement provides a right to free movement within the territory of the States parties to the Agreement for a period of not more than 90 days in any 180 days, by instituting the mutual recognition of the residence permits and long-stay visas issued by these States. The Commission therefore conducted two studies: the first feasibility study^{46a} concluded that developing a repository would be technically feasible and that re-using the VIS structure would be the best technical option, whereas the second study^{46b} conducted an analysis of necessity and proportionality and concluded that it would be necessary and proportionate to extend the scope of VIS to include the documents mentioned above.***

⁴⁶ COM(2016)0205.

^{46a} ***"Integrated Border Management (IBM) – Feasibility Study to include in a repository documents for Long-Stay visas, Residence and Local Border Traffic***

Permits" (2017).

^{46b} "Legal analysis on the necessity and proportionality of extending the scope of the Visa Information System (VIS) to include data on long stay visas and residence documents" (2018).

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) The Council endorsed a Roadmap to enhance information exchange and information management⁴⁷ on 10 June 2016. In order to address the existing information gap in the documents issued to third-country nationals, the Council invited the Commission to assess the establishment of a central repository of residence permits and long-stay visas issued by Member States, to store information on these documents, including on expiry dates and on their possible withdrawal. Article 21 of the Convention implementing the Schengen Agreement provides a right to free movement within the territory of the states party to the Agreement for a period of not more than 90 days in any 180 days, by instituting the mutual recognition of the residence permits and long stay visas issued by these States.

deleted

⁴⁷ *Roadmap to enhance information exchange and information management including interoperability solutions in the Justice and Home Affairs area (9368/1/16 REV 1).*

Amendment 5

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) *In Council Conclusions of 9 June 2017 on the way forward to improve information exchange and ensure the interoperability of EU information systems⁴⁸, the Council acknowledged that new measures might be needed in order to fill the current information gaps for border management and law enforcement, in relation to border crossings by holders of long-stay visas and residence permits. The Council invited the Commission to undertake a feasibility study as a matter of priority for the establishment of a central EU repository containing information on long-stay visas and residence permits. On this basis, the Commission conducted two studies: the first feasibility study⁴⁹ concluded that developing a repository would be technically feasible and that re-using the VIS structure would be the best technical option, whereas the second study⁵⁰ conducted an analysis of necessity and proportionality and concluded that it would be necessary and proportionate to extend the scope of VIS to include the documents mentioned above.* *deleted*

⁴⁸ *Council Conclusions on the way forward to improve information exchange and ensure the interoperability of EU information systems (10151/17).*

⁴⁹ *"Integrated Border Management (IBM) – Feasibility Study to include in a repository documents for Long-Stay visas, Residence and Local Border Traffic Permits" (2017).*

⁵⁰ *"Legal analysis on the necessity and proportionality of extending the scope of the Visa Information System (VIS) to include data on long stay visas and*

Amendment 6

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) When adopting Regulation (EC) No 810/2009, it was recognised that the issue of the sufficient reliability for identification and verification purposes of fingerprints of children under the age of 12 and, in particular, how fingerprints evolve with age, would have to be addressed at a later stage, on the basis of the results of a study carried out under the responsibility of the Commission. A study⁵³ carried out in 2013 by the Joint Research Centre concluded that fingerprint recognition of children aged between 6 and 12 years is achievable with a satisfactory level of accuracy under certain conditions. A second study⁵⁴ confirmed this finding in December 2017 and provided further insight into the effect of aging over fingerprint quality. On this basis, the Commission conducted in 2017 a further study looking into the necessity and proportionality of lowering the fingerprinting age for children in the visa procedure to 6 years. This study⁵⁵ found that lowering the fingerprinting age would contribute to better achieving the VIS objectives, in particular in relation to the facilitation of the fight against identity fraud, facilitation of checks at external border crossing points, and could bring additional benefits by strengthening the prevention and fight against children's rights abuses, in particular by enabling the identification/verification of identity of third-country national (TCN) children who are found in Schengen territory in a situation where their rights may be or have been violated (e.g. child victims of trafficking in human beings, missing

Amendment

(8) When adopting Regulation (EC) No 810/2009, it was recognised that the issue of the sufficient reliability for identification and verification purposes of fingerprints of children under the age of 12 and, in particular, how fingerprints evolve with age, would have to be addressed at a later stage, on the basis of the results of a study carried out under the responsibility of the Commission. A study⁵³ carried out in 2013 by the Joint Research Centre concluded that fingerprint recognition of children aged between 6 and 12 years is achievable with a satisfactory level of accuracy under certain conditions. A second study⁵⁴ confirmed this finding in December 2017 and provided further insight into the effect of aging over fingerprint quality. On this basis, the Commission conducted in 2017 a further study looking into the necessity and proportionality of lowering the fingerprinting age for children in the visa procedure to 6 years. This study⁵⁵ found that lowering the fingerprinting age would contribute to better achieving the VIS objectives, in particular in relation to the facilitation of the fight against identity fraud, facilitation of checks at external border crossing points, and could bring additional benefits by strengthening the prevention and fight against children's rights abuses, in particular by enabling the identification/verification of identity of third-country national (TCN) children who are found in Schengen territory in a situation where their rights may be or have been violated (e.g. child victims of trafficking in human beings, missing

children and unaccompanied minors applying for asylum).

children and unaccompanied minors applying for asylum). *At the same time, children are a particularly vulnerable group and collecting special categories of data, such as fingerprints, from them should be subject to stricter safeguards and a limitation of the purposes for which these data may be used to situations where it is in the child's best interests, including by limiting the retention period for data storage. The second study also identified that fingerprints of persons above 70 years of age are of low quality and medium accuracy. The Commission and Member States should cooperate in exchanging best practices and address those shortcomings.*

⁵³ Fingerprint Recognition for Children (2013 - EUR 26193).

⁵³ Fingerprint Recognition for Children (2013 - EUR 26193).

⁵⁴ "Automatic fingerprint recognition: from children to elderly" (2018 – JRC).

⁵⁴ "Automatic fingerprint recognition: from children to elderly" (2018 – JRC).

⁵⁵ "Feasibility and implications of lowering the fingerprinting age for children and on storing a scanned copy of the visa applicant's travel document in the Visa Information System (VIS)" (2018).

⁵⁵ "Feasibility and implications of lowering the fingerprinting age for children and on storing a scanned copy of the visa applicant's travel document in the Visa Information System (VIS)" (2018).

Amendment 7

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) The personal data provided by the applicant for a short-stay visa should be processed by the VIS to assess whether the entry of the applicant in the Union could pose a threat to the public security *or to public health* in the Union and also assess the risk of irregular migration of the applicant. As regards third country nationals who obtained a long stay visa or a residence permit, these checks should be

Amendment

(10) The personal data provided by the applicant for a short-stay visa should be processed by the VIS to assess whether the entry of the applicant in the Union could pose a threat to the public security in the Union and also assess the risk of irregular migration of the applicant. As regards third country nationals who obtained a long stay visa or a residence permit, these checks should be limited to contributing to assess

limited to contributing to assess the identity of the document holder, the authenticity and the validity of the long-stay visa or residence permit as well as whether the entry of the third country national in the Union could pose a threat to public security *or to public health* in the Union. They should not interfere with any decision on long-stay visas or residence permits.

the identity of the document holder, the authenticity and the validity of the long-stay visa or residence permit as well as whether the entry of the third country national in the Union could pose a threat to public security in the Union. They should not interfere with any decision on long-stay visas or residence permits.

Amendment 8

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The *assessment* of such risks cannot be carried out without processing the personal data related to the person's identity, travel document, and, as the case may be, sponsor or, if the applicant is minor, identity of the responsible person. Each item of personal data in the applications should be compared with the data present in a record, file or alert registered in an information system (the Schengen Information System (SIS), the Visa Information System (VIS), the Europol data, the Interpol Stolen and Lost Travel Document database (SLTD), the Entry/Exit System (EES), the Eurodac, *the ECRIS-TCN system as far as convictions related to terrorist offences or other forms of serious criminal offences are concerned and/or the Interpol Travel Documents Associated with Notices database (Interpol TDAWN)*) or against the *watchlists*, or against specific risk indicators. The categories of personal data that should be used for comparison should be limited to the categories of data present in the queried information systems, the watchlist or the specific risk indicators.

Amendment

(11) The *assessment* of such risks cannot be carried out without processing the personal data related to the person's identity, travel document, and, as the case may be, sponsor or, if the applicant is minor, identity of the responsible person. Each item of personal data in the applications should be compared with the data present in a record, file or alert registered in an information system (the Schengen Information System (SIS), the Visa Information System (VIS), the Europol data, the Interpol Stolen and Lost Travel Document database (SLTD), the Entry/Exit System (EES), the Eurodac, or against the *ETIAS watchlist*, or against specific risk indicators. The categories of personal data that should be used for comparison should be limited to the categories of data present in the queried information systems, the watchlist or the specific risk indicators.

Amendment 9

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) Interoperability between EU information systems was established by [Regulation (EU) XX on interoperability] ***so that these EU information systems and their data supplement each other*** with a view to improving the management of the external borders, contributing to preventing and combating illegal migration and ensuring a high level of security within the area of freedom, security and justice of the Union, including the maintenance of public security and public policy and safeguarding the security in the territories of the Member States.

Amendment

(12) Interoperability between EU information systems was established by [Regulation (EU) XX on interoperability (***borders and visas***)] with a view to improving the management of the external borders, contributing to preventing and combating illegal migration and ensuring a high level of security within the area of freedom, security and justice of the Union, including the maintenance of public security and public policy and safeguarding the security in the territories of the Member States.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 10

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The interoperability between the EU information systems allows systems ***to supplement each other*** to facilitate the correct identification of persons, contribute to fighting identity fraud, improve and harmonise data quality requirements of the respective EU information systems, facilitate the technical and operational implementation by Member States of existing ***and future*** EU information systems, strengthen and simplify the data security and data protection safeguards that govern the respective EU information

Amendment

(13) The interoperability between the EU information systems allows systems to facilitate the correct identification of persons, contribute to fighting identity fraud, improve and harmonise data quality requirements of the respective EU information systems, facilitate the technical and operational implementation by Member States of existing EU information systems, strengthen, ***harmonise*** and simplify the data security and data protection safeguards that govern the respective EU information systems,

systems, streamline the law enforcement access to the EES, the VIS, the ~~/ETIAS/~~ and Eurodac, and support the purposes of the EES, the VIS, the ~~/ETIAS/~~, Eurodac, the SIS and the ~~/ECRIS-TCN system/~~.

streamline the *controlled* law enforcement access to the EES, the VIS, the ETIAS and Eurodac, and support the purposes of the EES, the VIS, the ETIAS, Eurodac, the SIS and the ECRIS-TCN system.

Amendment 11

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The interoperability components cover the EES, the VIS, the ~~/ETIAS/~~, Eurodac, the SIS, and the ~~/ECRIS-TCN system/~~, and Europol data to enable it to be queried simultaneously with these EU information systems and therefore it is appropriate to use these components for the purpose of carrying out the automated checks and when accessing the VIS for law enforcement purposes. The European search portal (ESP) should be used for this purpose to enable a fast, seamless, efficient, systematic and controlled access to the EU information systems, the Europol data and the Interpol databases needed to perform their tasks, in accordance with their access rights, and to support the objectives of the VIS.

Amendment

(14) The interoperability components cover the EES, the VIS, the ETIAS, Eurodac, the SIS, and the ECRIS-TCN system, and Europol data to enable it to be queried simultaneously with these EU information systems and therefore it is appropriate to use these components for the purpose of carrying out the automated checks and when accessing the VIS for law enforcement purposes. The European search portal (ESP) should be used for this purpose to enable a fast, seamless, efficient, systematic and controlled access to the EU information systems, the Europol data and the Interpol databases needed to perform their tasks, in accordance with their access rights, and to support the objectives of the VIS.

Amendment 12

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) The comparison against other databases should be automated. Whenever such comparison reveals that a correspondence (a 'hit') exists with any of

Amendment

(15) The comparison against other databases should be automated. Whenever such comparison reveals that a correspondence (a 'hit') exists with any of

the personal data or combination thereof in the applications and a record, file or alert in the above information systems, or with personal data in the watchlist, the application should be processed manually by an operator in the responsible authority. The assessment performed by the responsible authority should lead to the decision to issue or not the short-stay visa.

the personal data or combination thereof in the applications and a record, file or alert in the above information systems, or with personal data in the watchlist, the application should be, *where the hit cannot be automatically confirmed by VIS*, processed manually by an operator in the responsible authority. *Depending on the type of data triggering the hit, the hit should be assessed either by consulates or by a national single point of contact, with the latter being responsible for hits generated in particular bylaw enforcement databases or systems.* The assessment performed by the responsible authority should lead to the decision to issue or not the short-stay visa.

Amendment 13

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) Specific risk indicators corresponding to previously identified security, irregular migration or **public health risk** should be used to analyse the application file for a short stay visa. The criteria used for defining the specific risk indicators should in no circumstances be based solely on a person's sex or age. They shall in no circumstances be based on information revealing a person's race, colour, ethnic or social origin, genetic features, language, political or any other opinions, religion or **philosophical** belief, trade union membership, membership of a national minority, property, birth, disability or sexual orientation..

Amendment

(18) Specific risk indicators corresponding to previously identified security, irregular migration or **high epidemic risks** should be used to analyse the application file for a short stay visa. The criteria used for defining the specific risk indicators should in no circumstances be based solely on a person's sex or age. They shall in no circumstances be based on information revealing a person's race, colour, ethnic or social origin, genetic features, language, political or any other opinions, religion or **philosophical** belief, trade union membership, membership of a national minority, property, birth, disability or sexual orientation.

Amendment 14

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) The continuous emergence of new forms of security **threats**, new patterns of irregular migration and **public health threats** requires effective responses and needs to be countered with modern means. Since these means entail the processing of important amounts of personal data, appropriate safeguards should be introduced to keep the interference with the rights to respect for private and family life and to the personal data limited to what is necessary in a democratic society.

Amendment

(19) The continuous emergence of new forms of security **risks**, new patterns of irregular migration and **high epidemic risks** requires effective responses and needs to be countered with modern means. Since these means entail the processing of important amounts of personal data, appropriate safeguards should be introduced to keep the interference with the rights to respect for private and family life and to the personal data limited to what is necessary **and proportionate** in a democratic society.

Amendment 15

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) In order to fulfil their obligation under the Convention implementing the Schengen Agreement, international carriers should **be able to** verify whether or not third country nationals holding a short-stay visa, a long stay visa or a residence permit are in possession of the required valid travel documents. This verification should be made possible through the daily extraction of VIS data into a separate read-only database allowing the extraction of a minimum necessary subset of data to enable a query leading to an ok/not ok answer.

Amendment

(21) In order to fulfil their obligation under the Convention implementing the Schengen Agreement, international carriers should verify whether or not third country nationals holding a short-stay visa, a long stay visa or a residence permit are in possession of the required valid travel documents **by sending a query to VIS**. This verification should be made possible through the daily extraction of VIS data into a separate read-only database allowing the extraction of a minimum necessary subset of data to enable a query leading to an ok/not ok answer. **The application file itself should not be accessible to carriers. The technical specifications for accessing VIS through the carrier gateway should**

limit the impact on passenger travel and carriers to the extent possible. For this purpose, integration with the EES and ETIAS should be considered.

Amendment 16

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) With a view to limiting the impact of the obligations set out in this Regulation on international carriers transporting groups overland by coach, user-friendly mobile solutions should be made available.

Amendment 17

Proposal for a regulation Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) Within two years following the start of application of this Regulation, the appropriateness, compatibility and coherence of provisions referred to in Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders for the purposes of the VIS provisions for overland transport by coaches should be assessed by the Commission. The recent evolution of overland transport by coaches should be taken into account. The need for

amending provisions concerning overland transport by coaches referred to in Article 26 of that Convention or this Regulation should be considered.

Amendment 18

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Biometric data, which in the context of this Regulation entails fingerprints and facial images are unique and therefore much more reliable than alphanumeric data for the purposes of identifying a person. However, biometric data constitute sensitive personal data. This Regulation thus lays down the basis and safeguards for processing such data for the purpose of uniquely identifying the persons concerned.

Amendment 19

Proposal for a regulation Recital 28

Text proposed by the Commission

Amendment

(28) [Regulation 2018/XX on interoperability] provides the possibility for a Member State police authority which has been so empowered by national legislative measures, to identify a person with the biometric data of that person taken during an identity check. However specific circumstances may exist where identification of a person is necessary in the interest of that person. Such cases include situations where the person was found after having gone missing, been

(28) [Regulation 2018/XX on interoperability (**borders and visas**)] provides the possibility for a Member State police authority which has been so empowered by national legislative measures, to identify a person with the biometric data of that person taken during an identity check. However specific circumstances may exist where identification of a person is necessary in the interest of that person. Such cases include situations where the person was

abducted or having been identified as victim of trafficking. In such cases, quick access for law enforcement authorities to VIS data to enable a fast and reliable identification of the person, without the need to fulfill all the preconditions and additional safeguards for law enforcement access, should be provided.

found after having gone missing, been abducted or having been identified as victim of trafficking. In such cases **alone**, quick access for law enforcement authorities to VIS data to enable a fast and reliable identification of the person, without the need to fulfill all the preconditions and additional safeguards for law enforcement access, should be provided.

Amendment 20

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the VIS in cases where there are reasonable grounds for believing that the perpetrator or victim may be registered in the VIS should provide the law enforcement authorities of the Member States with a very valuable tool in preventing, detecting or investigating terrorist offences or other serious criminal offences, when for example the only evidence at a crime scene are latent fingerprints.

Amendment

(29) Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the VIS in cases where there are reasonable grounds for believing that the perpetrator or victim may be registered in the VIS **and after prior search under Council Decision 2008/615/JHA^{1a}** should provide the law enforcement authorities of the Member States with a very valuable tool in preventing, detecting or investigating terrorist offences or other serious criminal offences, when for example the only evidence at a crime scene are latent fingerprints.

^{1a} ***Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).***

Amendment 21

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) To protect personal data and to exclude systematic searches by law enforcement, the processing of VIS data should only take place in specific cases and when it is necessary for the purposes of preventing, detecting or investigating terrorist offences or other serious criminal offences. The designated authorities and Europol should only request access to the VIS when they have reasonable grounds to believe that such access will provide information that will substantially assist them in preventing, detecting or investigating a terrorist offence or other serious criminal offence.

Amendment

(32) To protect personal data and to exclude systematic searches by law enforcement, the processing of VIS data should only take place in specific cases and when it is necessary for the purposes of preventing, detecting or investigating terrorist offences or other serious criminal offences. The designated authorities and Europol should only request access to the VIS when they have reasonable grounds to believe that such access will provide information that will substantially assist them in preventing, detecting or investigating a terrorist offence or other serious criminal offence ***and after prior search under Decision 2008/615/JHA.***

Amendment 22

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) As a general practice, Member States' end-users carry out searches in relevant national data bases prior or in parallel to querying European databases.

Amendment 23

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) The personal data of holders of long stay **documents** 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 related to third country nationals for a period of five years in order to enable data to be taken into account for the assessment of short-stay visa applications, to enable detection of overstay after the end of the validity period and in order to conduct security assessments of third country nationals who obtained them. The data on previous uses of a document could facilitate the issuance of future short stay visas. A shorter storage period would not be sufficient for ensuring the stated purposes. The data should be erased after a period of five years, unless there are grounds to erase them earlier.

Amendment

(33) The personal data of holders of long stay **visas** 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 related to third country nationals for a period of five years in order to enable data to be taken into account for the assessment of short-stay visa applications, to enable detection of overstay after the end of the validity period and in order to conduct security assessments of third country nationals who obtained them. The data on previous uses of a document could facilitate the issuance of future short stay visas. A shorter storage period would not be sufficient for ensuring the stated purposes. The data should be erased after a period of five years, unless there are grounds to erase them earlier.

