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**ON THE DEVELOPMENT OF THE VISA INFORMATION SYSTEM (VIS)
2004 Progress Report**

**(submitted to the European Parliament and the Council in response to the obligation of
Article 6 of the Council Decision No. 2004/512/EC of 8 June 2004)**

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1. INTRODUCTION

The Visa Information System will be a system for the exchange of visa data between Member States and thus primarily an instrument to support the common visa policy. It will also facilitate checks at the external borders and within the Member States, the application of the 'Dublin'-Regulation determining the Member State responsible for examining an asylum application, and the identification and return of illegal immigrants¹. The VIS shall be composed of a European central database, which will be connected to the national systems to enable consulates and other competent authorities of the Member States to enter and consult data on visa applications and the decisions taken thereon.

On 8 June 2004, the Council adopted a first legal instrument for the legal framework of the VIS, Council Decision 2004/512/EC establishing the Visa Information System (VIS)². This instrument constitutes the required legal basis to allow for the inclusion in the budget of the European Communities of the necessary appropriations for the development of VIS and the execution of that part of the budget. It also defines the architecture of the VIS and gives the Commission the mandate to develop the VIS on the technical level, assisted by the SIS II committee³, whereas the national systems shall be adapted and/or developed by the Member States.

According to Article 1 (2) of the Council Decision, the VIS shall be based on a centralised architecture and consist of a central information system, an interface in each Member State which shall provide the connection to the relevant central national authority of the respective Member State, and the communication infrastructure between the Central Visa Information System and the National Interfaces.

In Article 6, the Decision states that the Commission will submit an annual progress report to the Council and the European Parliament concerning the development of the Visa Information System by the end of every year, and for the first time by the end of 2004.

This first Report aims at providing a description of the work carried out by Commission services during 2004 and to outline the next steps.

2. ACTIVITIES IN 2004

2.1. Proposal for the second legal instrument

On 28 December 2004 the Commission adopted a proposal for a Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas⁴. The proposal takes into account the orientations for the development of the VIS adopted by the Council on 19 February 2004, as well as the results of an Extended Impact Assessment, carried out by the Commission.

¹ Cf. Council conclusion of 19 February 2004 on the development of the VIS.

² OJ L 213 of 15.6.2004, p. 5.

³ Set up by Article 5 (1) of Council Regulation (EC) No 2424/2001 (OJ L 328, 13.12.2001, p. 4).

⁴ COM(2004) 835final.

This proposal, to which the co-decision procedure will apply, defines the purpose, functionalities and responsibilities for the VIS, gives the Commission the mandate to set up and operate the VIS, and establishes the procedures and conditions for the exchange of data between Member States on short-stay visa applications. The overall objective is to facilitate the examination of visa applications and the related decisions, both to enhance security and to facilitate bona fide travelling. The data to be processed in the VIS shall include alphanumeric data and photographs, but also fingerprint data of the applicants, to ensure exact verification and identification. In particular, the clear definition of access rights, the purposes for which the data may be consulted, the responsibilities for the use of the data and supervision by the national supervisory authorities and the European Data Protection Supervisor shall ensure a high level of data protection.

The indicative global costs for the VIS for the period 2007-2013 amount to 153 Mio €, of which 97 Mio € are covered by the present proposal and 56 Mio € by Decision 2004/512/EC.

The examination of this proposal by the competent services of the Council and the European Parliament should start at the beginning of 2005.

2.2. Extended Impact Assessment

According to the Annual Policy Strategy for 2004, an Extended Impact Assessment on the VIS was carried out with an Inter-Service Steering Group including the Commission services most concerned, and presented to the European Parliament and the Council as an Annex to the above-mentioned proposal⁵.

An external contractor provided the Commission with a study for the preparation of the Extended Impact Assessment, taking into account the results of the consultation with Member State experts on the basis of a questionnaire, a workshop and the response to an on-line consultation. The study provided an assessment of the direct and indirect impact of a range of policy options, derived after analysis of the problems and objectives by using appropriate analytical methods. The Extended Impact Assessment carried out by Commission services on the basis of this study, focussed on the assessment of the potential impact of various options under consideration for the VIS. Economic/financial as well as social/political impact was taken into account. Furthermore, data protection issues, such as proportionality of the storage and use of data, were considered.

2.3. Financial activities

The legislative financial statement that accompanied the first legal instrument foresees a total allocation of 30 million € for commitment up until 2006, for the development of step 1 of the VIS - processing of alphanumeric data and photographs.

On 28 July 2004 the Parliament adopted the Commission's proposal for transfer of the budget to finance the first step of the VIS.

The financing decision was adopted by the Commission on 30 August 2004.

⁵ SEC(2004) 1628.

2.4. Commission project organisation

On 15 September 2004, a VIS Project Management Board was set up in order to involve interested Commission services on a regular basis and in a structured way on the progress of the VIS project. This board consists of representatives from DG JLS, the Security Directorate of DG ADMIN, DG DIGIT, DG ENTR, DG INFSO, the Commission's Data Protection Officer and a representative of the Presidency.

2.5. Contract for the technical design, development and deployment of SIS II and VIS

The tenders received in response to the call for tender issued in December 2003, were evaluated during the period under review. As indicated in the call for tender documents, tenders were first evaluated on the quality of their technical solution, which included a benchmarking exercise and were then subjected to a financial evaluation. The financial evaluation was performed only for tenders that reached at least the minimum score of the technical evaluation. The complete evaluation was finalised by the end of August, within the planned deadline.

