



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0029 (CNS)

Proposal for a

**COUNCIL DECISION**

**establishing the Visa Information System (VIS)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. GENERAL OBJECTIVE

The development and establishment of the Visa Information System (VIS), which is defined by the Council as a system for the exchange of visa data between Member States<sup>1</sup>, requires the elaboration of a comprehensive legal framework. Since a political orientation by the Council is still required for basic elements of the VIS, a fully fledged proposal for a legal instrument concerning the establishment of the VIS will be presented at a later stage. Such a further legal instrument will define in particular the system and its operation, including the categories of data to be entered into the system, the purposes for which they are to be entered and the criteria for their entry, the rules concerning the content of VIS records, the rights of access for authorities to enter, update and consult the data and rules on the protection of personal data and its control.

The present proposal is aimed at allowing the development of the VIS to take place by means of Community financing as of 2004 and in accordance with the relevant provisions of the Treaty, whereas the national infrastructures shall be developed within the responsibility of Member States.

### 2. BACKGROUND

On 20 September 2001, the JHA Council, in point 26 of its conclusions, invited the Commission to submit proposals for establishing a network for information exchanges concerning visas issued.

The European Council meeting in Laeken on 14-15 December 2001 asked the Council and the Member States, in point 42 of its conclusions, to take steps to set up a common visa identification system.

The Communication from the Commission to the Council and the European Parliament on the Development of the Schengen Information System II of 18 December 2001, expressed: "A new function for exchanging information on visas issued would involve information that is already obtained from or required of visa applicants. A visa function of this kind could be useful, in particular as an identification tool for the following purposes: combating terrorism and organised crime, ensuring the authenticity of issued visas at external borders, improving the examination of visa applications to make it easier to check the *bona fide* status of travellers (starting from the second application for a visa), facilitate movement for travellers who have lost their documents, and contributing towards returning illegal residents."

In the comprehensive plan to combat illegal immigration and trafficking of human beings in the European Union, adopted by the JHA Council on 28 February 2002 and based on the Communication from the Commission to the Council and the European

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<sup>1</sup> See part I of the guidelines for the introduction of a common system for the exchange of visa data (Council Document 9615/02 VISA 92 COMIX 386).

Parliament on a common policy on illegal immigration of 15 November 2001, among the measures and actions concerning visa policy contained in this plan, provision is made for the development of a European Visa Identification System to complement the concept of more secure documents.

Point 36 of this plan refers to the conclusions of the JHA Council held on 20 September 2001 and states: "A series of reflections and feasibility studies should be instigated and could explore whether such a common electronic system could complement the concept of security documents in order to create a dual identification process based on secure documents and a database".

Point 37 states that "in order to ensure that the services responsible have information which is as full and helpful as possible, this database should not only contain details of visas issued but also data concerning visas applied for and refused".

Point 38 adds that "such a system could include information which is already gathered or required from the visa applicant today, such as personal particulars. In addition, an electronic photo could be taken and stored, together with the biometric data of the applicant. Travel documents should also be scanned and stored, which would have two major advantages. First, subsequent manipulations of the travel document could be easily detected by comparison of the travel document with its image. Secondly, the stored image of the travel documents could be used to obtain new travel documents quickly, when a person is obliged to leave the country but tries to conceal his or her identity. Anyway, the development of such a system should be based on a clear definition of needs and objectives as well as a thorough evaluation of existing initiatives (including the possibilities already offered by the SIS and VISION) and resources to be mobilised".

The JHA Council adopted Guidelines for the introduction of a common system for an exchange of visa data on 13 June 2002<sup>2</sup>. According to these guidelines the Visa Information System (VIS) is a system for the exchange of visa data between Member States, which "must meet the following objectives:

- (a) constitute an instrument to facilitate the fight against fraud, by improving exchanges of information between the Member States (at consular posts and at border crossing points) on visa applications and responses thereto;
- (b) contribute to the improvement of consular cooperation and to the exchange of information between central consular authorities;
- (c) facilitate checks that the carrier and the holder of the visa are the same person, at external border checkpoints or at immigration or police checkpoints;
- (d) contribute to the prevention of "visa shopping";
- (e) facilitate application of the Dublin Convention<sup>3</sup> determining the State responsible for examining applications for asylum;

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<sup>2</sup> Council Document 9615/02 VISA 92 COMIX 386.

<sup>3</sup> Replaced by Council Regulation (EC) No 343/2003 of 18.2.2003 ("Dublin II" - OJ L 50, 25.2.2003, p. 1), except for Denmark.