Amendment 24

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) Members of the European Border and Coast Guard (EBCG) teams, ***as well as teams of staff involved in return-related tasks*** are entitled by Regulation (EU) 2016/1624 of the European Parliament and the Council to consult European databases where necessary for fulfilling operational tasks specified in the operational plan on border checks, border surveillance and return, under the authority of the host Member State. ***For the purpose of facilitating that consultation and enabling the teams an effective access to the data entered in VIS, the ECBGA should be given access to VIS.*** Such access should

Amendment

(35) Members of the European Border and Coast Guard (EBCG) teams are entitled by Regulation (EU) 2016/1624 of the European Parliament and the Council to consult European databases where necessary for fulfilling operational tasks specified in the operational plan on border checks, border surveillance and return, under the authority of the host Member State. Such access should follow the conditions and limitations of access applicable to the Member States' authorities competent under each specific purpose for which VIS data can be consulted.

follow the conditions and limitations of access applicable to the Member States' authorities competent under each specific purpose for which VIS data can be consulted.

Amendment 25

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) The third countries of return are often not subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679 or under national provisions adopted to transpose Article 36 of Directive (EU) 2016/680. Furthermore, the extensive efforts of the Union in cooperating with the main countries of origin of illegally staying third-country nationals subject to an obligation to return has not been able to ensure the systematic fulfilment by such third countries of the obligation established by international law to readmit their own nationals. Readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for the transfer of data to third countries pursuant to Article 46 of Regulation (EU) 2016/679 or to the national provisions adopted to transpose Article 37 of Directive (EU) 2016/680, cover a limited number of such third countries and conclusion of any new agreement remains uncertain. In such situations, personal data could be processed pursuant to this regulation with third-country authorities for the purposes of implementing the return policy of the Union provided that the conditions laid down in Article 49(1)(d) of Regulation (EU) 2016/679 or in the national provisions transposing Article 38 or 39 of

Amendment

(37) Personal data obtained by a Member State pursuant to this Regulation should not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. As an exception to that rule, however, it should be possible to transfer such personal data to a third country or to an international organisation where such a transfer is subject to strict conditions and necessary in individual cases in order to assist with the identification of a third-country national in relation to his or her return. In the absence of an adequacy decision by means of implementing act pursuant to Regulation (EU) 2016/679 or of appropriate safeguards to which transfers are subject pursuant to that Regulation, it should be possible to exceptionally transfer, for the purposes of return, VIS data to a third country or to an international organisation, only where it is necessary for important reasons of public interest as referred to in that Regulation.

Directive (EU) 2016/680 are met.

Amendment 26

Proposal for a regulation

Recital 38

Text proposed by the Commission

Amendment

(38) Member States should make available relevant personal data processed in the VIS, in accordance with the applicable data protection rules and where required in individual cases for carrying out tasks under Regulation (EU) .../... of the European Parliament and the Council⁶⁰, Union Resettlement Framework Regulation], to the [European Union Asylum Agency] and relevant international bodies such as the United Nations High Commissioner for Refugees, the International Organisation on Migration and to the International Committee of the Red Cross refugee and resettlement operations, in relation to third-country nationals or stateless persons referred by them to Member States in the implementation of Regulation (EU) .../... [the Union Resettlement Framework Regulation].

deleted

⁶⁰ Regulation (EU) .../... of the European Parliament and the Council [full title] (OJ L ..., ..., p. ...).

Amendment 27

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) Regulation (EC) No 45/2001 of the European Parliament and the Council⁶¹ applies to the activities of the Union institutions or bodies when carrying out their tasks as responsible for the operational management of VIS.

⁶¹ Regulation (EC) No 45/2001 of the European Parliament and the Council of **18 December 2000** 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 (**OJ L 8, 12.1.2001, p. 1**).

Amendment

(39) Regulation (EU) 2018/1725 of the European Parliament and the Council⁶¹ applies to the activities of the Union institutions or bodies when carrying out their tasks as responsible for the operational management of VIS.

⁶¹ Regulation (EU) 2018/1725 of the European Parliament and **of** the Council of **23 October 2018** on the protection of **natural persons** with regard to the processing of personal data by the **Union** institutions, bodies, **offices and agencies** and on the free movement of such data, **and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39)**.

Amendment 28

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on ...

Amendment

(40) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on **12 December 2018**.

Amendment 29

Proposal for a regulation Recital 43

Text proposed by the Commission

(43) Without prejudice to Member States' responsibility for the accuracy of data entered into VIS, eu-LISA should be responsible for reinforcing data quality by introducing a central data quality monitoring tool, and for providing reports at regular intervals to the Member States.

Amendment

(43) Without prejudice to Member States' responsibility for the accuracy of data entered into VIS, eu-LISA should be responsible for reinforcing data quality by introducing, ***maintaining and continuously upgrading*** a central data quality monitoring tool, and for providing reports at regular intervals to the Member States.

Amendment 30

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) In order to allow better monitoring of the use of VIS to analyse trends concerning migratory pressure and border management, eu-LISA should be able to develop a capability for statistical reporting to the Member States, the Commission, and the European Border and ***Cost*** Guard Agency without jeopardising data integrity. Therefore, ***a central*** statistical repository ***should be established***. None of the produced statistics should contain personal data.

Amendment

(44) In order to allow better monitoring of the use of VIS to analyse trends concerning migratory pressure and border management, eu-LISA should be able to develop a capability for statistical reporting to the Member States, the Commission, and the European Border and ***Coast*** Guard Agency without jeopardising data integrity. Therefore, ***eu-LISA should store certain statistical data in the central repository for the purposes of the reporting and providing statistics in accordance with [Regulation 2018/XX on interoperability (borders and visa)]***. None of the produced statistics should contain personal data.

Amendment 31

Proposal for a regulation

Recital 47 a (new)

(47a) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967, and to all the international commitments entered into by the Union and its Member States.

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point -1 (new)

Regulation (EC) No 767/2008

Title

Present text

“Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of *data* between Member States on short-stay visas (VIS Regulation)”

Amendment

(-1) The title is replaced by the following:

“Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of *information* between Member States on short-stay visas, *long-stay visas, and residence permits* (VIS Regulation)”;

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

1. The VIS shall have the purpose of improving the implementation of the common visa policy, consular cooperation and consultation between central visa authorities by facilitating the exchange of data between Member States on applications and on the decisions relating thereto, in order:

Amendment

1. The VIS shall have the purpose of improving the implementation of the common visa policy *on short-stay visas*, consular cooperation and consultation between central visa authorities by facilitating the exchange of data between Member States on applications and on the decisions relating thereto, in order:

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) to facilitate the visa application procedure;

Amendment

(a) to facilitate *and expedite* the visa application procedure;

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – point f

Text proposed by the Commission

(f) to assist in the identification of persons who have gone missing;

Amendment

(f) to assist in the identification of persons *referred to in Article 22o* who have gone missing;

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – point h

Text proposed by the Commission

(h) to contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;

Amendment

(h) to contribute to ***the prevention of threats to the internal security of any of the Member States, namely through*** the prevention, detection and investigation of terrorist offences or of other serious criminal offences ***in appropriate and strictly defined circumstances***;

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – point i

Text proposed by the Commission

(i) to contribute to the prevention of threats to the internal security of any of the Member States;

Amendment

deleted

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) support a high level of security by contributing to the assessment of whether the applicant is considered to pose a threat to public policy, internal security **or public health prior to their arrival at the external borders crossing points**;

Amendment

(a) support a high level of security **in all Member States** by contributing to the assessment of whether the applicant **or holder of a document** is considered to pose a threat to public policy, internal security;

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 2 – point b

Text proposed by the Commission

(b) enhance the effectiveness **of border checks and** of checks within the territory;

Amendment

(b) **facilitate checks at external border crossing points and** enhance the effectiveness of checks within the territory **of the Member States**;

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 2 – point c

Text proposed by the Commission

(c) contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;

Amendment

(c) contribute to ***the prevention of threats to the internal security of any of the Member States, namely through*** the prevention, detection and investigation of terrorist offences or of other serious criminal offences ***in appropriate and strictly defined circumstances***;

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 767/2008

Article 2 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) to assist in the identification of persons referred to in Article 22o who have gone missing;

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 2 a (new)

Regulation (EC) No 767/2008

Article 2 a (new)

Text proposed by the Commission

Amendment

(2a) the following Article is inserted:

“Article 2a

Architecture

1. VIS shall be based on a centralised architecture and shall consist of:

- (a) the common identity repository established by [Article 17(2)(a) of Regulation 2018/XX on interoperability (borders and visa)];**
- (b) a central information system (the ‘VIS Central System’);**
- (c) an interface in each Member State (the ‘national interface’ or ‘NI-VIS’) which shall provide the connection to the relevant central national authority of the respective Member State, or a national uniform interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the VIS Central System to connect to the national infrastructures in Member States;**
- (d) a communication infrastructure between the VIS Central System and the national interfaces;**
- (e) a secure communication channel between the VIS Central System and the EES Central System;**
- (f) a secure communication infrastructure between the VIS Central System and the central infrastructures of the European search portal established by [Article 6 of Regulation 2018/XX on interoperability (borders and visa)], shared biometric matching service established by [Article 12 of Regulation 2018/XX on interoperability (borders and visa)], the common identity repository established by [Article 17 of Regulation 2018/XX on interoperability (borders and visa)] and the multiple-identity detector established by [Article 25 of Regulation 2018/XX on interoperability (borders and visa)];**
- (g) a mechanism of consultation on applications and exchange of information between central visa authorities (‘VISMaiI’);**

- (h) a carrier gateway;*
- (i) a secure web service enabling communication between the VIS Central System on the one hand and the carrier gateway and international systems on the other hand;*
- (j) a repository of data for the purposes of reporting and statistics;*
- (k) a tool enabling applicants to give or withdraw their consent for an additional retention period of their application file.*

The VIS Central System, the national uniform interfaces, the web service, the carrier gateway and the VIS communication infrastructure shall share and re-use as much as technically possible the hardware and software components of respectively the EES Central System, the EES national uniform interfaces, the ETIAS carrier gateway, the EES web service and the EES communication infrastructure.

2. The NI-VIS shall consist of:

- (a) one local national interface (LNI) for each Member State which is the interface that physically connects the Member State to the secure communication network and contains the encryption devices dedicated to VIS. The LNI shall be located at the Member State premises;*
- (b) one backup LNI (BLNI) which shall have the same content and function as the LNI.*

3. The LNI and BLNI are to be used exclusively for purposes defined by the Union legislation applicable to VIS.

4. Centralised services shall be duplicated to two different locations namely Strasbourg, France, hosting the principal VIS Central System, central unit (CU) and St Johann im Pongau, Austria, hosting the backup VIS Central System, backup central unit (BCU). The connection between the principal VIS Central System and the backup VIS

Central System shall allow for the continuous synchronisation between the CU and BCU. The communication infrastructure shall support and contribute to ensuring the uninterrupted availability of VIS. It shall include redundant and separated paths for the connections between VIS Central System and the backup VIS Central System and shall also include redundant and separated paths for the connections between each national interface and VIS Central System and backup VIS Central System. The communication infrastructure shall provide an encrypted, virtual, private network dedicated to VIS data and to communication between Member States and between Member States and the authority responsible for the operational management for the VIS Central System.

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) ‘central authority’ means the authority established by a Member State for the purposes of Regulation (EC) No 810/2009;

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 15

Text proposed by the Commission

(15) ‘facial image’ means digital image of the face;

Amendment

(15) ‘facial image’ means digital image of the face ***with sufficient image resolution and quality to be used in automated biometric matching;***

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 19

Text proposed by the Commission

(19) ‘***national supervisory authority***’ as regards law enforcement purposes means the supervisory authorities ***established in accordance with*** Article 41 of Directive (EU) 2016/680 of the European Parliament and of the Council***;

Amendment

(19) ‘supervisory ***authorities***’ means the supervisory authorities ***referred to in Article 51(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council** and the supervisory authorities referred to in*** Article 41 of Directive (EU) 2016/680 of the European Parliament and of the Council***;

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) 'hit' means the existence of a correspondence established by comparing the relevant data recorded in an application file of VIS with the relevant data present in a record, file or alert registered in VIS, Schengen Information System, the EES, ETIAS, Eurodac, Europol data or in Interpol's SLTD database;

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

(20) 'law enforcement' means the prevention, detection or investigation of terrorist offences or other serious criminal offences;

(20) 'law enforcement' means the prevention, detection or investigation of terrorist offences or other serious criminal offences ***within a strictly defined framework;***

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – paragraph 1 – point 21

Text proposed by the Commission

(21) 'terrorist offences' mean the offences under national law ***which correspond or are equivalent to those*** referred to in Directive (EU) 2017/541 of the European Parliament and of the Council****;

Amendment

(21) 'terrorist offences' mean the offences under national law referred to in ***Articles 3 to 14 of*** Directive (EU) 2017/541 of the European Parliament and of the Council**** ***or equivalent to one of those offences for the Member States which are not bound by that Directive;***

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 767/2008

Article 4 – footnote 2 (new)

Text proposed by the Commission

Amendment

***** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJL 119, 4.5.2016, p. 1).***

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 767/2008

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) fingerprint data referred to in Article 9(6) **and** Article 22c(2)(g);

Amendment

(c) fingerprint data referred to in Article 9(6), Article 22c(2)(g) **and Article 22d(g)**;

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 767/2008

Article 5 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) scans of the biographic data page of the travel document referred to in Article 9(7);

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 767/2008

Article 5 – paragraph 3

Text proposed by the Commission

3. The CIR shall contain the data referred to in Article 9(4)(a) to (cc), Article 9(5) and 9(6), Article 22c(2)(a), to (cc), (f) and (g), and Article 22d(a) to **(cc)**, (f) and (g). The remaining VIS data shall be stored in the VIS Central System.

Amendment

3. The CIR shall contain the data referred to in Article 9(4)(a) to (cc), Article 9(5) and 9(6), Article 22c(2)(a), to (cc), (f) and (g), and Article 22d(a) to **(c)**, (f) and (g). The remaining VIS data shall be stored in the VIS Central System.

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 767/2008

Article 5a – paragraph 1

Text proposed by the Commission

(1) The list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa, as established by Decision No 1105/2011/EU of the European Parliament and of the Council*, shall be integrated in the VIS.

Amendment

1. The list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa, as established by Decision No 1105/2011/EU of the European Parliament and of the Council*, shall be integrated in the VIS.

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 767/2008

Article 5a – paragraph 2

Text proposed by the Commission

(2) The VIS shall provide the functionality for the centralised management of the list of recognised travel documents and of the notification of the recognition or non-recognition of the listed travel documents pursuant to Article 4 of Decision No 1105/2011/EU.

Amendment

2. The VIS shall provide the functionality for the centralised management of the list of recognised travel documents and of the notification of the recognition or non-recognition of the listed travel documents pursuant to Article 4 of Decision No 1105/2011/EU.

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 6
Regulation (EC) No 767/2008

Article 5a – paragraph 3

Text proposed by the Commission

(3) The detailed rules on managing the functionality referred to in paragraph 2 shall be laid down in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).

Amendment

3 The detailed rules on managing the functionality referred to in paragraph 2 shall be laid down in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point -a (new)

Regulation (EC) No 767/2008

Article 6 – paragraph 1

Present text

1. Access to the VIS for entering, amending or deleting the data referred to in Article 5(1) in accordance with this Regulation shall be reserved exclusively to the duly authorised staff of the visa authorities.

Amendment

(-a) paragraph 1 is replaced by the following:

“1. Without prejudice to Article 22a, access to the VIS for entering, amending or deleting the data referred to in Article 5(1) in accordance with this Regulation shall be reserved exclusively to the duly authorised staff of the visa authorities. The number of duly authorised members of staff shall be strictly limited by the actual needs of their service.”

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EC) No 767/2008

Article 6 – paragraph 2

Text proposed by the Commission

2. Access to the VIS for consulting the data shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and of the EU bodies which are competent for the purposes laid down in Articles 15 to 22, **Articles 22c to 22f**, Articles 22g to **22j**, as well as for the purposes laid down in Articles 20 and 21 of [Regulation **2018/XX** on interoperability].

That access shall be limited to the extent that the data are required for the performance of their tasks in accordance with those purposes, and proportionate to the objectives pursued.

Amendment

2. Access to the VIS for consulting the data shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and of the EU bodies which are competent for the purposes laid down in Articles 15 to 22 **and** Articles 22g to **22l**, as well as for the purposes laid down in Articles 20 and 21 of [Regulation **2018/XX** on interoperability (**borders and visa**)].

The authorities entitled to consult or access VIS in order to prevent, detect and investigate terrorist offences or other serious criminal offences shall be designated in accordance with Chapter IIIb.

That access shall be limited to the extent that the data are required for the performance of their tasks in accordance with those purposes, and proportionate to the objectives pursued.”

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a a (new)

Regulation (EC) No 767/2008

Article 6 – paragraph 3

Present text

Amendment

(aa) paragraph 3 is replaced by the following:

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 41(4), and any amendments thereto. That list shall specify for **what purpose** each authority may **process data in the VIS**.

Within 3 months after the VIS has become operational in accordance with Article 48(1), the Commission shall publish a consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated list.

“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 **eu-LISA** a list of these authorities, including those referred to in Article 29(3a), and any amendments thereto. That list shall specify for each authority, **which data it may search and for what purposes**.

eu-LISA shall ensure annual publication of the list and of lists of designated authorities referred to in Article 22k(2) and the central access points referred to in Article 22k(4) in the Official Journal of the European Union. eu-LISA shall maintain a continuously updated list on its website containing changes sent by Member States between the annual publications.

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point c

Regulation (EC) No 767/2008

Article 6 – paragraph 5

Text proposed by the Commission

5. The detailed rules on managing the functionality for the centralised management of the list in paragraph 3 **shall be laid down in implementing acts. Those**

Amendment

5. ***The Commission shall adopt delegated acts in accordance with Article 48a concerning the detailed rules on managing the functionality for the***

implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).

centralised management of the list in paragraph 3.

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 7 a (new)

Regulation (EC) No 767/2008

Article 7 – paragraph 2

Present text

2. *Each* competent authority *shall ensure that in using the VIS, it does not discriminate* against applicants *and* visa holders *on* grounds of sex, *racial or* ethnic origin, religion or belief, disability, age or sexual orientation *and that it fully respects the* human dignity and the integrity *of the applicant or of the visa holder.*

Amendment

(7a) In Article 7, paragraph 2 is replaced by the following:

“2. Processing of personal data within the VIS by each competent authority *shall not result in discrimination* against applicants, visa holders or *applicants and holders of long-stay visas, and residence permits on the* grounds of sex, *race, colour, ethnic or social* origin, *genetic features, language,* religion or belief, *political or any other opinion, membership of a national minority, property, birth,* disability, age or sexual orientation. *It shall fully respect* human dignity and integrity *and fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, including the right to respect for one’s private life and to the protection of personal data. Particular attention shall be paid to children, the elderly and persons with a disability and persons in need of international protection. The best interests of the child shall be a primary consideration.*

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 767/2008

Article 7 – paragraph 3

Text proposed by the Commission

3. The best interests of the child shall **be a primary** consideration for Member States with respect to all procedures provided for in this Regulation. The child’s well-being, safety and security, in particular where there is a risk of the child being a victim of human trafficking in human beings, and the views of the child shall be taken into consideration and given due weight in accordance with his or her age **and maturity**.

Amendment

3. The best interests of the child shall **take precedence over any other** consideration for Member States with respect to all procedures provided for in this Regulation, **in full compliance with the International Convention on the Rights of the Child**. The child’s well-being, safety and security, in particular where there is a risk of the child being a victim of human trafficking in human beings, and the views of the child shall be taken into consideration and given due weight in accordance with his or her age.