On 13 September 2004, Commission services decided to award the SIS II/VIS contract to a consortium led by Steria France and Hewlett Packard Belgium. On 22 October 2004, the contract was signed by the European Commission for a global budget of 40 million Euros.

On 27 October 2004, STERIA/HP delivered a detailed plan of its project organisation.

On 10 November 2004, STERIA/HP delivered a first draft of the Master Project Plan.

STERIA/HP had extensive discussions with Member State experts in order to understand their business processes and, on the basis of the information received, produce the detailed specifications of the system.

On 15 November 2004, Commission services were informed that Capgemini Nederland N.V., whose proposal had obtained the second best score after the technical and financial evaluation, had instituted proceedings against the award decision before the Court of First Instance of the European Courts of Justice, asking for annulment and for provisional judicial protection.

The Court of First Instance ordered the suspension of the award decision and decided on an expedited procedure in the court case⁶.

2.6. SIS II Committee

The Council Decision 2004/512/EC provides that the Commission shall be assisted for the development of the VIS by the SIS II Committee, as set up by Article 5(1) of Council

⁶ On 14 February 2005, Capgemini Nederland N.V. withdrew their application.

Regulation (EC) No. 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II)⁷.

The SIS II Committee assists the Commission in accordance with the management and regulatory procedures, depending on the measures to be taken. The new rules of procedure adopted on 20 October 2004 foresee that the agenda of the Committee makes a distinction between SIS II subjects, VIS subjects and combined subjects. The Committee shall meet, as necessary, in two distinct formations, depending on the agenda.

At its meeting on 17 November, the SIS II Committee adopted the Commission services' proposal to create SIS and VIS working groups in which technical discussions on proposed draft implementing measures will take place. The working groups will report to the SIS II Committee who will give its formal opinion on the draft implementing measure. The Committee has held five meetings over the past year, including an extraordinary meeting to announce the contract award.

The Agreement between the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen *acquis*⁸, was signed on 26 October 2004. This Agreement provides for provisional application of certain provisions upon signature, in particular the participation of Switzerland in the committees dealing with the development of the Schengen *acquis*.

On this basis, Switzerland was invited to send a delegation on a provisional basis for the SIS II Committee meetings from 17 November 2004 onwards. After conclusion of the Agreement, Switzerland will be fully associated with the work of the SIS II Committee under the terms of the agreement.

2.7. Risk analysis

A risk analysis log is updated on a regular basis and discussed within the Project Management Board and the SIS II Committee. The risk log has been divided into two sections, the risks that the contractor manages and reports to the Commission services and which may impact execution, and the overall risks that are independent of the means used for the performance of the contract.

Currently, the major risks to be managed are (1) delays in project progress due to the suspension order of the Court of First Instance and (2) the delays on the Member States' side as regards national preparations. Risks are managed by taking the appropriate risk mitigation measures and by monitoring of the national preparations.

2.8. SIS II/VIS connectivity study

The Council Conclusions of 19 February 2004 on the development of the VIS stipulate that the technical and financial impact of the SIS II/VIS access modes should be further assessed and implemented, if justified by synergy effects.

⁷ OJ L 328, 13.12.2001

⁸ Council document 13054/04.

Based on these conclusions, especially concerning the synergy effects of SIS II and VIS, a study was commissioned in April 2004 and conducted by Unisys. The study report was discussed at the SIS II Committee meetings of 20 October and 17 November 2004. An updated version of the report was delivered on 25 November 2004 and transmitted to the SIS II Committee.

2.9. Miscellaneous activities

2.9.1. Network

Subject to a favourable opinion of the SIS II Committee, the s-TESTA network could be used for the VIS communication infrastructure. The s-TESTA network is currently developed under the IDA programme⁹. A call for tender has been launched by DG ENTR, and DG JLS B3 was involved in the establishment of the specifications of the network to ensure their compatibility with VIS.

2.9.2. Assistance Call for tender

A call for tender was launched for the selection of a contractor who will assist the Commission with the acceptance procedure and in-depth quality checks of SIS II/VIS project deliverables.

The first part of this restricted call for tender (the candidature phase) was completed by the end of August 2004. The tender specifications were issued on 5 October, the tender responses received by 15 November and opening and evaluation of the tenders was completed before the 24 December 2004. The contract signature is scheduled for January 2005.

2.9.3. National planning and coordination

National preparations in the Member States need to be monitored and co-ordinated by Commission services. In addition to the formal meetings of the SIS II Committee mentioned under paragraph 2.5, in 2004 Commission services organised eight Informal Member States Expert Meetings where VIS legal and functional issues were addressed. These informal meetings also provide a platform for an exchange of views between the contractor and the Member States in order to adapt the project planning to that of Member States. Since November 2004, these meetings have been replaced by the VIS Working Group (see chapter 2.6).

On 25 October 2004, Commission Services addressed formal letters to Member States informing them of the formal signature of the SIS II/VIS development contract and asking them to confirm the names of the national project managers responsible for the co-ordination and implementation of the VIS project. To date, 20 Member States have confirmed their national project managers.

⁹ IDA, Interchange of Data between Administrations, is a European Commission driven strategic initiative using advances in information and communications technology to support rapid exchange of information between Member State administrations. <http://europa.eu.int/ispo/ida>.

3. CONCLUSIONS

Commission services have so far been able to meet the tight timeframe indicated by the Council for the development of the VIS. The project initialisation phase was completed by the third quarter of 2004 as planned.

The measures taken by the Commission services during the relatively short period of interruption due to the Court case have made it possible to keep the final completion date unaffected.