- (f) assist in the identification and documentation of undocumented illegals and simplify the administrative procedures for returning citizens of third countries;
- (g) contribute towards improving the administration of the common visa policy and towards internal security and to combating terrorism.”

The European Council in Seville on 21-22 June 2002 called on the Council and the Commission, within their respective spheres of responsibility, to attach top priority to the introduction of a common identification system for visa data, in the light of a feasibility study and on the basis of the guidelines from the Council.

The Commission had launched on 16 September 2002 a feasibility study on technical and financial aspects of the VIS, whose results were submitted to the Council in May 2003.

Building upon the Conclusions of the European Council of Laeken and Seville, the JHA Council of 5-6 June 2003 underlined the importance of creating a common European system for an exchange of visa data and welcomed the feasibility study, as presented by the Commission. It also confirmed the objectives for such a Visa Information System (VIS) as set out in the guidelines adopted by the Council on 13 June 2002, and invited the Commission to continue its preparatory work on the development of the VIS in cooperation with Member States on the basis of a centralised architecture, taking into account the option of a common technical platform with SIS II, without delaying the development of SIS II<sup>4</sup>.

Referring to the Council conclusions of 5 June 2003 on the development of the Visa Information System (VIS), the European Council of Thessaloniki of 19-20 June 2003 (in point 11 of its conclusions) deemed necessary that, "following the feasibility study by the Commission, orientations should be determined as soon as possible, in order to satisfy the preferred options, with regard to the planning for the development of the VIS, the appropriate legal basis which will permit its establishment and the engagement of the necessary financial means, while respecting the financial perspectives. In this framework a coherent approach is needed in the EU on biometric identifiers or biometric data, which would result in harmonised solutions for documents for third country nationals, EU citizens' passports and information systems (VIS and SIS II). The Council requests that the Commission prepare the appropriate proposals, starting with visas, while fully respecting the envisaged timetable for the introduction of the Schengen Information System II."

### **3. CONTENT OF THE DECISION**

The establishment of the VIS requires the elaboration of a further fully fledged proposal, depending on political orientation by the Council on basic elements of the VIS.

Ahead of that further legal instrument, this first Decision gives to the Commission the mandate to prepare the technical development of VIS and to provide the required legislative basis to allow for the inclusion in the Community budget of the necessary

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<sup>4</sup> See the Conclusions on the development of the Visa Information System (VIS), Council Document 9845/03, p. 16.

appropriations for the technical development of VIS and the execution of that part of the budget. Furthermore the Commission shall be assisted by the SIS II committee<sup>5</sup> in accordance with the management procedures. It is appropriate to use that existing Committee in particular in view of synergies between the VIS and SIS II as well as of the general concern to rationalise the number of committees.

This Decision is without prejudice to the adoption in future of the necessary legislation establishing and describing in detail the operation and use of VIS. Such a further legal instrument will define in particular the system and its operation, including the categories of data to be entered into the system, the purposes for which they are to be entered and the criteria for their entry, the rules concerning the content of VIS records, the rights of access for authorities to enter, update and consult the data, and rules on the protection of personal data and their control.

#### **4. LEGAL BASIS**

This Decision is founded on Article 66 of the EC Treaty. It concerns the development of a system for cooperation via the exchange of visa data between Member States "which have abolished checks at their internal borders" and participate "in the system of free movement without checks at internal borders"<sup>6</sup>. Therefore the Decision does not concern substantial visa policy measures. Since the VIS involves the exchange of visa data between the relevant departments of the administrations of the Member States responsible for issuing and checking visas, Article 66 TEC is the appropriate legal basis, as it enables the Council to take measures to ensure cooperation between the relevant departments of the administrations of the Member States in areas covered by Title IV TEC, as well as between those departments and the Commission<sup>7</sup>.

According to Article 67(1) TEC, the Council shall act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament during the current transitory period of five years following the entry into force of the Treaty of Amsterdam. From 1 May 2004 the Council shall act by qualified majority after consulting the European Parliament, as laid down in the Protocol on Article 67 TEC, adopted at Nice.

#### **5. MEMBER STATES**

Since the initiative relates to the exchange of visa information between Member States which have abolished checks at their internal borders and participate in the system of free movement without checks at internal borders, it constitutes a measure to support the common visa policy, and thus a development of the Schengen *acquis*.