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 8 a (new)

Regulation (EC) No 767/2008

Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(8a) In Article 7, the following paragraph is added:

“3a. Member States shall apply this Regulation in full conformity with the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the right to liberty and security, the respect for private and family

life, the protection of personal data, the right to asylum and protection of the principle of non-refoulement and protection in the event of removal, expulsion or extradition, the right to non-discrimination, the rights of the child and the right to an effective remedy.”;

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 8 b (new)

Regulation (EC) No 767/2008

Article 7 a (new)

Text proposed by the Commission

Amendment

(8b) The following Article is inserted:

“Article 7a

Fingerprint data of children

1. By way of derogation to Article 22c(2)(g) no fingerprints of children under the age of 6 shall be entered into VIS.

2. The biometric data of minors from the age of six shall be taken by officials trained specifically to take a minor's biometric data in a child-friendly and child-sensitive manner and in full respect of the best interests of the child and the safeguards laid down in the United Nations Convention on the Rights of the Child.

The minor shall be accompanied by, where present, an adult family member while his or her biometric data are taken. An unaccompanied minor shall be accompanied by a guardian, representative or, where a representative has not been designated, a person trained to safeguard the best interests of the minor and his or her general wellbeing,

while his or her biometric data are taken. Such a trained person shall not be the official responsible for taking the biometric data, shall act independently and shall not receive orders either from the official or the service responsible for taking the biometric data. No form of force shall not be used against minors to ensure their compliance with the obligation to provide biometric data.

3. By way of derogation from Article 13(2) of Regulation (EC) 810/2009 consulates shall not request that children between the age of 6 and 12 appear in person at the consulate for the collection of biometric identifiers where this would constitute an excessive burden and costs for families. In such cases, biometric identifiers shall be taken at the external borders where particular attention shall be paid to avoid child trafficking.

4. By way of derogation from the provisions on the use of data provided for in Chapters II, III, IIIa and IIIb fingerprint data of children may only be accessed for the following purposes:

(a) to verify the child's identity in the visa application procedure in accordance with Article 15 and at the external borders in accordance with Articles 18 and 22g and

(b) under Chapter IIIb to contribute to the prevention of and fight against abuses of children's rights, subject to all of the following conditions being satisfied:

(i) such access must be necessary for the purpose of the prevention, detection or investigation of child trafficking;

(ii) access is necessary in a specific case;

(iii) the identification is in the best interest of the child.”

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 767/2008

Chapter II – title

Text proposed by the Commission

ENTRY AND USE OF DATA ON
SHORY STAY VISA BY VISA
AUTHORITIES

Amendment

ENTRY AND USE OF DATA ON
SHORT-STAY VISA BY VISA
AUTHORITIES

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b

Regulation (EC) No 767/2008

Article 9 – paragraph 1 – point 5

Text proposed by the Commission

5. the facial image of the applicant, in accordance with Article **13(I)** of Regulation (EC) No 810/2009.

Amendment

5. the facial image of the applicant, in accordance with Article **13** of Regulation (EC) No 810/2009.

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b a (new)

Regulation (EC) No 767/2008

Article 9 – paragraph 1 – point 6

Present text

Amendment

6. fingerprints of the applicant, in accordance with ***the relevant provisions of the Common Consular Instructions.***

(ba) point 6 is replaced by the following:

“6. fingerprints of the applicant, in accordance with ***Article 13 of Regulation (EC) No 810/2009.***”;

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point d

Regulation (EC) No 767/2008

Article 9 – paragraph 1a

Text proposed by the Commission

Amendment

8. The facial image of third country nationals referred to in point 5 of the first paragraph shall have sufficient image resolution and quality to be used in automated biometric matching.

The facial image of third country nationals referred to in point 5 of the first paragraph shall have sufficient image resolution and quality to be used in automated biometric matching. ***If it lacks sufficient quality, the facial image shall not be used for automated matching.***

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point d

Regulation (EC) No 767/2008

Article 9 – paragraph 1b

Text proposed by the Commission

Amendment

By way of derogation from the ***second*** paragraph, in exceptional cases where the

By way of derogation from the ***first*** paragraph, in exceptional cases where the

quality and resolution specifications set for the enrolment of the live facial image in the VIS cannot be met, the facial image may be extracted electronically from the chip of the electronic Machine Readable Travel Document (eMRTD). In such cases, the facial image shall only be inserted into the individual file after electronic verification that the facial image recorded in the chip of the eMRTD corresponds to the live facial image of the third-country national concerned.

quality and resolution specifications set for the enrolment of the live facial image in the VIS cannot be met, the facial image may be extracted electronically from the chip of the electronic Machine Readable Travel Document (eMRTD). In such cases, the facial image shall only be inserted into the individual file after electronic verification that the facial image recorded in the chip of the eMRTD corresponds to the live facial image of the third-country national concerned.

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 2

Text proposed by the Commission

2. When an application is created *or a visa is issued*, the VIS shall check whether the travel document related to that application is recognised in accordance to Decision No 1105/2011/EU, by performing an automatic search against the list of recognised travel documents referred to in Article 5a, and shall return a result.

Amendment

2. When an application is created, the VIS shall check whether the travel document related to that application is recognised in accordance to Decision No 1105/2011/EU, by performing an automatic search against the list of recognised travel documents referred to in Article 5a, and shall return a result.

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 3

3. For the purpose of the verifications provided for in Article 21(1) and Article 21(3)(a), **(c) and (d)** of Regulation (EC) No 810/2009, the VIS shall launch a query by using the European Search Portal defined in Article 6(1) [of the Interoperability Regulation] to compare the relevant data referred to in **point (4)** of Article 9 of this Regulation **to the data present in a record, file or alert registered in the VIS, the Schengen Information System (SIS), the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the watchlist referred to in Article 29 of Regulation (EU) 2018/XX for the purposes of establishing a European Travel Information and Authorisation System], the Eurodac, [the ECRIS-TCN system as far as convictions related to terrorist offences and other forms of serious criminal offences are concerned], the Europol data, the Interpol Stolen and Lost Travel Document database (SLTD) and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN).**

3. For the purpose of the verifications provided for in Article 21(1) and Article 21(3)(a) **and (c)** of Regulation (EC) No 810/2009, the VIS shall launch a query by using the European Search Portal defined in Article 6(1) [of the Interoperability Regulation] to compare the relevant data referred to in **points (4), (5) and (6)** of Article 9 of this Regulation. **VIS shall verify:**

- (a) whether the travel document used for the application corresponds to a travel document reported lost, stolen, misappropriated or invalidated in SIS;**
- (b) whether the travel document used for the application corresponds to a travel document reported lost, stolen or invalidated in the SLTD database;**
- (c) whether the applicant is subject to a refusal of entry and stay alert in SIS;**
- (d) whether the applicant is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;**
- (e) whether the applicant and the travel document correspond to a refused,**

revoked or annulled travel authorisation in the ETIAS Central System and its holder;

(f) whether the applicant and the travel document are in the watch list referred to in Article 34 of Regulation (EU) 2018/1240 of the European Parliament and of the Council;*

(g) whether data on the applicant is already recorded in VIS;

(h) whether the data provided in the application concerning the travel document correspond to another application for a visa associated with different identity data;

(i) whether the applicant is currently reported as an overstayer or whether he or she has been reported as an overstayer in the past in the EES;

(j) whether the applicant is recorded as having been refused entry in the EES;

(k) whether the applicant has been subject to a decision to refuse, annul or revoke a short-stay visa recorded in VIS;

(l) whether the applicant has been subject to a decision to refuse, annul or revoke a long-stay visa, or residence permit recorded in VIS;

(m) whether data specific to the identity of the applicant are recorded in Europol data;

(n) whether the applicant for a short-stay visa is registered in Eurodac;

(o) in cases where the applicant is a minor, whether the applicant's holder of parental authority or legal guardian:

(i) is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;

(ii) is subject to a refusal of entry and stay alert entered in SIS;

(iii) holds a travel document contained in the watch list referred to in Article 34

of Regulation (EU) 2018/1240.

*** Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).**

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When querying SLTD, the data used by the user of the ESP to launch a query shall not be shared with the owners of Interpol data.

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 4

Text proposed by the Commission

Amendment

4. The VIS shall add a reference to any

4. The VIS shall add a reference to any

hit obtained pursuant to paragraph 3 to the application file. Additionally, the VIS shall identify, where relevant, the Member State(s) that entered or supplied the data having triggered the hit(s) or Europol, and shall record this in the application file.

hit obtained pursuant to paragraph 3 to the application file. Additionally, the VIS shall identify, where relevant, the Member State(s) that entered or supplied the data having triggered the hit(s) or Europol, and shall record this in the application file. ***No information other than the reference to any hit and the originator of the data shall be recorded.***

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 – point d

Text proposed by the Commission

(d) an alert on persons and objects for discreet checks ***or*** specific checks.

Amendment

(d) an alert on persons and objects for discreet checks, specific checks ***or inquiry checks.***

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Any hit resulting from the queries pursuant to Article 9a(3)(a), (b), (c), (e), (g), (h), (i), (j), (k), (l) and (n) shall be assessed, where necessary following verification by the central authority in

accordance with Article 9c, by the consulate where the visa application was lodged.

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. Any hit resulting from the queries pursuant to Article 9a(3)(d), (f),(m), and (o) shall be verified, where necessary, and assessed by the single point of contact of the Member States that entered or supplied the data having triggered the hits, in accordance with Article 9ca.

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. Any hit against SIS shall also be automatically notified to the SIRENE Bureau of the Member State that created the alert having triggered the hit.

Amendment 77

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 d (new)

Text proposed by the Commission

Amendment

5d. The notification provided to the SIRENE Bureau of the Member State or the single point of contact that entered the alert shall contain the following data:

(a) surname(s), first name(s) and, if any, alias(es);

(b) place and date of birth;

(c) sex;

(d) nationality and, if any, other nationalities;

(e) Member State of first intended stay, and if available, the address of first intended stay;

(f) the applicant's home address or, if not available, his or her city and country of residence;

(g) a reference to any hits obtained, including the date and time of the hit.

Amendment 78

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9a – paragraph 5 e (new)

5e. This Article shall not impede the submission of an application for asylum on any grounds. If a visa application is submitted by a victim of violent crime such as domestic violence or trafficking in human beings committed by their sponsor, the file submitted to VIS shall be separated from that of the sponsor in order to protect the victims from further danger.

Amendment 79

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9b – paragraph 1

1. As regards third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other, the automated checks in Article 9a(3) shall be carried **our** solely for the purpose of checking that there are no factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a risk to security **or high epidemic risk** in accordance with Directive 2004/38/EC.

1. As regards third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other, the automated checks in Article 9a(3) shall be carried **out** solely for the purpose of checking that there are no factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a risk to security in accordance with Directive 2004/38/EC.

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9b – paragraph 3

Text proposed by the Commission

3. Where the automated processing of the application as referred to in Article 9a(3) has reported a hit corresponding to a refusal of entry and stay alert as referred to in Article 24 of Regulation (*EC*) **1987/2006**, the visa authority shall verify the ground for the decision following which this alert was entered in the SIS. If this ground is related to an illegal immigration risk, the alert shall not be taken into consideration for the assessment of the application. The visa authority shall proceed according to Article **25(2) of the SIS II** Regulation.

Amendment

3. Where the automated processing of the application as referred to in Article 9a(3) has reported a hit corresponding to a refusal of entry and stay alert as referred to in Article 24 of Regulation (*EU*) **2018/1861**, the visa authority shall verify the ground for the decision following which this alert was entered in the SIS. If this ground is related to an illegal immigration risk, the alert shall not be taken into consideration for the assessment of the application. The visa authority shall proceed according to Article **26(2) of Regulation (EU) 2018/1861**.

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – title

Text proposed by the Commission

Verification by the central authorities

Amendment

Verification by the central authorities **and the national single point of contact**

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – paragraph 1

Text proposed by the Commission

1. Any hit resulting from the queries pursuant to Article 9a(3) shall be manually verified by the central authority of the Member State processing the application.

Amendment

1. Any hit ***as referred to in Article 9a(5b)*** resulting from the queries pursuant to Article 9a(3) ***which cannot automatically be confirmed by VIS*** shall be manually verified by ***the national single point of contact in accordance with Article 9ca***. The central authority of the Member State processing the application ***shall be notified***.

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – paragraph 2

Text proposed by the Commission

2. ***Where*** manually verifying the hits, the central authority shall have access to the application file and any linked application files, as well as to all the hits triggered during the automated processing pursuant to Article 9a(3).

Amendment

2. ***Any hit as referred to in Article 9a(5a) resulting from the queries pursuant to Article 9a(3) which cannot automatically be confirmed by VIS shall be manually verified by the central authority***. ***When*** manually verifying the hits, the central authority shall have access to the application file and any linked application files, as well as to all the hits triggered during the automated processing pursuant to Article 9a(5a).

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – paragraph 5

Text proposed by the Commission

5. Where the data correspond to or where doubts remain concerning the identity of the applicant, the central visa authority processing the application shall inform the central authority of the other Member State(s), which were identified as having entered or supplied the data that triggered the hit pursuant to Article 9a(3). Where one or more Member States were identified as having entered or supplied the data that triggered such hit, the central authority shall consult the central authorities of the other Member State(s) using the procedure set out in Article 16(2).

Amendment

5. Where the data correspond to or where doubts remain concerning the identity of the applicant, ***in justified cases*** the central visa authority processing the application shall inform the central authority of the other Member State(s), which were identified as having entered or supplied the data that triggered the hit pursuant to Article 9a(3). Where one or more Member States were identified as having entered or supplied the data that triggered such hit, the central authority shall consult the central authorities of the other Member State(s) using the procedure set out in Article 16(2). ***The applicant shall have the benefit of any doubt.***

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – paragraph 7

Text proposed by the Commission

7. ***By derogation from paragraph 1, where the comparison referred to in***

Amendment

deleted

Article 9a(5) reports one or more hits, the VIS shall send an automated notification to the central authority of the Member State that launched the query to take any appropriate follow-up action.

Amendment 86

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c – paragraph 8

Text proposed by the Commission

Amendment

8. Where Europol is identified as having supplied the data having triggered a hit in accordance with Article 9a(3), the central authority of the responsible Member State shall consult the Europol national unit for follow-up in accordance with Regulation (EU) 2016/794 and in particular its Chapter IV.

deleted

Amendment 87

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c a (new)

Text proposed by the Commission

Amendment

Article 9ca

Verification and assessment by the national single point of contact

1. Each Member State shall designate a national authority, operational 24 hours a day, 7 days a week, which shall ensure the relevant manual verifications and assessment of hits for the purposes of this Regulation (“the single point of contact”). The single point of contact shall be composed of liaison officers of SIRENE Bureau, Interpol National Central Bureaux, Europol national central point, ETIAS National Unit and all relevant national law enforcement authorities. Member States shall ensure sufficient staffing enabling the single point of contact to verify hits notified to it pursuant to this Regulation and taking into account the deadlines provided for in Article 23 of Regulation (EC) No 810/2009.

2. The single point of contact shall manually verify the hits referred to it. The procedures set out in Article 9c(2) to (6) shall apply.

3. Where following the verification referred to in paragraph 2 of this Article the data correspond and a hit is confirmed, the single point of contact shall contact, where necessary, the responsible authorities, including Europol, that provided the data having triggered the hit. It shall then assess the hit. The single point of contact shall provide a reasoned opinion in view of the decision on the application to be taken under Article 23 of Regulation (EC) No 810/2009. This reasoned opinion shall be included in the application file.

Amendment 88

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 767/2008

Article 9c b (new)

Text proposed by the Commission

Amendment

Article 9cb

Manual

The Commission shall adopt a delegated act in accordance with Article 48a to lay down in a manual the relevant data to be compared in the queries of the other systems in accordance with Article 9a(3), and the procedures and rules necessary for these queries, verifications and assessments provided for in Articles 9a to 9ca. This delegated act shall include the combination of data categories for querying each system in accordance with Article 9a.

Amendment 89

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 767/2008

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. When the application file is updated pursuant to paragraphs 1 and 2, the VIS shall send a notification to the Member State that issued the visa, informing of the decision to annul or revoke that visa. Such notification shall be generated automatically by the central system and transmitted via the mechanism provided in Article 16.;

4. When the application file is updated pursuant to paragraphs 1 and 2, the VIS shall send a notification to the Member State that issued the visa, informing of the ***reasoned*** decision to annul or revoke that visa. Such notification shall be generated automatically by the central system and transmitted via the mechanism provided in Article 16.;

Amendment 90

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 767/2008

Article 16 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Solely for the purpose of carrying out the consultation procedure, the list of Member States requiring that their central authorities be consulted by other Member States' central authorities during the examination of visa applications for uniform visas lodged by nationals of specific third countries or specific categories of such nationals, according to Article 22 of Regulation (EC) No 810/2009, **and of the third country nationals concerned**, shall be integrated into the VIS."

Amendment

Solely for the purpose of carrying out the consultation procedure, the list of Member States requiring that their central authorities be consulted by other Member States' central authorities during the examination of visa applications for uniform visas lodged by nationals of specific third countries or specific categories of such nationals, according to Article 22 of Regulation (EC) No 810/2009, shall be integrated into the VIS."

Amendment 91

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 767/2008

Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) the transmission of information pursuant to Article 25(4) on the issuing of visas with limited territorial validity, Article 24(2) on data amendments and Article 31 of Regulation (EC) No 810/2009 on ex post notifications;

Amendment

(a) the transmission of information pursuant to Article 25(4) on the issuing of visas with limited territorial validity, Article 24(2) on data amendments **of this Regulation** and Article 31 of Regulation (EC) No 810/2009 on ex post notifications;

Amendment 92

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 767/2008

Article 16 – paragraph 3 – point b

Text proposed by the Commission

(b) all other messages related to consular cooperation that entail transmission of personal data recorded in the VIS or related to it, to the transmission of requests to the competent visa authority to forward copies of *travel documents pursuant to point 7 of Article 9 and other* documents supporting the application and to the transmission of electronic copies of those documents, as well as to requests pursuant to Article 9c and Article 38(3). The competent visa authorities shall respond to any such request within two working days.

Amendment

(b) all other messages related to consular cooperation that entail transmission of personal data recorded in the VIS or related to it, to the transmission of requests to the competent visa authority to forward copies of documents supporting the application and to the transmission of electronic copies of those documents, as well as to requests pursuant to Article 9c and Article 38(3). The competent visa authorities shall respond to any such request within two working days.

Amendment 93

Proposal for a regulation

Article 1 – paragraph 1 – point 18 a (new)

Regulation (EC) No 767/2008

Article 18a

Present text

Article 18a

Retrieval of VIS data for creating or updating an entry/exit record or a refusal of entry record of a visa holder in the EES

Solely for the purpose of creating or

Amendment

(18a) Article 18a is replaced by the following:

“Article 18a

Retrieval of VIS data for creating or updating an entry/exit record or a refusal of entry record of a visa holder in the EES

Solely for the purpose of creating or

updating an entry/exit record or a refusal of entry record of a visa holder in the EES in accordance with Article 14(2) and Articles 16 and 18 of Regulation (EU) 2017/2226, the competent authority for carrying out checks at borders at which the EES is operated shall be given access to retrieve from the VIS and import into the EES the data stored in the VIS and listed in points (c) to (f) of Article 16(2) of that Regulation.

updating an entry/exit record or a refusal of entry record of a visa holder in the EES in accordance with Article 14(2) and Articles 16 and 18 of Regulation (EU) 2017/2226, the competent authority for carrying out checks at borders at which the EES is operated shall be given access to retrieve from the VIS and import into the EES the data stored in the VIS and listed in **point (d) of Article 16(1) and** points (c) to (f) of Article 16(2) of that Regulation.”

Amendment 94

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 767/2008

Article 20a – title

Text proposed by the Commission

Use of VIS data for the purpose of entering SIS alerts on missing persons and the subsequent access to those data

Amendment

Use of VIS data for the purpose of entering SIS alerts on missing persons **or vulnerable persons who need to be prevented from travelling** and the subsequent access to those data

Amendment 95

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 767/2008

Article 20a – paragraph 1

Text proposed by the Commission

1. Fingerprint data stored in the VIS

Amendment

1. Fingerprint data **and facial images**

may be used for the purpose of entering an alert on missing persons in accordance with Article 32(2) of Regulation (EU) ... of the European Parliament and of the Council* [Regulation (EU) on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters]. In those cases, the exchange of fingerprint data shall take place via secured means to the SIRENE bureau of the Member State owning the data.

stored in the VIS may be used for the purpose of entering an alert on missing persons, ***children at risk of abduction or vulnerable persons who need to be prevented from travelling*** in accordance with Article 32 of Regulation(EU) ... of the European Parliament and of the Council* [Regulation (EU) on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters]. In those cases, the exchange of fingerprint data ***and facial images*** shall take place via secured means to the SIRENE bureau of the Member State owning the data.

Amendment 96

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 767/2008

Article 20a – paragraph 2

Text proposed by the Commission

2. Where there is a hit against a SIS alert as referred to in paragraph 1, child protection authorities and national judicial authorities, including those responsible for the initiation of public prosecutions in criminal proceedings and for judicial inquiries prior to charge and their coordinating authorities, as referred to in Article 43 of Regulation (EU) ... [COM(2016)0883 – SIS ***LE***], may request, in the performance of their tasks, access to the data entered in VIS. The conditions provided for in Union and national legislation shall apply.

Amendment

2. Where there is a hit against a SIS alert ***through the use of fingerprint data and facial images stored in VIS*** as referred to in paragraph 1, child protection authorities and national judicial authorities, including those responsible for the initiation of public prosecutions in criminal proceedings and for judicial inquiries prior to charge and their coordinating authorities, as referred to in Article 44 of Regulation (EU) ... [COM(2016)0883 – SIS (***police cooperation***)], may request ***from an authority with access to VIS***, in the performance of their tasks, access to the data entered in VIS. The conditions provided for in Union and national legislation shall apply. ***Member States shall ensure that the data are transmitted***

in a secure manner.

Amendment 97

Proposal for a regulation

Article 1 – paragraph 1 – point 19 a (new)

Regulation (EC) No 767/2008

Article 22 – paragraph 1

Present text

1. For the sole purpose of examining an application for asylum, the competent asylum authorities shall have access in accordance with Article 21 of Regulation (EC) No 343/2003 to search with the fingerprints of the asylum seeker.

Where the fingerprints of the asylum seeker cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in Article 9(4)(a) and/or (c); this search may be carried out in combination with the data referred to in Article 9(4)(b).

Amendment

(19a) in Article 22 paragraph 1 is replaced by the following:

“1. For the sole purpose of examining an application for asylum, the competent asylum authorities shall have access in accordance with Article 21 of Regulation (EC) No 343/2003 to search with the fingerprints of the asylum seeker. Where the fingerprints of the asylum seeker cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in Article 9(4)(a) **and/or (b)** to (c); this search may be carried out in combination with the data referred to in Article 9(4)(a).”

Amendment 98

Proposal for a regulation

Article 1 – paragraph 1 – point 20

Regulation (EC) No 767/2008

Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) **photographs**;

Amendment

(c) **facial images**;

Amendment 99

Proposal for a regulation

Article 1 – paragraph 1 – point 20

Regulation (EC) No 767/2008

Article 22 – paragraph 2 – point e

Text proposed by the Commission

(e) the data referred to in **points (4) and (5)** of Article 9 of the linked application files pursuant to Article 8(4).

Amendment

(e) the data referred to in **point (4)** of Article 9 of the linked application files pursuant to Article 8(4).

Amendment 100

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 767/2008

Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each file shall be stored in the VIS for a maximum of five years, without prejudice to the deletion referred to in Articles 24 and 25 and to the keeping of records

Amendment

Each **application** file shall be stored in the VIS for a maximum of five years, without prejudice to the deletion referred to in Articles 24 and 25 and to the keeping of

referred to in Article 34.

records referred to in Article 34.

Amendment 101

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 767/2008

Article 23 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) on the new expiry date of the visa, the long-stay visa *or the residence permit*, if a visa, a long-stay visa *or a residence permit* has been extended;

Amendment

(b) on the new expiry date of the visa *or* the long-stay visa, if a visa *or* a long-stay visa has been extended;

Amendment 102

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 767/2008

Article 23 – paragraph 2

Text proposed by the Commission

2. Upon expiry of the period referred to in paragraph 1, the VIS shall automatically erase the file and the link(s) to this file as referred to in Article 8(3) and (4) and Article 22a22a(3) *and (5)*.

Amendment

2. Upon expiry of the period referred to in paragraph 1, the VIS shall automatically erase the file and the link(s) to this file as referred to in Article 8(3) and (4) and Article 22a(3).

Amendment 103

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 767/2008

Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By way of derogation from paragraph 1:

(a) application files pertaining to a residence permit shall be deleted after a maximum period of 10 years;

(b) application files pertaining to children below the age of 12 shall be deleted upon the child exiting the Schengen area.

Amendment 104

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 767/2008

Article 23 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. By way of derogation from paragraph 1, for the purpose of facilitating a new application the application file referred therein may be stored for an additional period of no more than three years from the end of the validity period of the long-stay visa or residence permit and only where, following a request for consent, the applicant freely and explicitly consents by means of a signed declaration. Requests for consent shall be presented in a manner which is clearly distinguishable from other matters, in an intelligible and easily accessible form and using clear and

plain language, in accordance with Article 7 of Regulation (EU) 2016/679. The applicant may withdraw his or her consent at any time, in accordance with Article 7(3) of Regulation (EU) 2016/679. If the applicant withdraws consent, the application file shall automatically be erased from VIS.

eu-LISA shall develop a tool to enable applicants to give and withdraw their consent.

The Commission shall adopt delegated acts in accordance with Article 48a to further define the tool to be used by the applicants to give and withdraw their consent.

Amendment 105

Proposal for a regulation

Article 1 – paragraph 1 – point 22 a (new)

Regulation (EC) No 767/2008

Article 24 – paragraph 3

Present text

3. The Member State responsible shall check the data concerned and, if necessary, correct or delete them immediately.

Amendment

(22a) In Article 24, paragraph 3 is replaced by the following:

“3. The Member State responsible shall, as soon as possible, check the data concerned and, if necessary, correct or delete them immediately.”;

Amendment 106

Proposal for a regulation

Article 1 – paragraph 1 – point 23 – point a

Article 25 – paragraph 1

Text proposed by the Commission

1. Where, before expiry of the period referred to in Article 23(1), an applicant has acquired the nationality of a Member State, the application files, the files and the links referred to in Article 8(3) and (4), Article 22a(3) relating to him or her shall be erased without delay from the VIS by the Member State which created the respective application file(s) and links.

Amendment

1. Where, before expiry of the period referred to in Article 23(1), an applicant has acquired the nationality of a Member State, the application files, the files and the links referred to in Article 8(3) and (4) **and in** Article 22a(3) relating to him or her shall be erased without delay from the VIS by the Member State which created the respective application file(s) and links.

Amendment 107

Proposal for a regulation

Article 1 – paragraph 1 – point 23 a (new)

Regulation (EC) No 767/2008

Article 26 – paragraph 1

Present text

1. ***After a transitional period, a management authority (the Management Authority), funded from the general budget of the European Union, shall be responsible for the operational management of the central VIS and the national interfaces. The Management Authority shall ensure, in cooperation with the Member States, that at all times the best available technology, subject to a cost-benefit analysis, is used for the central VIS and the national interfaces.***

Amendment

(23a) In Article 26, paragraph 1 is replaced by the following:

“1. ***eu-LISA*** shall be responsible for the operational management of VIS and ***its components as set out in Article 2a***. It shall ensure, in cooperation with the Member States, that at all times the best available technology, subject to a cost-benefit analysis, is used for ***those components***.”

Amendment 108

Proposal for a regulation

Article 1 – paragraph 1 – point 23 b (new)

Regulation (EC) No 767/2008

Article 26 – paragraph 2

Present text

2. *The Management Authority shall also be responsible for the following tasks relating to the communication infrastructure between the central VIS and the national interfaces:*

- (a) supervision;*
- (b) security;*
- (c) the coordination of relations between the Member States and the provider.*

Amendment

(23b) In Article 26, paragraph 2 is replaced by the following:

“2. Operational management of VIS shall consist of all the tasks necessary to keep VIS functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that VIS functions at a satisfactory level of operational quality, in particular as regards the response time for queries of the VIS Central System by consular posts and border authorities. Such response times shall be as short as possible.”

Amendment 109

Proposal for a regulation

Article 1 – paragraph 1 – point 23 c (new)

Regulation (EC) No 767/2008

Article 26 – paragraphs 3 to 8

Text proposed by the Commission

Amendment

(23c) In Article 26, paragraphs 3 to 8 are deleted;

Amendment 110

Proposal for a regulation

Article 1 – paragraph 1 – point 24

Regulation (EC) No 767/2008

Article 26 – paragraph 8a

Text proposed by the Commission

Amendment

(24) in Article 26, the following paragraph 8a is inserted:

deleted

‘8a. Eu-LISA shall be permitted to use anonymised real personal data of the VIS production system for testing purposes in the following circumstances:

(a) for diagnostics and repair when faults are discovered with the Central System;

(b) for testing new technologies and techniques relevant to enhance the performance of the Central System or transmission of data to it.

In such cases, the security measures, access control and logging activities at the testing environment shall be equal to the ones for the VIS production system. Real personal data adopted for testing shall be rendered anonymous in such a way that the data-subject is no longer identifiable.

Amendment 111

Proposal for a regulation

Article 1 – paragraph 1 – point 24 a (new)

Regulation (EC) No 767/2008

Article 26 – paragraphs 9 a and 9 b (new)

Text proposed by the Commission

Amendment

(24a) In Article 26, the following paragraphs are added:

“9a. Where eu-LISA cooperates with external contractors in any VIS-related tasks, it shall closely monitor the activities of the contractor to ensure compliance with this Regulation, in particular on security, confidentiality and data protection.

9b. The operational management of the VIS Central System shall not be trusted to private companies or private organisations.”;

Amendment 112

Proposal for a regulation

Article 1 – paragraph 1 – point 25

Regulation (EC) No 767/2008

Article 27 – paragraph 2

Text proposed by the Commission

Amendment

Both sites may be used simultaneously for active operation of the VIS provided that the second site remains capable of ensuring its operation in case of failure of the system.

eu-LISA shall implement technical solutions to ensure the uninterrupted availability of VIS either through the simultaneous operation of VIS Central System and the backup VIS Central System, provided that the backup VIS Central System remains capable of

ensuring *the* operation of VIS in the event of a failure of VIS Central System, or through duplication of the system or its components.

Amendment 113

Proposal for a regulation

Article 1 – paragraph 1 – point 26 – point b a (new)

Regulation (EC) No 767/2008

Article 29 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For this purpose, Member States shall ensure that consular staff and the staff of any external service provider with which they are cooperating as referred to in Article 43 of Regulation (EU) No 810/2009 receive regular training on data quality.

Amendment 114

Proposal for a regulation

Article 1 – paragraph 1 – point 26 – point d

Regulation (EC) No 767/2008

Article 29 – paragraph 2a – subparagraph 1

Text proposed by the Commission

Amendment

2a. *The management authority* together with the Commission shall develop *and* maintain automated data quality control mechanisms and procedures for carrying out quality checks on the data in VIS and shall provide regular reports to the Member

2a. *eu-LISA* together with the Commission shall develop, maintain *and continuously upgrade* automated data quality control mechanisms and procedures for carrying out quality checks on the data in VIS and shall provide regular reports to

States. *The management authority* shall provide a regular report to the Member states and Commission on the data quality controls.

the Member States. *Eu-LISA shall ensure adequate levels of professionally trained staff to implement the technical innovations and upgrades required to operate the data quality control mechanisms. Eu-LISA shall provide a regular report to the Member states and Commission on the data quality controls. The Commission shall provide the European Parliament and the Council with a regular report on data quality issues that are encountered and how they were addressed.*

Amendment 115

Proposal for a regulation

Article 1 – paragraph 1 – point 26 – point d a (new)

Regulation (EC) No 767/2008

Article 29 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(da) the following paragraph is inserted:

“2b. The Commission shall present a report to the European Parliament and to the Council on the feasibility, availability, readiness and reliability of the required technology to use facial images to identify a person.”;

Amendment 116

Proposal for a regulation

Article 1 – paragraph 1 – point 26 – point d b (new)

Regulation (EC) No 767/2008

Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(db) the following paragraph is added:

“3a. In relation to the processing of personal data in VIS, each Member State shall designate the authority which is to be considered as controller in accordance with point (7) of Article 4 of Regulation (EU) 2016/679 and which shall have central responsibility for the processing of data by that Member State. Each Member State shall notify the Commission of the designation.”;

Amendment 117

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 767/2008

Article 29a – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) data pursuant to Articles 9, 22c and 22d and Article 6(4) may only be ***sent*** to the VIS following a quality check performed by the responsible national authorities;

(a) data pursuant to Articles 9, 22c and 22d and Article 6(4) may only be ***entered*** to the VIS following a quality check performed by the responsible national authorities;

Amendment 118

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 767/2008

Article 29a – paragraph 2 – point b

Text proposed by the Commission

(b) the automated procedures pursuant to Article **9(a)(3)** and 22b(2) may be triggered by the VIS only following a quality check performed by the VIS pursuant to this Article; should these checks fail to meet the established quality criteria, the responsible authority(ies) shall be automatically notified by the VIS;

Amendment

(b) the automated procedures pursuant to Article **9a(3)** and 22b(2) may be triggered by the VIS only following a quality check performed by the VIS pursuant to this Article; should these checks fail to meet the established quality criteria, the responsible authority(ies) shall be automatically notified by the VIS;

Amendment 119

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 767/2008

Article 29a – paragraph 2 – point c

Text proposed by the Commission

(c) quality checks on facial images and dactylographic data shall be performed when creating application files of third country nationals in VIS, to ascertain the fulfilment of minimum data quality standards allowing biometric matching;

Amendment

(c) quality checks on facial images and dactylographic data shall be performed when creating application files of third country nationals in VIS, to ascertain the fulfilment of minimum data quality standards allowing **for** biometric matching;

Amendment 120

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 767/2008

Article 29a – paragraph 3

Text proposed by the Commission

3. Quality standards shall be established for the storage of the data referred to in paragraph 1 and 2 of this Article. The specification of these standards shall be laid down in implementing acts. Those implementing acts shall be adopted *i* in accordance with the examination procedure referred to in Article 49(2).;

Amendment

3. Quality standards shall be established for the storage of the data referred to in paragraph 1 and 2 of this Article. The specification of these standards shall be laid down in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).;

Amendment 121

Proposal for a regulation

Article 1 – paragraph 1 – point 28

Regulation (EC) No 767/2008

Article 31 – paragraphs 1 and 2

Text proposed by the Commission

(28) in Article 31, paragraphs 1 and 2 are replaced by the following:

“1. Without prejudice to Regulation (EU) 2016/679, the data referred to in Article 9(4)(a), (b), (c), (k) and (m); 9(6) and 9(7) may be transferred or made available to a third country or to an international organisation listed in the Annex, only if necessary in individual cases for the purpose of proving the identity of third-country nationals, and only for the purpose of return in accordance with Directive 2008/115/EC or of resettlement in accordance with the Regulation ...[Resettlement Framework Regulation], and provided that the Member State which entered the data in the VIS has given its approval.”;

Amendment

deleted

Amendment 122

Proposal for a regulation

Article 1 – paragraph 1 – point 28 a (new)

Regulation (EC) No 767/2008

Article 31 – paragraph 2

Present text

2. By way of derogation from paragraph 1, the data referred to in Article 9(4)(a), (b), (c), (k) and (m) may be transferred ***or made available*** to a third country or to an international organisation listed in the Annex if necessary in individual cases ***for the purpose of proving*** the identity of third-country nationals, ***including*** for the purpose of return, only where the following conditions are satisfied:

(a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article ***25(6) of Directive 95/46/EC, or a readmission agreement is in force between the Community and that third country, or the provisions of Article 26(1)(d) of Directive 95/46/EC*** apply;

(b) ***the third country or international organisation agrees to use the data only for the purpose for which they were provided;***

(c) ***the data are transferred or made available in accordance with the relevant provisions of Community law, in particular readmission agreements, and the national law of the Member State which transferred or made the data available, including the legal provisions***

Amendment

(28a) In Article 31, paragraph 2 is replaced by the following:

“2. By way of derogation from paragraph 1 ***of this Article***, the data referred to in Article 9(4)(a), ***(aa)***, (b), (c), ***(cc)***, (k) and (m), ***(6) and (7)*** may be transferred ***by border authorities or immigration authorities*** to a third country or to an international organisation listed in the Annex ***to this Regulation*** in individual cases, if necessary ***in order to prove*** the identity of third-country nationals ***for the sole*** purpose of return, only where one of the following conditions is satisfied:

(a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article ***45(3) of Regulation (EU) 2016/679;***

(b) ***appropriate safeguards as referred to in Article 46 of Regulation (EU) 2016/679 have been provided, such as through a readmission agreement which is in force between the Union or a Member State and the third country in question; or***

(c) ***point (d) of Article 49(1) of Regulation (EU) 2016/679, applies.***

relevant to data security and data protection; and

(d) the Member State(s) which entered the data in the VIS has given its consent.

Amendment 123

Proposal for a regulation

Article 1 – paragraph 1 – point 28 b (new)

Regulation (EC) No 767/2008

Article 31 – paragraph 3

Present text

3. Such transfers of personal data to third countries or international organisations shall not prejudice the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Amendment

(28b) In Article 31, paragraph 3 is replaced by the following:

“3. The data referred to in Article 9(4)(a), (b), (c), (k) and (m), (6) and (7) may be transferred in accordance with paragraph 2 of this Article only where all of the following conditions are satisfied:

(a) the transfer of the data is carried out in accordance with the relevant provisions of Union law, in particular provisions on data protection, including Chapter V of Regulation (EU) 2016/679, and readmission agreements, and the national law of the Member State transferring the data;

(b) the Member State which entered the data in the VIS has given its approval;

(c) the third country or international organisation has agreed to process the data only for the purposes for which they were provided; and

(d) a return decision adopted pursuant to Directive 2008/115/EC has been issued in relation to the third-country national concerned, provided that the enforcement of such a return decision is not suspended and provided that no appeal has been lodged which may lead to the suspension of its enforcement.”;

Amendment 124

Proposal for a regulation

Article 1 – paragraph 1 – point 28 c (new)

Regulation (EC) No 767/2008

Article 31 – paragraphs 3 a and 3 b (new)

Text proposed by the Commission

Amendment

(28c) In Article 31, the following paragraphs are added:

“3a. Transfers of personal data to third countries or to international organisations pursuant to paragraph 2 shall not prejudice the rights of applicants for and beneficiaries of international protection, in particular as regards non-refoulement.”;

3b. Personal data obtained from the VIS by a Member State or by Europol for law enforcement purposes shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. The prohibition shall also apply where those data are further processed at national level or between Member States

pursuant to Directive (EU) 2016/680.”;

Amendment 125

Proposal for a regulation

Article 1 – paragraph 1 – point 28 e (new) – point a (new)

Regulation (EC) No 767/2008

Article 32 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(28e) in Article 32, paragraph 2 is amended as follows:

(a) the following point is inserted:

“(ea) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;”;

Amendment 126

Proposal for a regulation

Article 1 – paragraph 1 – point 28 e (new) – point b (new)

Regulation (EC) No 767/2008

Article 32 – paragraph 2 – points j a and j b (new)

Text proposed by the Commission

Amendment

(b) the following points are inserted:

“(ja) ensure that, in the event of an interruption, installed systems can be restored to normal operation;

(jb) ensure reliability by making sure

that any faults in the functioning of VIS are properly reported and that the necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of VIS;”;

Amendment 127

Proposal for a regulation

Article 1 – paragraph 1 – point 28 f (new)

Regulation (EC) No 767/2008

Article 32 a (new)

Text proposed by the Commission

Amendment

(28f) the following Article is inserted:

“Article 32a

Security incidents

1. Any event that has or may have an impact on the security of VIS or may cause damage or loss to VIS data shall be considered to be a security incident, especially where unlawful access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.

2. Security incidents shall be managed in a way as to ensure a quick, effective and proper response.

3. Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) 2016/679 or to Article 30 of Directive (EU) 2016/680, Member States, Europol and the European Border and Coast Guard Agency shall notify the Commission, eu-LISA, the competent supervisory authority and the European Data Protection Supervisor without delay of security incidents. eu-LISA shall notify

the Commission and the European Data Protection Supervisor without delay of any security incident concerning the VIS Central System.