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

<sup>6</sup> See part III of the guidelines for the introduction of a common system for the exchange of visa data (Council Document 9615/02 VISA 92 COMIX 386, p. 9).

<sup>7</sup> To date, Article 66 TEC has served as a legal basis in respect of two Council acts: Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation SIS (SIS II) (OJ L 328, 13.12.2001, p.4) and Council Decision 2002/463/EC of 13 June 2002 adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration - ARGO programme (OJ L 161, 19.6.2002, p. 11).

The procedures laid down in the Association Agreement<sup>8</sup> concluded by the Council and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* are therefore applicable.

According to Article 4 and 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union and Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland<sup>9</sup>, and Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*<sup>10</sup>, the United Kingdom and Ireland are not taking part in the adoption of the Decision and are not bound by it or subject to its application.

Pursuant to the Protocol on the position of Denmark annexed to the TEU and the TEC, Denmark will not participate in the adoption of the Decision and is therefore not bound by it or subject to its application. Given the fact that the Decision is an act which aims to build upon the Schengen *acquis* in accordance with the provisions of Title IV of the TEC, Article 5 of the above-mentioned Protocol applies.

Since the initiative constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the Act of Accession, it shall only apply in a new Member State pursuant to a Council decision and the conditions laid down in that provision.

## 6. SUBSIDIARITY AND PROPORTIONALITY

The proposal provides the appropriate legislative basis for the use of the general budget of the European Communities to develop a common system for the exchange of visa data between Member States, which consists of a Central Visa Information System (CS-VIS), a National Interface in each Member State (NI-VIS) and the communication infrastructure between the CS-VIS and the National interfaces. As this Decision constitutes a development of the Schengen *acquis*, Iceland and Norway must be associated. These objectives cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Community level.

The development of VIS will require substantial work on the implementation of the technical platform, including overall project management. In addition, further legislative developments should be considered in relation to future functionalities and the various options with respect to the operation of VIS in the medium to long term. The present initiative therefore does not go beyond what is necessary to achieve their objective.

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<sup>8</sup> OJ L 176, 10.7.1999, p. 36.

<sup>9</sup> OJ L 131, 1.6.2000, p. 43.

<sup>10</sup> OJ L 64, 7.3.2002, p. 20.

## **7. FINANCIAL IMPACT**

The impact of the development of the VIS, which consists of a Central Visa Information System (CS-VIS), a National Interface in each Member State (NI-VIS) and the communication infrastructure between the CS-VIS and the National Interfaces, on the Communities' budget is outlined in the Financial Statement (Annex).

That financial statement indicates the budget needed for the development of the VIS as of 2004 regarding alphanumeric data and photographs, whereas - depending on the decision of the Council - the biometrics component and possibly a component for the use of scanned documents could be developed at a later stage.

These budget figures do not cover the impact on the national infrastructures in Member States beyond the national interfaces, which shall be developed by the Member States. Thus an additional financial burden will be borne by the Member States for the development of these infrastructures, in particular for the adaptation of existing national systems to the VIS, the world-wide connections to their consular posts and their equipment, shipping and training. As one element for the respective assessment of each Member State the feasibility study provides cost estimates for offices issuing visas on the basis of a standard configuration.

## **8. COMMENTARY ON THE ARTICLES**

### **Article 1**

This Article provides in its first paragraph that a system for the exchange of visa data between Member States, to be known as “the Visa Information System” (VIS), is hereby established and that the VIS shall enable to enter and up-date visa data and to consult these data electronically by authorised national authorities, which will be defined in the second legal instrument.

Paragraph 2 provides that the VIS shall be based on a centralised architecture, as decided by the JHA Council of 5-6 June 2003, and that the VIS shall consist of a “Central Visa Information System” (CS-VIS), an interface in each Member State (“National Interface” - NI-VIS), 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.

### **Article 2**

This Article gives the mandate to the Commission to develop the VIS as defined in Article 1 and clarifies that the national infrastructures beyond the National Interfaces shall be developed by the Member States.

### **Articles 3 and 4**

These Articles provide that the measures necessary for the development of VIS shall be taken in accordance with the management procedure set out in Council Decision

1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>11</sup>, and that the Commission shall be assisted by the SIS II committee as set up by Article 5 (1) of Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II)<sup>12</sup>.

Furthermore, Article 3 describes such measures: Point (a) concerns the design of the physical architecture of the system including its communication network, point (b) technical aspects of the use of the system, including the confidentiality, transmission, storage and deletion of information, point (c) technical aspects of the testing and deployment of the system, and point (d) technical aspects of the migration, integration and support.