4. Information regarding a security incident that has or may have an impact on the operation of VIS in a Member State or, within eu-LISA, on the availability, integrity and confidentiality of the data entered or sent by other Member States, shall be provided to all Member States without delay and reported in compliance with the incident management plan provided by eu-LISA.

5. The Member States and eu-LISA shall collaborate in the event of a security incident.

6. The Commission shall report serious incidents to the European Parliament and to the Council immediately. These reports shall be classified as EU RESTRICTED/RESTREINT UE in accordance with applicable security rules.

7. Where a security incident is caused by the misuse of data, Member States, Europol and the European Border and Coast Guard Agency shall ensure that penalties are imposed in accordance with Article 36.”;

Amendment 128

Proposal for a regulation

Article 1 – paragraph 1 – point 28 g (new)

Regulation (EC) No 767/2008

Article 33

Present text

Amendment

(28g) Article 33 is replaced by the following:

Article 33

Liability

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 Member 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.**

2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the VIS, that Member State shall be held liable for such damage, unless and insofar as ***the Management Authority*** or another Member State failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.

3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by

“Article 33

Liability

1. ***Without prejudice to the right to compensation from, and liability of the controller or processor under Regulation (EU) 2016/679, Directive (EU) 2016/680 and Regulation (EU) 2018/1726:***

(a) any person or Member State that has suffered material damage as a result of an unlawful personal data processing operation or any other act incompatible with this Regulation by a Member State shall be entitled to receive compensation from that Member State;

(b) any person or Member State that has suffered material or non-material damage as a result of any act by Europol, the European Border and Coast Guard Agency or eu-LISA incompatible with this Regulation shall be entitled to receive compensation from the agency in question.

The Member State concerned, Europol, the European Border and Coast Guard Agency or eu-LISA shall be exempted from their liability under the first subparagraph, in whole or in part, if they prove that they are not responsible for the event which gave rise to the damage.

2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the VIS ***Central System***, that Member State shall be held liable for such damage, unless and insofar as ***eu-LISA*** or another Member State ***participating in the VIS Central System*** failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.

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.

the national law of *that* Member State. *Claims for compensation against the controller, Europol, the European Border and Coast Guard Agency or eu-LISA for the damage referred to in paragraphs 1 and 2 shall be subject to the conditions provided for in the Treaties.*”;

Amendment 129

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EC) No 767/2008

Article 34 – paragraph 1

Text proposed by the Commission

1. Each Member State, the European Border and Coast Guard Agency and *the Management Authority* shall keep logs of all data processing operations within the VIS. These logs shall show the purpose of access referred to in Article 6(1), Article 20a(1), Article 22k(1) and Articles 15 to 22 and 22g to 22j, the date and time, the type of data transmitted as referred to in Articles 9 to 14, the type of data used for interrogation as referred to in Article 15(2), Article 18, Article 19(1), Article 20(1), Article 21(1), Article 22(1), Article 22g, Article 22h, Article 22i, Article 22j, Article 45a, and Article 45d and the name of the authority entering or retrieving the data. In addition, each Member State shall keep logs of the staff duly authorised to enter or retrieve the data.

Amendment

1. Each Member State, the European Border and Coast Guard Agency and *eu-LISA* shall keep logs of all data processing operations within the VIS. These logs shall show the purpose of access referred to in Article 6(1), Article 20a(1), Article 22k(1) and Articles 15 to 22 and 22g to 22j, the date and time, the type of data transmitted as referred to in Articles 9 to 14 *and 22c to 22f*, the type of data used for interrogation as referred to in Article 15(2), Article 18, Article 19(1), Article 20(1), Article 21(1), Article 22(1), Article 22g, Article 22h, Article 22i, Article 22j, Article 45a, and Article 45d and the name of the authority entering or retrieving the data. In addition, each Member State shall keep logs of the staff duly authorised to enter or retrieve the data.

Amendment 130

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EC) No 767/2008

Article 34 – paragraph 2

Text proposed by the Commission

2. For the operations listed in Article 45b a log of each data processing operation carried out within the VIS and the EES shall be kept in accordance with **this** Article and Article **41** of the Regulation (EU) 2226/2017 establishing an Entry/Exit System (EES).

Amendment

2. For the operations listed in Article 45b a log of each data processing operation carried out within the VIS and the EES shall be kept in accordance with **that** Article and Article **46** of the Regulation (EU) 2226/2017 establishing an Entry/Exit System (EES). ***For the operations listed in Article 17a, a record of each data processing operation carried out in VIS and the EES shall be kept in accordance with this Article and Article 46 of Regulation (EU) 2017/2226.***

Amendment 131

Proposal for a regulation

Article 1 – paragraph 1 – point 29 a (new)

Regulation (EC) No 767/2008

Article 35

Present text

Article 35
Self-monitoring
Member States shall ensure that each authority entitled to access VIS data takes the measures necessary to comply with this Regulation and cooperates, **where**

Amendment

(29a) Article 35 is replaced by the following:

“Article 35
Self-monitoring
Member States shall ensure that each authority entitled to access VIS data takes the measures necessary to comply with this Regulation and cooperates with the

necessary, with the National Supervisory Authority.

National Supervisory Authority.”;

Amendment 132

Proposal for a regulation

Article 1 – paragraph 1 – point 29 b (new)

Regulation (EC) No 767/2008

Article 36

Present text

Article 36

Penalties

Member States shall take the necessary measures to ensure that any misuse of data entered in *the* VIS is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.

Amendment

(29b) Article 36 is replaced by the following:

“Article 36

Penalties

Member States shall take the necessary measures to ensure that any misuse ***or processing*** of data entered in VIS ***contrary to this Regulation*** is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.”;

Amendment 133

Proposal for a regulation

Article 1 – paragraph 1 – point 30 – point a

Regulation (EC) No 767/2008

Article 37 – paragraph 1 – introductory part

Text proposed by the Commission

1. **Applicants** and the persons referred to in Article 9(4)(f) shall be informed of the following by the Member State responsible:

Amendment

1. **Without prejudice to the right to information referred to in Articles 15 and 16 of Regulation(EU) 2018/1725, Articles 13 and 14 of Regulation(EU) 2016/679, and Article 13 of Directive 2016/680, third-country nationals** and the persons referred to in Articles 9(4)(f), **22c(2)(e) or 22d(e)** shall be informed of the following by the Member State responsible:

Amendment 134

Proposal for a regulation

Article 1 – paragraph 1 – point 30 – point a a (new)

Regulation (EC) No 767/2008

Article 37 – paragraph 1 – point f

Present text

(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 receive information on the procedures for exercising those rights and the contact details of the **National Supervisory Authorities** referred to in Article 41(1), which shall hear claims concerning the protection of personal data.

Amendment

(aa) in paragraph 1, point (f) is replaced by the following:

“(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 receive information on the procedures for exercising those rights and about the contact details of the **European Data Protection Supervisor and of the national supervisory authority of the Member State responsible for the collection of the data referred to in Article 41(1)**, which shall hear claims concerning the protection of personal data.”;

Amendment 135

Proposal for a regulation

Article 1 – paragraph 1 – point 30 – point a b (new)

Regulation (EC) No 767/2008

Article 37 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(ab) in paragraph 1, the following point is added:

“(fa) the fact that VIS may be accessed by the Member States and Europol for law enforcement purposes.”;

Amendment 136

Proposal for a regulation

Article 1 – paragraph 1 – point 30 – point b

Regulation (EC) No 767/2008

Article 37 – paragraph 2

Text proposed by the Commission

Amendment

2. The information referred to in paragraph 1 shall be provided in writing to the third country national when the data, the ***photograph*** and the fingerprint data as referred to in points (4), (5) and (6) of Article 9, Article 22c(2) and Article 22d (a) to (g) are collected, ***and where necessary, orally, in a language and manner that the data subject understands or is reasonably presumed to understand.*** Children must be informed in an age-appropriate manner, using leaflets and/or infographics and/or demonstrations specifically designed to explain the fingerprinting procedure.;

2. The information referred to in paragraph 1 shall be provided ***clearly, concisely and accurately*** in writing to the third country national when the data, the ***facial image*** and the fingerprint data as referred to in points (4), (5) and (6) of Article 9, Article 22c(2) and Article 22d (a) to (g) are collected. Children must be informed in an age-appropriate manner, using leaflets and/or infographics and/or demonstrations specifically designed to explain the fingerprinting procedure.;

Amendment 137

Proposal for a regulation

Article 1 – paragraph 1 – point 31

Regulation (EC) No 767/2008

Article 38 – paragraph 3

Text proposed by the Commission

Amendment

(31) in Article 38, paragraph 3 is replaced by the following: ***deleted***

"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 with which the request was lodged shall contact the authorities of the Member State responsible within a period of seven days. The Member State responsible shall check the accuracy of the data and the lawfulness of their processing in the VIS within a period of one month.";

Amendment 138

Proposal for a regulation

Article 1 – paragraph 1 – point 31 a (new)

Regulation (EC) No 767/2008

Article 38

Present text

Amendment

Article 38

(31a) Article 38 is replaced by the following:

“Article 38

Right of access, *correction and deletion*

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 them to the VIS. Such access to data may be granted only by a Member State. Each Member State shall record any requests for such access.

2. Any person may request that data relating to him which are 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.

Right of access to, of rectification, of completion, of erasure of personal data and of restriction of processing

1. Without prejudice to the *right to information under Articles 15 and 16 of Regulation (EU) 2018/1725*, applicants or holders of long-stay visa or residence permits whose data are stored in VIS shall be informed, at the time their data are collected, of the procedures for exercising the rights under Articles 17 to 20 of Regulation (EU) 2018/1725 and Articles 15 to 18 of Regulation (EU) 2016/679. They shall be provided with the contact details of the European Data Protection Supervisor at the same time.

2. In order to exercise their rights under Articles 17 to 20 of Regulation (EU) 2018/1725 and Articles 15 to 18 of Regulation (EU) 2016/679, the persons referred to in paragraph 1 shall have the right to address themselves to the Member State which entered their data into VIS. The Member State that receives the request shall examine and reply to it as soon as possible, and at the latest within 30 days. Where in response to a request, it is found that the data stored in VIS are factually inaccurate or have been recorded unlawfully, the Member State responsible shall rectify or erase those data in VIS without delay and at the latest within 30 days of receipt of the request in line with Article 12(3) and (4) of Regulation (EU) 2016/679. If the request is made to a Member State other than the Member State responsible, the authorities of the Member State with which the request was lodged shall contact the authorities of the Member State responsible within a period of seven days. The Member State responsible shall check the accuracy of the data and the lawfulness of their processing in VIS within a period of one month. The persons concerned shall be informed by Member State which contacted the authority of the Member State responsible that his or her request was forwarded, to

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 with which the request was lodged shall contact the authorities of the Member State responsible within a period of 14 days. The Member State responsible shall check the accuracy of the data and the lawfulness of their processing in the VIS within a period of one month.*

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 24(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.*

5. *If the Member State responsible does not agree that data recorded in the VIS are inaccurate or have 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.*

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 on any assistance, including from the national supervisory authorities referred to in Article 41(1), that is available in accordance with the laws, regulations and procedures of that Member State.*

whom and about the further procedure.

3. *Where the Member State responsible does not agree with the claim that data stored in VIS are factually inaccurate or have been recorded unlawfully, it shall adopt without delay an administrative decision explaining in writing to the person concerned why it is not prepared to rectify or erase data relating to him or her.*

4. *That decision shall also provide the person concerned with information explaining the possibility to challenge the decision taken in respect of the request referred to in paragraph 2 and, where relevant, information on how to bring an action or a complaint before the competent authorities or courts and any assistance available to the person, including from the competent national supervisory authorities.*

5. *Any request made pursuant to paragraph 2 shall contain the necessary information to identify the person concerned. That information shall be used exclusively to enable the exercise of the rights referred to in paragraph 2.*

6. *The Member State responsible shall keep a record in the form of a written document that a request referred to in paragraph 2 was made and how it was addressed. It shall make that document available to the competent national data protection supervisory authorities without delay, and not later than seven days following the decision to rectify or erase data referred to in the second subparagraph of paragraph 2 or following the decision referred to in paragraph 3 respectively.”;*

Amendment 139

Proposal for a regulation

Article 1 – paragraph 1 – point 31 b (new)

Regulation (EC) No 767/2008

Article 39

Present text

Article 39

Cooperation to ensure the rights on data protection

1. The Member States shall cooperate actively to enforce the rights laid down in Article **38(2), (3) and (4)**.

2. In each Member State, the ***national*** supervisory authority shall, upon request, assist and advise the ***person concerned*** in exercising his right to ***correct or delete*** data relating to him in accordance with ***Article 28(4) of Directive 95/46/EC***.

3. The National Supervisory Authority of the Member State responsible which transmitted the data and the ***National Supervisory Authorities*** of the Member States ***with*** which the request ***was lodged*** shall cooperate ***to this end***.

Amendment

(31b) Article 39 is replaced by the following:

“Article 39

Cooperation to ensure the rights on data protection

1. ***The competent authorities of*** the Member States shall cooperate actively to enforce the rights laid down in Article **38**.

2. In each Member State, the supervisory authority ***referred to in Article 51(1) of Regulation (EU) 2016/679*** shall, upon request, assist and advise the ***data subject*** in exercising his ***or her*** right to ***rectify, complete or erase personal*** data relating to him ***or her or to restrict the processing of such data*** in accordance with ***Regulation (EU) 2016/679***.

In order to achieve the aims referred to in the first subparagraph, the supervisory authority of the Member State responsible which transmitted the data and the supervisory ***authority*** of the Member State ***to*** which the request ***has been made*** shall cooperate ***with each other.***”

Amendment 140

Proposal for a regulation

Article 1 – paragraph 1 – point 31 c (new)

Article 40

Present text

Article 40

Remedies

1. In each Member State any person shall have the right to bring an action or a complaint before the competent authorities or courts of that Member State which refused the right of access to or *the* right of ***correction or deletion of*** data relating to him, provided for in Article ***38(1) and (2)***.

2. The assistance of the ***National Supervisory Authorities*** referred to in Article ***39(2)*** shall remain available throughout the proceedings.

Amendment

(31c) Article 40 is replaced by the following:

“Article 40

Remedies

1. ***Without prejudice to Articles 77 and 79 of Regulation (EU) 2016/679***, in each Member State any person shall have the right to bring an action or a complaint before the competent authorities or courts of that Member State which refused the right of access to, or right of ***rectification, completion or erasure of*** data relating to him ***or her*** provided for in Article ***38 of this Regulation***. ***The right to bring such an action or complaint shall also apply in cases where requests for access, rectification, completion or erasure were not responded to within the deadlines provided for in Article 38 or were never dealt with by the data controller.***

2. The assistance of the supervisory ***authority*** referred to in Article ***51(1) of Regulation (EU) 2016/679*** shall remain available throughout the proceedings.”;

Amendment 141

Proposal for a regulation

Article 1 – paragraph 1 – point 31 d (new)

Regulation (EC) No 767/2008

Article 41

Article 41

Supervision by the National Supervisory Authority

1. ***The authority or authorities designated in each Member State and endowed with the powers referred to in Article 28 of Directive 95/46/EC (the National Supervisory Authority) shall monitor independently the lawfulness of the processing of personal data referred to in Article 5(1) by the Member State in question, including their transmission to and from the VIS.***

2. The ***National Supervisory Authority*** shall ensure that an audit of the data processing operations ***in the national system*** is carried out in accordance with relevant international auditing standards at least every ***four*** years.

3. Member States shall ensure that their ***National*** Supervisory Authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.

(31d) Article 41 is replaced by the following:

“Article 41

Supervision by the National Supervisory Authority

1. Each Member State ***shall ensure that the supervisory authority*** referred to in Article ***51(1) of Regulation (EU) 2016/679*** independently ***monitors*** the lawfulness of the processing of personal data ***pursuant to this Regulation by the Member State concerned.***

2. ***The supervisory authority or authorities*** referred to in Article ***51(1) of Regulation (EU) 2016/679*** shall ensure that an audit of the data processing operations ***by the responsible national authorities*** is carried out in accordance with relevant international auditing standards at least every ***three*** years. ***The results of the audit may be taken into account in the evaluations conducted under the mechanism established by Council Regulation (EU) No 1053/2013. The supervisory authority referred to in Article 51(1) of Regulation (EU) 2016/679 shall publish annually the number of requests for rectification, completion or erasure, or restriction of processing of data, the action subsequently taken and the number of rectifications, completions, erasures and restrictions of processing made in response to requests by the persons concerned.***

3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation ***and has access to advice from persons with sufficient knowledge of biometric data.***

4. *In relation to the processing of personal data in the VIS, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC and which shall have central responsibility for the processing of data by that Member State. Each Member State shall communicate the details of that authority to the Commission.*

5. *Each Member State shall supply any information requested by the National Supervisory Authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 28 and 29(1), grant them access to the lists referred to in Article 28(4)(c) and to its records as referred to in Article 34 and allow them access at all times to all their premises.*

5. Member States shall supply any information requested by the supervisory authority referred to in Article 51(1) of Regulation (EU) 2016/679 and shall, in particular, provide it with information on the activities carried out in accordance with its responsibilities as laid down in this Regulation. Member States shall grant the supervisory authority referred to in Article 51(1) of Regulation (EU) 2016/679 access to their logs and allow it access at all times to all their interoperability related premises.”;

Amendment 142

Proposal for a regulation

Article 1 – paragraph 1 – point 31 e (new)

Regulation (EC) No 767/2008

Article 42

Present text

Article 42

Supervision by the European Data Protection Supervisor

1. The European Data Protection Supervisor shall **check that** the personal

Amendment

(31e) Article 42 is replaced by the following:

“Article 42

Supervision by the European Data Protection Supervisor

1. The European Data Protection Supervisor shall **be responsible for**

data processing activities of *the Management Authority* are carried out in accordance with *this* Regulation. *The duties and powers referred to in Articles 46 and 47 of Regulation (EC) No 45/2001 shall apply accordingly.*

2. The European Data Protection Supervisor shall ensure that an audit of *the Management Authority's* personal data processing activities is carried out in accordance with relevant international auditing standards at least every *four* years. A report of *such* audit shall be sent to the European Parliament, the Council, *the Management Authority*, the Commission and the *National Supervisory Authorities*. *The Management Authority* shall be given an opportunity to make comments before the *report is* adopted.

3. *The Management Authority* shall supply information requested by the European Data Protection Supervisor, give *him* access to all documents and to its *records* referred to in *Article 34(1)* and allow *him* access to all its premises, at any time.

monitoring the personal data processing activities of *eu-LISA, Europol and the European Border and Coast Guard Agency under this Regulation and for ensuring that such activities* are carried out in accordance with Regulation (EU) 2018/1725 and with *this Regulation*.

2. The European Data Protection Supervisor shall ensure that an audit of *eu-LISA's* personal data processing activities is carried out in accordance with relevant international auditing standards at least every *three* years. A report of *that* audit shall be sent to the European Parliament, the Council, *eu-LISA*, the Commission and the *Member States*. *eu-LISA* shall be given an opportunity to make comments before the *reports are* adopted.

3. *eu-LISA* shall supply information requested by the European Data Protection Supervisor, give *the European Data Protection Supervisor* access to all documents and to its *logs* referred to in *Articles 22r, 34 and 45b* and allow *the European Data Protection Supervisor* access to all its premises at any time.”;

Amendment 143

Proposal for a regulation

Article 1 – paragraph 1 – point 32

Regulation (EC) No 767/2008

Article 43 – paragraphs 1 and 2

Text proposed by the Commission

(32) in Article 43, paragraphs 1 and 2 are replaced by the following:

Amendment

deleted

1. The European Data Protection Supervisor shall act in close cooperation with national supervisory authorities with respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the interoperability components, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.

2. In the cases referred to in paragraph 1, coordinated supervision shall be ensured in accordance with Article 62 of Regulation (EU) XXXX/2018 [revised Regulation 45/2001].;

Amendment 144

Proposal for a regulation

Article 1 – paragraph 1 – point 32 a (new)

Regulation (EC) No 767/2008

Article 43

Present text

Article 43

Cooperation between National Supervisory Authorities and the European Data Protection Supervisor

1. The **National Supervisory Authorities** and the European Data Protection Supervisor, each acting within the scope of their respective competences, **shall** cooperate actively within the

Amendment

(32a) Article 43 is replaced by the following:

“Article 43

Cooperation between National Supervisory Authorities and the European Data Protection Supervisor

1. The **supervisory authorities** and the European Data Protection Supervisor **shall**, each acting within the scope of their respective competences, cooperate actively within the framework of their respective

framework of their responsibilities *and shall* ensure coordinated supervision *of the VIS and the national systems*.

2. *They shall, each acting within the scope of their respective competences*, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, *study* problems *with* the exercise of independent supervision or with the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

3. The National Supervisory Authorities and the European Data Protection Supervisor shall meet *for that purpose* at least twice a year. The costs *and servicing* of *these* meetings shall be *b for the account of the* European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

4. A joint report of activities shall be sent to the European Parliament, the Council, the Commission *and the Management Authority* every two years. *This* report shall include a chapter *of* each Member State prepared by the *National Supervisory Authority* of that Member State.

responsibilities *to* ensure coordinated supervision *of the interoperability components and the other provisions of this Regulation*.

2. *The European Data Protection Supervisor and the supervisory authorities shall* exchange relevant information, assist each other in carrying out audits and inspections, examine any difficulties concerning the interpretation or application of this Regulation, *assess* problems *in* 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 necessary.

3. *For the purpose of paragraph 2*, the supervisory authorities and the European Data Protection Supervisor shall meet at least twice a year *within the framework of the European Data Protection Board*. The costs of *those* meetings shall be *borne by and their organisation shall be undertaken by the European Data Protection Board*. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

4. A joint report of activities shall be sent *by the European Data Protection Board* to the European Parliament, to the Council, to the Commission, *to Europol, to the European Border and Coast Guard Agency and to eu-LISA* every two years. *That* report shall include a chapter *on* each Member State prepared by the supervisory authority of that Member State.”;

Amendment 145

Proposal for a regulation

Article 1 – paragraph 1 – point 32 b (new)

Present text

Amendment

Article 44

Data protection during the transitional period

Where the Commission delegates its responsibilities during the transitional period to another body or bodies, pursuant to Article 26(4) of this Regulation, it shall ensure that the European Data Protection Supervisor has the right and is able to exercise his tasks fully, including the carrying out of on-the-spot checks, and to exercise any other powers conferred on him by Article 47 of Regulation (EC) No 45/2001.

(32b) Article 44 is deleted;

Amendment 146

Proposal for a regulation

Article 1 – paragraph 1 – point 32 c (new)

Regulation (EC) No 767/2008

Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(32c) in Article 45 the following paragraph is inserted:

“2a. The measures necessary for the development of the VIS Central System, the national interface in each Member State, and the communication infrastructure between the VIS Central

System and the national interfaces concerning the following matters shall be adopted in accordance with the procedure referred to in Article 49(2):

(a) the design of the physical architecture of the system including its communication network;

(b) technical aspects which have a bearing on the protection of personal data;

(c) technical aspects which have serious financial implications for the budgets of the Member States or which have serious technical implications for the national systems of the Member States;

(d) the development of security requirements, including biometric aspects.”

Amendment 147

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The duly authorised staff of the competent authorities of Member States, the Commission, eu-LISA and the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 shall have access to consult the following data, solely for the purposes of reporting and statistics without allowing for individual identification:

Amendment

The duly authorised staff of the competent authorities of Member States, the Commission, eu-LISA and the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 shall have access to consult the following data, solely for the purposes of reporting and statistics without allowing for individual identification ***as a result of the data being completely anonymous:***

Amendment 148

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

(c) sex, **date** of birth and current nationality of the applicant;

Amendment

(c) sex, **year** of birth and current nationality of the applicant;

Amendment 149

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – point h

Text proposed by the Commission

(h) the grounds indicated for any decision **concerning the document or the application, only as regards short stay visas; as regards long stay visas and residence permits, the decision concerning the application (whether to issue or to refuse the application and on which ground);**

Amendment

(h) the grounds indicated for any decision **to refuse a short stay visa, including the reference to any hits against Union information systems that are consulted, against Europol or Interpol data, against the watchlist referred to in Article 29 of Regulation (EU) 2018/1240 or against the specific risk indicators;**

Amendment 150

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the grounds indicated for any decision to refuse a document, including the reference to any hits against Union information systems that are consulted, against Europol or Interpol data, against the watchlist referred to in Article 34 of Regulation (EU) 2018/1240 or against the specific risk indicators;

Amendment 151

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – point k

Text proposed by the Commission

Amendment

(k) As regards short stay visa, main purpose(s) of the journey; ***as regards long stay visas and residence permit, the purpose of the application;***

(k) As regards short stay visa, main purpose(s) of the journey;

Amendment 152

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 1 – subparagraph 1 – point l

Text proposed by the Commission

Amendment

(l) the data entered in respect of any

(l) the data entered in respect of any ***visa***

document withdrawn, annulled, revoked or whose validity is extended, as applicable;

document withdrawn, annulled, revoked or whose validity is extended, as applicable;

Amendment 153

Proposal for a regulation

Article 1 – paragraph 1 – point 34

Regulation (EC) No 767/2008

Article 45a – paragraph 6

Text proposed by the Commission

6. At the end of each year, statistical data shall be compiled in ***the form of quarterly statistics*** for that year. The statistics shall contain a breakdown of data for each Member State.

Amendment

6. At the end of each year, statistical data shall be compiled in ***an annual report*** for that year. The statistics shall contain a breakdown of data for each Member State. ***The report shall be published and transmitted to the European Parliament, to the Council, to the Commission, to the European Border and Coast Guard Agency, to the European Data Protection Supervisor and to the national supervisory authorities.***

Amendment 154

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 1

Text proposed by the Commission

1. In order to fulfil their obligation under point (b) of Article 26(1) of the Convention implementing the Schengen Agreement, air carriers, sea carriers and

Amendment

1. In order to fulfil their obligation under point (b) of Article 26(1) of the Convention implementing the Schengen Agreement, air carriers, sea carriers and

international carriers transporting groups overland by coach shall send a query to the VIS in order to verify whether or not third country nationals holding a short-stay visa, a long stay visa or a residence permit are in possession of a valid short stay visa, long stay visa or residence permit, as applicable.

For this purpose, as regards short stay visas, carriers shall provide the data listed under points (a), (b) and (c) of Article 9(4) of this Regulation or under points (a), (b) and (c) of Article 22c, as applicable.

international carriers transporting groups overland by coach shall send a query to the VIS in order to verify whether or not third country nationals holding a short-stay visa, a long stay visa or a residence permit are in possession of a valid short stay visa, long stay visa or residence permit, as applicable.

In cases where passengers are not allowed to board due to a query in VIS, carriers shall provide passengers with that information and the means to exercise their rights to access, rectification and erasure of personal data stored in VIS.

Amendment 155

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 3

Text proposed by the Commission

3. Secure access to the carrier gateway referred to in Article **1(2) (h) of Decision 2004/512/EC as amended by this Regulation** shall allow carriers to proceed with the query consultation referred to in paragraph 1 prior to the boarding of a passenger. ***For this purpose***, the carrier shall ***send the query to be permitted to consult the VIS using*** the data contained in the ***machine readable*** zone of the travel document.

Amendment

3. Secure access to the carrier gateway referred to in Article **2a(h), including the possibility to use mobile technical solutions**, shall allow carriers to proceed with the query consultation referred to in paragraph 1 prior to the boarding of a passenger. The carrier shall ***provide*** the data contained in the ***machine-readable*** zone of the travel document ***and indicate the Member State of entry. By way of derogation, in the case of airport transit, the carrier shall not be obliged to verify whether the third-country national is in possession of a valid short-stay visa, long-stay visa or residence permit, as applicable.***

Amendment 156

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 4

Text proposed by the Commission

4. The VIS shall respond by indicating whether or not the person has a valid *visa*, providing the carriers with an OK/NOT OK answer.

Amendment

4. The VIS shall respond by indicating whether or not the person has a valid ***short stay visa, long-stay visa or residence permit, as applicable***, providing the carriers with an OK/NOT OK answer. ***If a short-stay visa has been issued with limited territorial validity in accordance with Article 25 of Regulation (EC) No 810/2009, the response provided by VIS shall take into account the Member State(s) for which the visa is valid as well as the Member State of entry indicated by the carrier. Carriers may store the information sent and the answer received in accordance with the applicable law. The OK/NOT OK answer shall not be regarded as a decision to authorise or refuse entry in accordance with Regulation (EU) 2016/399. The Commission shall, by means of implementing acts, adopt detailed rules concerning the conditions for the operation of the carrier gateway and the data protection and security rules applicable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).***

Amendment 157

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Text proposed by the Commission

5. An authentication scheme, reserved exclusively for carriers, shall be set up in order to allow access to the carrier gateway for the purposes of paragraph 2 to the duly authorised members of the carriers' staff. The authentication scheme shall be adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 49(2).

Amendment

5. An authentication scheme, reserved exclusively for carriers, shall be set up in order to allow access to the carrier gateway for the purposes of paragraph 2 to the duly authorised members of the carriers' staff. ***When setting up the authentication scheme, information security risk management and the principles of data protection by design and by default shall be taken into account.*** The authentication scheme shall be adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 49(2).

Amendment 158

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The carrier gateway shall make use of a separate read-only database updated on a daily basis via a one-way extraction of the minimum necessary subset of data stored in VIS. eu-LISA shall be responsible for the security of the carrier gateway, for the security of the personal data it contains and for the process of extracting the personal data into the separate read-only database.

Amendment 159

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The carriers referred to in paragraph 1 of this Article shall be subject to the penalties provided for in accordance with Article 26(2) of the Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') and Article 4 of Council Directive 2001/51/EC when they transport third-country nationals who, although subject to the visa requirement, are not in possession of a valid visa.

Amendment 160

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. If third-country nationals are

refused entry, any carrier which brought them to the external borders by air, sea and land shall be obliged to immediately assume responsibility for them again. At the request of the border authorities, the carriers shall be obliged to return the third-country nationals to one of either the third country from which they were transported, the third country which issued the travel document on which they travelled, or any other third country to which they are certain to be admitted.

Amendment 161

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45b – paragraph 5 d (new)

Text proposed by the Commission

Amendment

5d. By way of derogation from paragraph 1, for carriers transporting groups overland by coach, for the first three years following the start of application of this Regulation, the verification referred to in paragraph 1 shall be optional and the provisions referred to in paragraph 5b shall not apply to them.

Amendment 162

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45c – paragraph 1

Text proposed by the Commission

1. Where it is technically impossible to proceed with the consultation query referred to in Article 45b(1), because of a failure of any part of the VIS ***or for other reasons beyond the carriers' control***, the carriers shall be exempted of the obligation to verify the possession of a valid visa or travel document by using the carrier gateway. Where such failure is detected by ***the Management Authority***, it shall notify the carriers. It shall also notify the carriers when the failure is remedied. Where such failure is detected by the carriers, they may notify ***the Management Authority***.

Amendment

1. Where it is technically impossible to proceed with the consultation query referred to in Article 45b(1), because of a failure of any part of the VIS, the carriers shall be exempted of the obligation to verify the possession of a valid visa or travel document by using the carrier gateway. Where such failure is detected by ***eu-LISA***, it shall notify the carriers. It shall also notify the carriers when the failure is remedied. Where such failure is detected by the carriers, they may notify ***eu-LISA***.

Amendment 163

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45c – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The penalties referred to in Article 45b(5b) shall not be imposed on carriers in the cases referred to in paragraph 1 of this Article.

Amendment 164

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45c – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where for other reasons than a failure of any part of VIS it is technically impossible for a carrier to proceed with the consultation query referred to in Article 45b(1) for a prolonged period of time, that carrier shall inform eu-LISA.

Amendment 165

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45d – paragraph 1

Text proposed by the Commission

Amendment

1. To exercise the tasks and powers pursuant to Article 40(1) of Regulation (EU) 2016/1624 of the European Parliament and of the Council* ***and in addition to the access provided for in Article 40(8) of that Regulation***, the members of the European Border and Coast Guard teams, ***as well as teams of staff involved in return-related operations***, shall, within their mandate, have the right to access and search data entered in VIS.

1. To exercise the tasks and powers pursuant to Article 40(1) of Regulation (EU) 2016/1624 of the European Parliament and of the Council* the members of the European Border and Coast Guard teams, shall, within their mandate, have the right to access and search data entered in VIS.

Amendment 166

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 1

Text proposed by the Commission

1. In view of the access referred to in paragraph 1 of Article 45d, a European Border and Coast Guard team may submit a request for the consultation of all data or a specific set of data stored in the VIS to the European Border and Coast Guard central access point referred to in Article 45d(2). The request shall refer to the operational plan on border checks, border surveillance **and/or return** of that Member State on which the request is based. Upon receipt of a request for access, the European Border and Coast Guard central access point shall verify whether the conditions for access referred to in paragraph 2 are fulfilled. If all conditions for access are fulfilled, the duly authorised staff of the central access point shall process the requests. The VIS data accessed shall be transmitted to the team in such a way as not to compromise the security of the data.

Amendment

1. In view of the access referred to in paragraph 1 of Article 45d, a European Border and Coast Guard team may submit a request for the consultation of all data or a specific set of data stored in the VIS to the European Border and Coast Guard central access point referred to in Article 45d(2). The request shall refer to the operational plan on border checks **and** border surveillance of that Member State on which the request is based. Upon receipt of a request for access, the European Border and Coast Guard central access point shall verify whether the conditions for access referred to in paragraph 2 are fulfilled. If all conditions for access are fulfilled, the duly authorised staff of the central access point shall process the requests. The VIS data accessed shall be transmitted to the team in such a way as not to compromise the security of the data.

Amendment 167

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 2 – point a

Text proposed by the Commission

a) the host Member State authorises the members of the team to consult VIS in order to fulfil the operational aims specified in the operational plan on border checks, border surveillance **and return**, and

Amendment

a) the host Member State authorises the members of the team to consult VIS in order to fulfil the operational aims specified in the operational plan on border checks **and** border surveillance, and

Amendment 168

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 3

Text proposed by the Commission

3. In accordance with Article 40(3) of Regulation (EU) 2016/1624, members of the teams, ***as well as teams of staff involved in return-related tasks*** may only act in response to information obtained from the VIS under instructions from and, as a general rule, in the presence of border guards ***or staff involved in return-related tasks*** of the host Member State in which they are operating. The host Member State may authorise members of the teams to act on its behalf.

Amendment

3. In accordance with Article 40(3) of Regulation (EU) 2016/1624, members of the teams may only act in response to information obtained from the VIS under instructions from and, as a general rule, in the presence of border guards of the host Member State in which they are operating. The host Member State may authorise members of the teams to act on its behalf.

Amendment 169

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 7

Text proposed by the Commission

7. Every log of data processing operations within the VIS by a member of the European Border and Coast Guard teams ***or teams of staff involved in return-related tasks*** shall be kept by the Management Authority in accordance with the provisions of Article 34.

Amendment

7. Every log of data processing operations within the VIS by a member of the European Border and Coast Guard teams shall be kept by the Management Authority in accordance with the provisions of Article 34.

Amendment 170

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 8

Text proposed by the Commission

8. Every instance of access and every search made by the European Border and Coast Guard Agency shall be logged in accordance with the provisions of Article 34 and every use made of data accessed by the European Border and Coast Guard Agency shall be registered.

Amendment

8. Every instance of access and every search made by the European Border and Coast Guard Agency shall be logged in accordance with the provisions of Article 34 and every use made of data accessed by the European Border and Coast Guard Agency *teams* shall be registered.

Amendment 171

Proposal for a regulation

Article 1 – paragraph 1 – point 35

Regulation (EC) No 767/2008

Article 45e – paragraph 9

Text proposed by the Commission

9. ***Except where necessary to perform the tasks for the purposes of the Regulation establishing a European Travel Information and Authorisation System (ETIAS), no*** parts of VIS shall be connected to any computer system for data collection and processing operated by or at the European Border and Coast Guard Agency nor shall the data contained in VIS to which the European Border and Coast Guard Agency has access be transferred to such a system. No part of VIS shall be downloaded. The logging of access and searches shall not be construed as

Amendment

9. ***No*** parts of VIS shall be connected to any computer system for data collection and processing operated by or at the European Border and Coast Guard Agency nor shall the data contained in VIS to which the European Border and Coast Guard Agency has access be transferred to such a system. No part of VIS shall be downloaded. The logging of access and searches shall not be construed as constituting to be the downloading or copying of VIS data.

constituting to be the downloading or copying of VIS data.

Amendment 172

Proposal for a regulation

Article 1 – paragraph 1 – point 35 a (new)

Regulation (EC) No 767/2008

Article 46

Present text

Amendment

(35a) Article 46 is deleted;

Article 46

Integration of the technical functionalities of the Schengen Consultation Network

The consultation mechanism referred to in Article 16 shall replace the Schengen Consultation Network from the date determined in accordance with the procedure referred to in Article 49(3) 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 for the use of the VIS for the purpose of consultation between central visa authorities on visa applications according to Article 17(2) of the Schengen Convention.

Amendment 173

Proposal for a regulation

Article 1 – paragraph 1 – point 35 b (new)

Article 47

Present text

Amendment

(35b) Article 47 is deleted;

Article 47

Start of transmission

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 5(1) to the central VIS via the national interface.

Amendment 174

Proposal for a regulation

Article 1 – paragraph 1 – point 35 c (new)

Regulation (EC) No 767/2008

Article 48

Present text

Amendment

(35c) Article 48 is deleted;

Article 48

Start of operations

1. The Commission shall determine the date from which the VIS is to start operations, when:

(a) the measures referred to in Article 45(2) have been adopted;

(b) the Commission has declared the successful completion of a comprehensive test of the VIS, which shall be conducted

by the Commission together with Member States;

(c) following validation of technical arrangements, the Member States have notified the Commission that they have made the necessary technical and legal arrangements to collect and transmit the data referred to in Article 5(1) to the VIS for all applications in the first region determined according to paragraph 4, including arrangements for the collection and/or transmission of the data on behalf of another Member State.

2. The Commission shall inform the European Parliament of the results of the test carried out in accordance with paragraph 1(b).

3. In every other region, the Commission shall determine the date from which the transmission of the data in Article 5(1) becomes mandatory when Member States have notified the Commission that they have made the necessary technical and legal arrangements to collect and transmit the data referred to in Article 5(1) to the VIS for all applications in the region concerned, including arrangements for the collection and/or transmission of the data on behalf of another Member State. Before that date, each Member State may start operations in any of these regions, as soon as it has notified to the Commission that it has made the necessary technical and legal arrangements to collect and transmit at least the data referred to in Article 5(1)(a) and (b) to the VIS.

4. The regions referred to in paragraphs 1 and 3 shall be determined in accordance with the procedure referred to in Article 49(3). The criteria for the determination of these regions shall be the risk of illegal immigration, threats to the internal security of the Member States and the feasibility of collecting biometrics from all locations in this region.

5. The Commission shall publish the dates for the start of operations in each region in the Official Journal of the European

Union.

6. No Member State shall consult the data transmitted by other Member States to the VIS before it or another Member State representing this Member State starts entering data in accordance with paragraphs 1 and 3.

Amendment 175

Proposal for a regulation

Article 1 – paragraph 1 – point 35 d (new)

Regulation (EC) No 767/2008

Article 48 a (new)

Text proposed by the Commission

Amendment

(35d) the following Article is inserted

“Article 48a

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9cb and Article 23 shall be conferred on the Commission for a period of five years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to

in Article 9cb and Article 23 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 9cb and Article 23 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;

Amendment 176

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – title

Text proposed by the Commission

Amendment

Monitoring and evaluation

Monitoring and evaluation *of impact on fundamental rights*

Amendment 177

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 1

Text proposed by the Commission

Amendment

1. **The Management Authority** shall ensure that procedures are in place to monitor the functioning of the VIS against objectives relating to output, cost-effectiveness, security and quality of service.