Article 4 (2)–(3) stipulate that Articles 4 and 7 of Decision 1999/468/EC apply and that the Committee shall adopt its rules of procedure; it determines also the period laid down in Article 4(3) of Decision 1999/468/EC.

### **Article 5**

Pursuant to this provision, the Commission is under an obligation to submit yearly progress reports to the European Parliament and the Council concerning the development of the VIS.

### **Articles 6 and 7**

These provisions determine the date of entry into force of the Decision and stipulate that it is addressed to the Member States.

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<sup>11</sup> 1999/468/EC, OJ L 184, 17.7.1999, p. 23.

<sup>12</sup> OJ L 328, 13.12.2001, p. 4.



Proposal for a

**COUNCIL DECISION**

**establishing the Visa Information System (VIS)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 66 thereof,

Having regard to the proposal from the Commission<sup>13</sup>,

Having regard to the opinion of the European Parliament<sup>14</sup>,

Whereas:

- (1) The Seville European Council on 21 and 22 June 2002 considered the establishment of a common identification system for visa data as a top priority and called for its introduction, as soon as possible, in the light of a feasibility study and on the basis of guidelines adopted by the Council on 13 June 2002.
- (2) On 5-6 June 2003 the Council welcomed the feasibility study, as presented by the Commission in May 2003, confirmed the objectives for a Visa Information System (VIS) as set out in the guidelines and invited the Commission to continue its preparatory work on the development of the VIS in cooperation with Member States on the basis of a centralised architecture, taking into account the option of a common technical platform with SIS II.
- (3) The European Council in Thessaloniki on 19 and 20 June 2003 deemed it necessary that, following the feasibility study, orientations should be determined as soon as possible, with regard to the planning for the development of the VIS, and the appropriate legal basis which will permit its establishment, and the engagement of the necessary financial means.
- (4) This Decision 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.
- (5) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>15</sup>.

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<sup>13</sup> OJ C , , p. .

<sup>14</sup> OJ C , , p. .

<sup>15</sup> OJ L 184, 17.7.1999, p. 23.

- (6) Since the development of a common Visa Information System cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, the Decision does not go beyond what is necessary in order to achieve this objective.
- (7) This Decision respects the fundamental rights and observes the principles recognized in particular by the Charter of Fundamental Rights of the European Union.
- (8) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is therefore not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the adoption of this instrument whether it will implement it in its national law.
- (9) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*<sup>16</sup>, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*<sup>17</sup>.
- (10) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Iceland and Norway, annexed to the above mentioned Association Agreement<sup>18</sup>.
- (11) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*<sup>19</sup>; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (12) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of

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<sup>16</sup> OJ L 176, 10.7.1999, p. 36.

<sup>17</sup> OJ L 176, 10.7.1999, p. 31.

<sup>18</sup> OJ L 176, 10.7.1999, p. 53.

<sup>19</sup> OJ L 131, 1.6.2000, p. 43

the Schengen *acquis*<sup>20</sup>; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

- (13) This Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the Act of Accession and will therefore only become applicable after the lifting of the internal border controls,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. A system for the exchange of visa data between Member States, to be known as “the Visa Information System” (VIS), is hereby established, which shall enable authorised national authorities to enter and up-date visa data and to consult these data electronically.
2. The Visa Information System shall be based on a centralised architecture and consist of a central information system, hereinafter referred to as “the Central Visa Information System” (CS-VIS), 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, and the communication infrastructure between the Central Visa Information System and the National Interfaces.

#### *Article 2*

1. The Visa Information System shall be developed by the Commission.
2. The national infrastructures shall be developed by the Member States.

#### *Article 3*

The measures necessary for the development of the Visa Information System shall be adopted in accordance with the management procedure referred to in Article 4(2) and shall include the following:

- (a) the design of the physical architecture of the system including its communication network,
- (b) technical aspects of the use of the system, including the confidentiality, transmission, storage and deletion of information,
- (c) technical aspects of the testing and deployment of the system,
- (d) technical aspects of the migration, integration and support.

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<sup>20</sup> OJ L 64, 7.3.2002, p. 20.

#### Article 4

1. The Commission shall be assisted by the committee set up by Article 5 (1) of Council Regulation (EC) No 2424/2001.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be two months.

3. The committee shall adopt its Rules of Procedure.

#### Article 5

The Commission shall submit a yearly progress report to the European Parliament and the Council concerning the development of the Visa Information System, and for the first time by the end of the year after signing the contract for the development of the VIS.