1. **eu-LISA** shall ensure that procedures are in place to monitor the functioning of the VIS against objectives relating to output, cost-effectiveness, security and quality of service, **and to monitor the compliance with fundamental rights including the right of protection of personal data, the right to non-discrimination, the rights of the child and the right to an effective remedy.**

Amendment 178

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of technical maintenance, **the Management Authority** shall have access to the necessary

2. For the purposes of technical maintenance, **eu-LISA** shall have access to the necessary information relating to the

information relating to the processing operations performed in the VIS.

processing operations performed in the VIS.

Amendment 179

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 3

Text proposed by the Commission

3. Every two years eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of VIS, including *the security thereof*.

Amendment

3. Every two years eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of VIS, including *its security and costs. That report shall include an overview of the current progress of the development of the project and the associated costs, a financial impact assessment, and information on any technical issues and risks that may affect the overall cost of the system.*

Amendment 180

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In the event of delays in the development process, eu-LISA shall inform the European Parliament and the Council as soon as possible about the

reasons for the delays and their impact in terms of time and finances.

Amendment 181

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 4 – subparagraph 1 – point a

Text proposed by the Commission

(a) the exact purpose of the consultation including the type of terrorist or serious criminal offence;

Amendment

(a) the exact purpose of the consultation including the type of terrorist or serious criminal offence ***and accesses to data on children below 12 years of age;***

Amendment 182

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 4 – subparagraph 1 – point c a (new)

Text proposed by the Commission

(ca) the number and type of cases in which the urgency procedures referred to in Article 22m(2) were used, including those cases where the urgency was not accepted by the ex post verification carried out by the central access point;

Amendment 183

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 4 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) statistics on child trafficking, including cases of successful identifications.

Amendment 184

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

Member States' and Europol's annual reports shall be transmitted to the Commission by 30 June of the subsequent year.

Member States' and Europol's annual reports shall be transmitted to the Commission by 30 June of the subsequent year. ***The Commission shall compile the annual reports into a comprehensive report to be published by 30 December of the same year.***

Amendment 185

Proposal for a regulation

Article 1 – paragraph 1 – point 38

Regulation (EC) No 767/2008

Article 50 – paragraph 5

Text proposed by the Commission

5. Every **four** years ,the Commission shall produce an overall evaluation of the VIS. This overall evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in respect of the VIS, the security of the VIS, the use made of the provisions referred to in Article 31 and any implications for future operations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment

5. Every **two** years ,the Commission shall produce an overall evaluation of the VIS. This overall evaluation shall include an examination of results achieved against objectives **and costs sustained** and an assessment of the continuing validity of the underlying rationale, , **and its impact on fundamental rights**, the application of this Regulation in respect of the VIS, the security of the VIS, the use made of the provisions referred to in Article 31 and any implications for future operations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment 186

Proposal for a regulation

Article 1 – paragraph 1 – point 39

Regulation (EC) No 767/2008

Annex 1 – title

Text proposed by the Commission

(39) The title of annex 1 is replaced by the following:

List of international organisations referred to in Article 31(1).

Amendment

deleted

Amendment 187

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

CHAPTER IIIa – Article 22a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The authority competent to issue a decision shall create an individual file before issuing it.

Amendment 188

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

CHAPTER IIIa – Article 22a – paragraph 3

Text proposed by the Commission

Amendment

3. If the holder has applied as part of a group or with a family member, the authority shall create an individual file for each person in the group and link the files of the persons having applied together and who were issued a long stay visa or residence permit.

3. If the holder has applied as part of a group or with a family member, the authority shall create an individual file for each person in the group and link the files of the persons having applied together and who were issued a long stay visa or residence permit. ***Applications from parents or legal guardians shall not be separated from those of their children.***

Amendment 189

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 1

Text proposed by the Commission

1. Solely for the purpose of assessing whether the person could pose a threat to the public policy, or internal security **or public health** of the Member States, pursuant to Article 6(1)(e) of Regulation (EU) 2016/399, the files shall be automatically processed by the VIS to identify hit(s). The VIS shall examine each file individually.

Amendment

1. Solely for the purpose of assessing whether the person could pose a threat to the public policy or internal security of the Member States, pursuant to Article 6(1)(e) of Regulation (EU) 2016/399, the files shall be automatically processed by the VIS to identify hit(s). The VIS shall examine each file individually.

Amendment 190

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 2

Text proposed by the Commission

2. Every time an individual file is created **upon issuance or refusal** pursuant to Article **22d of** a long-stay visa or residence permit, the VIS **shall** launch a query by using the European Search Portal defined in Article 6(1) of [the Interoperability Regulation] to compare the **relevant** data referred to in Article 22c(2)(a), (b), (c), (f) and (g) of this Regulation **with the relevant data, in the VIS, the Schengen Information System (SIS), the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS) including the watchlist** referred to in Article 29 of Regulation (EU) 2018/XX **for the purposes of establishing a European Travel Information and Authorisation System, [the ECRIS-TCN system as far as convictions related to terrorist offences and other forms of serious criminal**

Amendment

2. Every time an individual file is created pursuant to Article **22c in connection with** a long-stay visa or residence permit the VIS shall launch a query by using the European Search Portal defined in Article 6(1) of [the Interoperability Regulation] to compare the data referred to in Article 22c(2)(a), (b), (c), (f) and (g) of this Regulation. The VIS **shall verify:**

offences are concerned], the Europol data, the Interpol Stolen and Lost Travel Document database (SLTD), and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN).

(a) whether the travel document used for the application corresponds to a travel document reported as lost, stolen, misappropriated or invalidated in SIS;

(b) whether the travel document used for the application corresponds to a travel document reported as lost, stolen or invalidated in the SLTD database;

(c) whether the applicant is subject to a refusal of entry and stay alert entered in SIS;

(d) whether the applicant is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;

(e) whether the applicant and the travel document correspond to a refused, revoked or annulled travel authorisation in the ETIAS Central System;

(f) whether the applicant and the travel document are in the watch list referred to in Article 34 of Regulation (EU) 2018/1240;

(g) whether data on the applicant is already recorded in VIS on the same person;

(h) whether the data provided in the application concerning the travel document correspond to another application for a long-stay visa or residence permit associated with different identity data;

(i) whether the applicant is currently reported as an overstayer or whether he or she has been reported as an overstayer in the past in the EES;

(j) whether the applicant is recorded as having been refused entry in the EES;

(k) whether the applicant has been subject to a decision to refuse, annul or

revoke a short-stay visa recorded in VIS;

(l) whether the applicant has been subject to a decision to refuse, annul or revoke a long-stay visa or residence permit recorded in VIS;

(m) whether data specific to the identity of the applicant are recorded in Europol data;

(n) in cases where the applicant is a minor, whether the applicant's parental authority or legal guardian:

(i) is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;

(ii) is subject to a refusal of entry and stay alert in SIS;

(iii) holds a travel document in the watch list referred to in Article 34 of Regulation (EU) 2018/1240.

This paragraph must not impede the submission of an application for asylum on any grounds. If a visa application is submitted by a victim of violent crime such as domestic violence or trafficking in human beings committed by their sponsor, the file submitted to VIS shall be separated from that of the sponsor in order to protect the victim from further danger.

To avoid the risk of false hits, any query concerning children under the age of 14 or people older than 75 years carried out with biometric identifiers taken more than five years before the match and which that does not confirm the identity the third-country national, shall be subject to a compulsory manual check by experts on biometric data.

Amendment 191

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 3

Text proposed by the Commission

3. The VIS shall add a reference to any hit obtained pursuant to paragraphs (2) and (5) to the individual file. Additionally, the VIS shall identify, where relevant, the Member State(s) that entered or supplied the data having triggered the hit(s) or Europol, and shall record this in the individual file.

Amendment

3. The VIS shall add a reference to any hit obtained pursuant to paragraphs (2) and (5) to the individual file. Additionally, the VIS shall identify, where relevant, the Member State(s) that entered or supplied the data having triggered the hit(s) or Europol, and shall record this in the individual file. ***No information other than the reference to any hit and the originator of the data shall be recorded.***

Amendment 192

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When querying SLTD, the data used by the user of the ESP to launch a query shall not be shared with the owners of Interpol data.

Amendment 193

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. For the purposes of Article 2(2)(f) in respect of an issued or extended long stay *visathe* queries carried out under **22bparagraph 2** of this Article shall compare the relevant data referred to in Article 22c(2), to the data present in the SIS in order to determine whether the holder is subject to one of the following alerts:

Amendment

4. For the purposes of Article 2(2)(f) in respect of an issued or extended long stay *visa the* queries carried out under **paragraph 2** of this Article shall compare the relevant data referred to in Article 22c(2), to the data present in the SIS in order to determine whether the holder is subject to one of the following alerts:

Amendment 194

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 4 – subparagraph 1 – point d

Text proposed by the Commission

(d) an alert on persons and objects for discreet checks *or* specific checks.

Amendment

(d) an alert on persons and objects for discreet checks, specific checks *or inquiry checks*.

Amendment 195

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

Where the comparison referred to in this paragraph reports one or several hit(s), the VIS shall send an automated notification to the central authority of the Member State that launched the request and shall take any appropriate follow-up action.

Article 9a(5a), (5b), (5c), (5d), and Articles 9c, 9ca, 9cb shall apply mutatis mutandis subject to the following specific provisions.

Amendment 196

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 6

Text proposed by the Commission

Amendment

6. Where the long stay visa or residence permit is issued or extended by a consular authority of a Member State, Article 9a shall apply.

deleted

Amendment 197

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22b – paragraph 7

Text proposed by the Commission

Amendment

7. Where the residence permit is issued or extended or where a long stay visa is

deleted

extended by an authority in the territory of a Member State, the following apply:

(a) that authority shall verify whether the data recorded in the individual file corresponds to the data present in the VIS, or one of the consulted EU information systems/databases, the Europol data, or the Interpol databases pursuant to paragraph 2;

(b) where the hit pursuant to paragraph 2 is related to Europol data, the Europol national unit shall be informed for follow up;

(c) where the data do not correspond, and no other hit has been reported during the automated processing pursuant to paragraphs 2 and 3, the authority shall delete the false hit from the application file;

(d) where the data correspond to or where doubts remain concerning the identity of the applicant, the authority shall take action on the data that triggered the hit pursuant to paragraph 4 according to the procedures, conditions and criteria provided by EU and national legislation.

Amendment 198

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22c – paragraph 1 – point 2 – point a

Text proposed by the Commission

(a) surname (family name); first name(s); **date** of birth; current nationality or nationalities; sex; **date**, place and country of birth;

Amendment

(a) surname (family name); first name(s); **year** of birth; current nationality or nationalities; sex; place and country of birth;

Amendment 199

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22c – paragraph 1 – point 2 – point f

Text proposed by the Commission

(f) a facial image of the holder, **where possible** taken live;

Amendment

(f) a facial image of the holder taken live;

Amendment 200

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22d – paragraph 1 – introductory part

Text proposed by the Commission

Where a decision has been taken to refuse a long stay visa or a residence permit because the applicant is considered to pose a threat to public policy, internal security **or to public health** or the applicant has presented documents which were fraudulently acquired, or falsified, or tampered with, the authority which refused it shall create without delay an individual file with the following data:

Amendment

Where a decision has been taken to refuse a long stay visa or a residence permit because the applicant is considered to pose a threat to public policy **or** internal security or the applicant has presented documents which were fraudulently acquired, or falsified, or tampered with, the authority which refused it shall create without delay an individual file with the following data:

Amendment 201

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22d – paragraph 1 – point e

Text proposed by the Commission

e. the surname, first name and address of the natural *personon* whom the application is based;

Amendment

e. the surname, first name and address of the natural *person on* whom the application is based;

Amendment 202

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22d – paragraph 1 – point f

Text proposed by the Commission

f. a facial image of the applicant, *where possible* taken live;

Amendment

f. a facial image of the applicant taken live;

Amendment 203

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22d – paragraph 1 – point h

Text proposed by the Commission

h. information indicating that the long-stay visa or residence permit has been refused because the applicant is considered to pose a threat to public policy, public

Amendment

h. information indicating that the long-stay visa or residence permit has been refused because the applicant is considered to pose a threat to public policy *or* public

security *or to public health*, or because the applicant presented documents which were fraudulently acquired, or falsified, or tampered with;

security, or because the applicant presented documents which were fraudulently acquired, or falsified, or tampered with;

Amendment 204

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22g – paragraph 1

Text proposed by the Commission

1. For the sole purpose of verifying the identity of the document holder and/or the authenticity and the validity of the long-stay visa or residence permit and whether the person is not considered to be a threat to public policy, internal security *or public health* of any of the Member States in accordance with Article 6(1)(e) of Regulation (EU) 2016/399, the competent authorities for carrying out checks at external border crossing points in accordance with that Regulation shall have access to search using the number of the document in combination with one or several of the data in Article 22c(2)(a), (b) and (c) of this Regulation.

Amendment

1. For the sole purpose of verifying the identity of the document holder and/or the authenticity and the validity of the long-stay visa or residence permit and whether the person is not considered to be a threat to public policy *or* internal security of any of the Member States in accordance with Article 6(1)(e) of Regulation (EU) 2016/399, the competent authorities for carrying out checks at external border crossing points in accordance with that Regulation shall have access to search using the number of the document in combination with one or several of the data in Article 22c(2)(a), (b) and (c) of this Regulation.

Amendment 205

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22g – paragraph 2 – point e

Text proposed by the Commission

(e) **photographs** as referred to in Article 22c(2)(f).

Amendment

(e) **facial images** as referred to in Article 22c(2)(f).

Amendment 206

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22h – paragraph 1

Text proposed by the Commission

1. For the sole purpose of verifying the identity of the holder and the authenticity and the validity of the long-stay visa or residence permit **or whether the person is not a threat to public policy, internal security or public health of any of the Member States**, the authorities competent for carrying out checks within the territory of the Member States as to whether the conditions for entry to, stay or residence on the territory of the Member States are fulfilled and, **as applicable, police authorities**, shall have access to search using the number of the long-stay visa or residence permit in combination with one or several of the data in Article 22c(2)(a), (b) and (c).

Amendment

1. For the sole purpose of verifying the identity of the holder and the authenticity and the validity of the long-stay visa or residence permit the authorities competent for carrying out checks within the territory of the Member States as to whether the conditions for entry to, stay or residence on the territory of the Member States are fulfilled and shall have access to search using the number of the long-stay visa or residence permit in combination with one or several of the data in Article 22c(2)(a), (b) and (c).

Amendment 207

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22h – paragraph 2 – point e

Text proposed by the Commission

(e) **photographs** as referred to in Article 22c(2)(f).

Amendment

(e) **facial images** as referred to in Article 22c(2)(f).

Amendment 208

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22k – paragraph 1

Text proposed by the Commission

1. Member States shall designate the authorities which are entitled to consult the data stored in the VIS in order to prevent, detect and investigate terrorist offences or other serious criminal offences.

Amendment

1. Member States shall designate the authorities which are entitled to consult the data stored in the VIS in order to prevent, detect and investigate terrorist offences or other serious criminal offences **in appropriate and strictly defined circumstances as referred to in Article 22n. Those authorities shall only be allowed to consult data of children below 12 years of age to protect missing children and children who are victims of serious crimes.**

Amendment 209

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22k – paragraph 2

Text proposed by the Commission

2. Each Member State shall keep a list of the designated authorities. Each Member State shall notify eu-LISA and the Commission of its designated authorities and may at any time amend or replace its notification.

Amendment

2. Each Member State shall keep a **strictly limited** list of the designated authorities. Each Member State shall notify eu-LISA and the Commission of its designated authorities and may at any time amend or replace its notification.

Amendment 210

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 221 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The central access point shall act independently when performing its tasks under this Regulation and shall not receive instructions from the Europol designated authority referred to in paragraph 1 as regards the outcome of the verification.

Amendment

The central access point shall act **fully** independently when performing its tasks under this Regulation and shall not receive instructions from the Europol designated authority referred to in paragraph 1 as regards the outcome of the verification.

Amendment 211

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22m – paragraph 3

Text proposed by the Commission

3. Where an ex post verification

Amendment

3. Where an ex post verification

determines that the access to VIS data was not justified, all the authorities that accessed such data shall erase the information accessed from the VIS and shall inform the central access points of the erasure.

determines that the access to VIS data was not justified, all the authorities that accessed such data shall ***immediately*** erase the information accessed from the VIS and shall inform the central access points of the erasure.

Amendment 212

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 1 – introductory part

Text proposed by the Commission

1. ***Designated*** authorities may access the VIS for consultation if all of the following conditions are met:

Amendment

1. ***Without prejudice to Article 22 of Regulation 2018/XX [on interoperability] designated*** authorities may access the VIS for consultation if all of the following conditions are met:

Amendment 213

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) in case of searches with fingerprints, a prior search has been launched in the automated fingerprint identification system of the other Member States under Decision 2008/615/JHA where comparisons of fingerprints are

technically available, and either that search has been fully carried out, or that search has not been fully carried out within 24 hours of being launched.

Amendment 214

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 1 – point d

Text proposed by the Commission

(d) where a query to the CIR was launched in accordance with Article 22 of Regulation 2018/XX [on interoperability], the reply received as referred to in paragraph 5 of [Article 22 of **Regulation** reveals that data is stored in the VIS."

Amendment

(d) where a query to the CIR was launched in accordance with Article 22 of Regulation 2018/XX [on interoperability], the reply received as referred to in paragraph 5 of [Article 22 of **Regulation 2018/XX [on interoperability]]** reveals that data is stored in the VIS."

Amendment 215

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 3 – introductory part

Text proposed by the Commission

3. Consultation of the VIS shall be limited to searching with any of the following data in the individual file:

Amendment

3. Consultation of the VIS shall be limited to searching with any of the following data in the **application file or** individual file:

Amendment 216

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 3 – point a

Text proposed by the Commission

(a) surname(s) (family name), first name(s) (given names), **date** of birth, nationality or nationalities and/or sex;

Amendment

(a) surname(s) (family name), first name(s) (given names), **year** of birth, nationality or nationalities and/or sex;

Amendment 217

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall present a report to the European Parliament and to the Council on the feasibility, availability, readiness and reliability of the required technology to use facial images to identify a person.

Amendment 218

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The facial image referred to in point (e) of paragraph 3 shall not be the only search criterion.

Amendment 219

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22n – paragraph 4

Text proposed by the Commission

Amendment

4. Consultation of the VIS shall, in the event of a hit, give access to the data listed in **this** paragraph as well as to any other data taken from the individual file, including data entered in respect of any document issued, refused, annulled, revoked or extended. Access to the data referred to in point (4)(l) of Article **9as** recorded in the application file shall only be given if consultation of that data was **explicitly** requested in a reasoned request and approved by independent verification.

4. Consultation of the VIS shall, in the event of a hit, give access to the data listed in paragraph **3 of this Article** as well as to any other data taken from the **application file or** individual file, including data entered in respect of any document issued, refused, annulled, revoked or extended. Access to the data referred to in point (4)(l) of Article **9 as** recorded in the application file shall only be given if consultation of that data was **explicitly** requested in a reasoned request and approved by independent verification.

Amendment 220

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22o – paragraph 1

Text proposed by the Commission

By derogation from Article 22n(1), designated authorities shall not be obliged to fulfil the conditions laid down in that paragraph to access the VIS for the purpose of identification of persons who had gone missing, abducted or identified as victims of trafficking in human beings and in respect of whom there are **reasonable** grounds to consider that consultation of VIS data will support their identification, **and/or** contribute in investigating specific cases of human trafficking. In such circumstances, the designated authorities may search in the VIS with the fingerprints of those persons.

Amendment

By derogation from Article 22n(1), designated authorities shall not be obliged to fulfil the conditions laid down in that paragraph to access the VIS for the purpose of identification of persons, **particularly children**, who had gone missing, abducted or identified as victims of trafficking in human beings and in respect of whom there are **serious** grounds to consider that consultation of VIS data will support their identification **and** contribute in investigating specific cases of human trafficking. In such circumstances, the designated authorities may search in the VIS with the fingerprints of those persons.

Amendment 221

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22o – paragraph 2

Text proposed by the Commission

Where the fingerprints of those persons cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in points (a) and (b) of Article 9.

Amendment

Where the fingerprints of those persons cannot be used or the search with the fingerprints fails, the search shall be carried out with the data referred to in points (a) and (b) of Article **9(4) or points (a) and (b) of Article 22c(2)**.

Amendment 222

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Article 22o – paragraph 3

Text proposed by the Commission

Consultation of the VIS shall, in the event of a hit, give access to any of the data in Article 9, as well as to the data in Article 8(3) and (4).

Amendment

Consultation of the VIS shall, in the event of a hit, give access to any of the data in Article 9, **Article 22c or Article 22d**, as well as to the data in Article 8(3) and (4) **or Article 22a(3)**.

Amendment 223

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22p – paragraph 3

Text proposed by the Commission

3. Europol's designated authority may submit a reasoned electronic request for the consultation of all data or a specific set of data stored in the VIS to the Europol central access point referred to in Article **22k(3)**. Upon receipt of a request for access the Europol central access point shall verify whether the conditions for access referred to in paragraphs 1 and 2 are fulfilled. If all conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The VIS data accessed shall be transmitted to the operating units referred to in Article 22l(1) in such a way as not to compromise the security of the data.

Amendment

3. Europol's designated authority may submit a reasoned electronic request for the consultation of all data or a specific set of data stored in the VIS to the Europol central access point referred to in Article **22l(2)**. Upon receipt of a request for access the Europol central access point shall verify whether the conditions for access referred to in paragraphs 1 and 2 are fulfilled. If all conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The VIS data accessed shall be transmitted to the operating units referred to in Article 22l(1) in such a way as not to compromise the security of the data.

Amendment 224

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22q – paragraph 1

Text proposed by the Commission

1. Each Member State and Europol shall ensure that all data processing operations resulting from requests to access to VIS data in accordance with Chapter ***IIIc are logged*** or documented for the purposes of ***checking*** the admissibility of the request, monitoring the lawfulness of the data processing and data integrity and security, and ***self-monitoring***.

Amendment

1. Each Member State and Europol shall ensure that all data processing operations resulting from requests to access to VIS data in accordance with Chapter ***IIIb are recorded*** or documented for the purposes of ***monitoring*** the admissibility of the request, monitoring the lawfulness of the data processing and data integrity and security, and ***possible impact on fundamental rights, and self-monitoring***.

The records or documents shall be protected by appropriate measures against unauthorised access and erased two years after their creation, unless they are required for monitoring procedures that have already begun.

Amendment 225

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22q – paragraph 2 – point g

Text proposed by the Commission

(g) in accordance with national rules or with Regulation (EU) 2016/794, the unique user identity of the official who carried out the search and of the official who ordered

Amendment

(g) in accordance with national rules or with Regulation (EU) 2016/794 ***or, where applicable, Regulation (EU) 2018/1725***, the unique user identity of the official who carried out the search and of the official

the search.

who ordered the search.

Amendment 226

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22q – paragraph 3

Text proposed by the Commission

3. Logs and documentation shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs which do not contain personal data may be used for the monitoring and evaluation referred to in Article 50 of this Regulation. The supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680, which is responsible for **checking the admissibility of the request and** monitoring the lawfulness of the data processing and data integrity and security, shall have access to these logs at its request for the purpose of fulfilling its duties.

Amendment

3. Logs and documentation shall be used only for monitoring the lawfulness of data processing, **for monitoring the impact on fundamental rights**, and for ensuring data integrity and security. Only logs which do not contain personal data may be used for the monitoring and evaluation referred to in Article 50 of this Regulation. The supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680, which is responsible for monitoring the lawfulness of the data processing and data integrity and security, shall have access to these logs at its request for the purpose of fulfilling its duties.

Amendment 227

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 767/2008

Article 22r a (new)

Text proposed by the Commission

Amendment

Article 22ra

Protection of personal data accessed in accordance with Chapter IIIb

- 1. Each Member State shall ensure that the national laws, regulations and administrative provisions adopted pursuant to Directive (EU) 2016/680 are also applicable to the access to VIS by its national authorities under this chapter, including in relation to the rights of the persons whose data are so accessed.***
- 2. The supervisory authority referred to in Article 41(1) of Directive (EU) 2016/680 shall monitor the lawfulness of the access to personal data by the Member States in accordance with this Chapter, including their transmission to and from VIS. Article 41(3) and (4) of this Regulation shall apply accordingly.***
- 3. The processing of personal data by Europol pursuant to this Regulation shall be carried out in accordance with Regulation (EU) 2016/794 and shall be supervised by the European Data Protection Supervisor.***
- 4. Personal data accessed in VIS in accordance with this Chapter shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.***
- 5. eu-LISA, the designated authorities, the central access points and Europol shall keep logs as referred to in Article 22q of the searches for the purpose of enabling the supervisory authority referred to in Article 41(1) of Directive (EU) 2016/680 and the European Data Protection Supervisor to monitor the compliance of data processing with Union and national data protection rules. With the exception of data held for that purpose, personal data and the records of searches shall be erased from all national and Europol files after 30 days, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were***

requested by a Member State or by Europol.

Amendment 228

Proposal for a regulation

Article 2 – title

Text proposed by the Commission

Amendments to Decision 2004/512/EC

Amendment

Repeal of Decision 2004/512/EC

Amendment 229

Proposal for a regulation

Article 2 – paragraph 1 Decision 2004/512/EC

Article 1 – paragraph 2

Text proposed by the Commission

Article 1(2) of Decision 2004/512/EC *is replaced by the following:*

2. The Visa Information System shall be based on a centralised architecture and consist of:

(a) the common identity repository as referred to in [Article 17(2)(a) of Regulation 2018/XX on interoperability],

(b) a central information system, hereinafter referred to as ‘the Central Visa Information System’ (VIS),

Amendment

Decision 2004/512/EC *is repealed. References to that Decision shall be construed as references to Regulation (EC) No 767/2008 and shall be read in accordance with the correlation table in Annex 2.*

(c) an interface in each Member State, hereinafter referred to as ‘the National Interface’ (NI-VIS) which shall provide the connection to the relevant central national authority of the respective Member State, or a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the Central System to connect to the national infrastructures in Member States,

(d) a communication infrastructure between the VIS and the National Interfaces;

(e) a Secure Communication Channel between the VIS and the EES Central System;

(f) a secure communication infrastructure between the VIS Central System and the central infrastructures of the European search portal established by [Article 6 of Regulation 2017/XX on interoperability], shared biometric matching service established by [Article 12 of Regulation 2017/XX on interoperability], the common identity repository established by [Article 17 of Regulation 2017/XX on interoperability] and the multiple-identity detector (MID) established by [Article 25 of Regulation 2017/XX on interoperability];

(g) a mechanism of consultation on applications and exchange of information between central visa authorities ('VISMail');

(h) a carrier gateway;

(i) a secure web service enabling communication between the VIS, on the one hand and the the carrier gateway, and the international systems (Interpol systems/databases), on the other hand;

(j) a repository of data for the purposes of reporting and statistics.

The Central System, the National Uniform Interfaces, the web service, the carrier gateway and the Communication

Infrastructure of the VIS shall share and re-use as much as technically possible the hardware and software components of respectively the EES Central System, the EES National Uniform Interfaces, the ETIAS carrier gateway, the EES web service and the EES Communication Infrastructure)..

Amendment 230

Proposal for a regulation

Article 3 – paragraph 1 – point 1

Regulation (EC) No 810/2009

Article 10 – paragraph 3 – point c

Text proposed by the Commission

(c) *present a photograph in accordance with the standards set out in Regulation (EC) No 1683/95 or, upon a first application and subsequently at least every 59 months following that, in accordance with the standards set out in Article 13 of this Regulation.;*

Amendment

(c) *allow the live-taking of a facial image* upon a first application and subsequently at least every 59 months following that, in accordance with the standards set out in Article 13 of this Regulation.

Amendment 231

Proposal for a regulation

Article 3 – paragraph 1 – point 2 – point a

Regulation (EC) No 810/2009

Article 13 – paragraph 2 – indent 1

Text proposed by the Commission

- a *photograph* taken live *and collected*

Amendment

- a *facial image* taken live at the time of

digitally at the time of the application;;

the application.

Amendment 232

Proposal for a regulation

Article 3 – paragraph 1 – point 2 – point b

Regulation (EC) No 810/2009

Article 13 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Where fingerprints and a live photograph of sufficient quality were collected from the applicant and entered in the VIS as part of an application lodged less than 59 months before the date of the new application, these *[data] may* be copied to the subsequent application.;

Amendment

Where fingerprints and a live photograph of sufficient quality were collected from the applicant and entered in the VIS as part of an application lodged less than 59 months before the date of the new application, these *shall* be copied to the subsequent application.

Amendment 253

Proposal for a regulation

Article 3 – paragraph 1 – point 2 – point c

Regulation (EC) No 810/2009

Article 13 – paragraph 7 – point a

Text proposed by the Commission

(a) children under the age of 6;

Amendment

(a) children under the age of 6 *and persons over the age of 70*;

Amendment 233

Proposal for a regulation

Article 3 – paragraph 1 – point 3 – point b

Regulation (EC) No 810/2009

Article 21 – paragraph 3a – point a

Text proposed by the Commission

(a) SIS and the SLTD to check whether the travel document used for the application corresponds to a travel document reported lost, stolen or invalidated ***in the and whether the travel document used for the application corresponds to a travel document recorded in a file in the Interpol TDAWN;***

Amendment

(a) SIS and the SLTD to check whether the travel document used for the application corresponds to a travel document reported lost, stolen or invalidated;

Amendment 234

Proposal for a regulation

Article 3 – paragraph 1 – point 3 – point b

Regulation (EC) No 810/2009

Article 21 – paragraph 3a – point g

Text proposed by the Commission

(g) ***the ECRIS-TCN system to check whether the applicant corresponds to a person whose data is recorded in this database for terrorist offences or other serious criminal offences;***

Amendment

deleted

Amendment 235

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph -1

Text proposed by the Commission

Amendment

-1. The specific risk indicators shall be an algorithm enabling profiling as defined in point (4) of Article 4 of Regulation (EU) 2016/679 through the comparison of the data recorded in an application file with specific risk indicators pointing to security, illegal immigration or high epidemic risks. The specific risk indicators shall be registered in VIS.

Amendment 236

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a– paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. ***Assessment of*** security or illegal immigration or ***a*** high epidemic risks ***shall be based*** on:

1. ***The Commission shall adopt a delegated act in accordance with Article 51a to further define the risks related to security or illegal immigration or high epidemic risks on the basis of:***

Amendment 237

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph 1 – point b

Text proposed by the Commission

(b) statistics generated by the VIS in accordance with Article 45a indicating abnormal rates of refusals of visa applications due to an irregular migration, security *or public health* risk associated with *a specific group of travellers*;

Amendment

(b) statistics generated by the VIS in accordance with Article 45a indicating abnormal rates of refusals of visa applications due to an irregular migration *or* security risk associated with *an applicant*;

Amendment 238

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph 2

Text proposed by the Commission

2. The Commission shall adopt an implementing act specifying the risks referred to in paragraph 1. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 52(2).

Amendment

deleted

Amendment 239

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph 3 – introductory part

Text proposed by the Commission

3. Based on the specific risks determined in accordance with paragraph 2 specific risk indicators shall be established, consisting of a combination of data including one or several of the following:

Amendment

3. Based on the specific risks determined in accordance with ***this Regulation and the delegated act referred to in*** paragraph 1 specific risk indicators shall be established, consisting of a combination of data including one or several of the following:

Amendment 240

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph 6

Text proposed by the Commission

6. The specific risk indicators shall be used by the visa authorities when assessing whether the applicant presents a risk of illegal immigration, a risk to the security of the Member States, or ***a high epidemic*** risk in accordance to Article 21(1).

Amendment

6. The specific risk indicators shall be used by the visa authorities when assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member States, in accordance to Article 21(1).

Amendment 241

Proposal for a regulation

Article 3 – paragraph 1 – point 4

Regulation (EC) No 810/2009

Article 21a – paragraph 7

Text proposed by the Commission

7. The specific risks and the specific risk indicators shall be regularly reviewed by the Commission.;

Amendment

7. The specific risks and the specific risk indicators shall be regularly reviewed by the Commission **and the European Union Agency for Fundamental Rights**.

Amendment 242

Proposal for a regulation

Article 3 – paragraph 1 – point 4 a (new)

Regulation (EC) No 810/2009

Article 39

Present text

Article 39

Conduct of staff

1. Member States' consulates shall ensure that applicants are received courteously.
2. Consular staff shall, ***in the performance of their duties***, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds ***of*** sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Amendment

(4a) Article 39 is replaced by the following:

“Article 39

Conduct of staff ***and respect for fundamental rights***

1. Member States' consulates shall ensure that applicants are received courteously. Consular staff shall fully respect human dignity ***when carrying out their duties***.
2. Consular staff ***shall fully respect fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union when carrying out their duties***. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on ***any*** grounds ***such as*** sex, racial or ethnic origin, ***colour, social origin, genetic features, language, political or***

*any opinion, membership of a national minority, property, birth, religion or belief, disability, age or sexual orientation. **The best interests of the child shall be a primary consideration.***”;

Amendment 243

Proposal for a regulation

Article 3 – paragraph 1 – point 4 b (new)

Regulation (EC) No 810/2009

Article 39 a (new)

Text proposed by the Commission

Amendment

(4b) the following Article is inserted:

“Article 39a

Fundamental Rights

*When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union, relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights. In accordance with the general principles of Union law, decisions under this Regulation shall be taken on an individual basis. **The best interests of the child shall be a primary consideration.**”;*

Amendment 244

Proposal for a regulation

Article 3 – paragraph 1 – point 5 a (new)

Regulation (EC) No 810/2009

Article 51 a (new)

Text proposed by the Commission

Amendment

(5a) the following Article is inserted:

“Article 51a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 21a shall be conferred on the Commission for a period of five years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 21a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13

April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 21a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;

Amendment 245

Proposal for a regulation

Article 4 – paragraph 1 – point 2

Regulation (EU) 2017/2226

Article 13 – paragraph 3

Text proposed by the Commission

3. In order to fulfil their obligation under point (b) of Article 26(1) of the Convention implementing the Schengen Agreement, carriers shall use the web service to verify whether a short-stay visa is valid, including if the number of authorised entries have already been used or if the holder has reached the maximum duration of the authorised stay or, as the case may be, if the visa is valid for the territory of the port of destination of that travel. Carriers shall provide the data listed under points (a), (b) and (c) of Article 16(1) of this Regulation. On that basis, the

Amendment

3. In order to fulfil their obligation under point (b) of Article 26(1) of the Convention implementing the Schengen Agreement, carriers shall use the web service to verify whether a short-stay visa is valid, including if the number of authorised entries have already been used or if the holder has reached the maximum duration of the authorised stay or, as the case may be, if the visa is valid for the territory of the port of destination of that travel. Carriers shall provide the data listed under points (a), (b) and (c) of Article 16(1) of this Regulation. On that basis, the

web service shall provide carriers with an OK/NOT OK answer. Carriers may store the information sent and the answer received in accordance with the applicable law. Carriers shall establish an authentication scheme to ensure that only authorised staff may access the web service. It shall not be possible to regard the OK/NOT OK answer as a decision to authorise or refuse entry in accordance with Regulation (EU) 2016/399.;

web service shall provide carriers with an OK/NOT OK answer. Carriers may store the information sent and the answer received in accordance with the applicable law. Carriers shall establish an authentication scheme to ensure that only authorised staff may access the web service. It shall not be possible to regard the OK/NOT OK answer as a decision to authorise or refuse entry in accordance with Regulation (EU) 2016/399. ***In cases where passengers are not allowed to board due to a query in VIS, carriers shall provide passengers with that information and the means to exercise their rights to access, rectification and erasure of personal data stored in VIS.***”;

Amendment 246

Proposal for a regulation

Article 4 – paragraph 1 – point 2 a (new)

Regulation (EU) 2017/2226

Article 14 – paragraph 3

Present text

3. Where it is necessary to enter or update the entry/exit record data of a visa holder, the border authorities may retrieve from the VIS and import into the EES the data provided for in points (c) to (f) of Article 16(2) of this Regulation in accordance with Article 8 of this Regulation and Article 18a of Regulation (EC) No 767/2008.

Amendment

(2a) In Article 14, paragraph 3 is replaced by the following:

”3. Where it is necessary to enter or update the entry/exit record data of a visa holder, the border authorities may retrieve from the VIS and import into the EES the data provided for in ***point (d) of Article 16(1) and*** points (c) to (f) of Article 16(2) of this Regulation in accordance with Article 8 of this Regulation and Article 18a of Regulation (EC) No 767/2008.”;

Amendment 247

Proposal for a regulation

Article 4 – paragraph 1 – point 2 b (new)

Regulation (EU) 2017/2226

Article 15 – paragraph 1

Present text

1. Where it is necessary to create an individual file or to update the facial image referred to in **point (d) of Article 16(1)** and point (b) of Article 17(1), the facial image shall be taken live.

Amendment

(2b) In Article 15, paragraph 1 is replaced by the following:

"1. Where it is necessary to create an individual file or to update the facial image referred to in and point (b) of Article 17(1), the facial image shall be taken live.";

Amendment 248

Proposal for a regulation

Article 4 – paragraph 1 – point 2 c (new)

Regulation (EU) 2017/2226

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(2c) In Article 15, the following paragraph is inserted:

"1a. The facial image referred to in point (d) of Article 16(1) shall be retrieved from VIS and imported into the EES.";

Amendment 249

Proposal for a regulation

Article 4 – paragraph 1 – point 2 d (new)

Regulation (EU) 2017/2226

Article 15 – paragraph 5

Present text

Amendment

(2d) In Article 15, paragraph 5 is deleted;

5. Within a period of two years following the start of operations of the EES, the Commission shall produce a report on the quality standards of facial images stored in the VIS and on whether they are such that they enable biometric matching with a view to using facial images stored in the VIS at borders and within the territory of the Member States for the verification of the identity of third-country nationals subject to a visa requirement, without storing such facial images in the EES. The Commission shall transmit that report to the European Parliament and to the Council. That report shall be accompanied, where considered appropriate by the Commission, by legislative proposals, including proposals to amend this Regulation, Regulation (EC) No 767/2008, or both, as regards the use of the facial images of third-country nationals stored in the VIS for the purposes referred to in this paragraph.

Amendment 250

Proposal for a regulation

Article 7 – paragraph 1 – point 2

Regulation 2018/XX on interoperability

Article 18 – paragraph 1 – point b

Text proposed by the Commission

(b) the data referred to in Article 9(4)(a), **(b) and (c)**, Article 9 (5) and (6), Article 22c(2)(a) to (cc), (f) and (g), Article 22d(a), (b), (c), (f) and (g) of Regulation (EC) No 767/2008;

Amendment

(b) the data referred to in Article 9(4)(a) **to (cc)**, Article 9 (5) and (6), Article 22c(2)(a) to (cc), (f) and (g), Article 22d(a), (b), (c), (f) and (g) of Regulation (EC) No 767/2008;

Amendment 251

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Amendment

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from ... [two years after the date of entry into force] with the exception of the provisions on implementing and delegated acts provided for in points (6), (7), (26), (27), (33) and (35) of Article 1, point (4) of Article 3 and point (1) of Article 4, which shall apply from the date of entry into force of this Regulation.

By ... [one year after the entry into force of this Regulation] the Commission shall submit a report to the European Parliament and to the Council on the state of play of the preparation of the full implementation of this Regulation. That report shall also contain detailed information on the costs incurred and information as to any risks which may impact the overall costs.