#### Article 6

This Decision shall take effect from the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### Article 7

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

**Policy area(s): JHA**

**Activit(y/ies): Cooperation in the Title IV TEC (visa, asylum, immigration and other policies to the free circulation of persons)**

**TITLE OF ACTION: DEVELOPMENT OF VIS SYSTEM**

### **1. BUDGET LINE(S) + HEADING(S)**

18.08.03 Visa Information System

### **2. OVERALL FIGURES**

#### **2.1. Total allocation for action (Part B):**

30 million € for commitment until 2006.

#### **2.2. Period of application:**

Undetermined duration:

2004-2006: Development costs

2007-2009 and subsequent years: Exploitation costs

The amounts foreseen for the period 2004-2006 are compatible with the programming under the existing financial perspectives. The amounts related to 2007-2009 and subsequent years are indicative and subject to the programming under the new financial perspectives.

#### **2.3. Overall multiannual estimate of expenditure:**

(a) Schedule of commitment appropriations/payment appropriations (financial intervention)

	€ million					
	2004	2005	2006	2007	2008	2009 and subsequent years
Commitments	5.000	11.000	14.000	8.000	8.000	8.000
Payments	2.500	8.000	12.500	11.000	8.000	8.000

The Communication from the Commission to the European Parliament and the Council in view of the European Council of Thessaloniki on the development of a common policy on illegal immigration, smuggling and trafficking of human beings,

external borders and the return of illegal residents<sup>21</sup> provided the higher forecasts for the development of the VIS (2004 10 million, 2005 15 million and 2006 20 million euros). The difference is mainly due to the fact that no element of the biometric functionalities is included.

(b) Overall financial impact of human resources and other administrative expenditure

Commitments/ payments	0.404	1.615	1.615	1.615	1.615	1.615
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TOTAL a+b						
Commitments	5.404	12.615	15.615	9.615	9.615	9.615
Payments	2.904	9.615	14.115	12.615	9.615	9.615

**2.4. Compatibility with financial programming and financial perspective**

Proposal is compatible with existing financial programming.

**2.5. Financial impact on revenue:**

Proposal has financial impact – the effect on revenue is as follows:

The present proposal builds upon the Schengen acquis as defined in Annex A of the Agreement signed on 18 May 1999 between the Council and the Republic of Iceland and the Kingdom of Norway concerning the association of those both States with the implementation, application and development of the Schengen *acquis*<sup>22</sup>. The article 12(1) last paragraph lays down:

“In cases where operational costs are attributed to the general budget of the European Community, Iceland and Norway shall share in these costs by contributing to the said budget an annual sum in accordance with the percentage of the gross national product of their countries in relation with the gross national product of all participating States”

<sup>21</sup> COM (2003) 323 final of 3.6.2003

<sup>22</sup> OJ L 176, 10. 7.1999, p. 36.

Contribution from Iceland/Norway: 2.128% (2002 figures)

(€ million to one decimal place)

		Prior to action	Situation following action					
Budget line	Revenue		2004	2005	2006	2007	2008	2009 and subsequent years
	<i>a) Revenue in absolute terms</i>		0.1	0.2	0.3	0.3	0.3	0.3
	<i>b) Change in revenue</i>	$\Delta$						

### 3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non Comp	Diff	YES	NO	NO	No [3]

### 4. LEGAL BASIS

This statement is accompanying a legislative proposal, based on Article 66 TEC.

Since for basic elements of the VIS political orientation by the Council is still required, a fully- fledged proposal for a legal instrument concerning the establishment of the VIS will be provided at a later stage. Such a further legal instrument will define in particular the categories of data to be entered into the system, the purposes for which they are to be entered and the criteria for their entry, the rules concerning the content of VIS records and rules on the protection of personal data and their control.

### 5. DESCRIPTION AND GROUNDS

#### 5.1. Need for Community intervention <sup>23</sup>

##### 5.1.1. Objectives pursued

Response to the European Council's Laeken Conclusions (point 42) and the Seville Conclusions, which called in point 30 on the Council and the Commission to attach top priority to the introduction of a common identification system for visa data, in the light of a feasibility study and on the basis of guidelines adopted by the Council on 13 June 2003.

<sup>23</sup> For further information, see separate explanatory note.

These guidelines define the VIS as a system for the exchange of visa data between Member States which “must meet the following objectives:

- (a) constitute an instrument to facilitate the fight against fraud, by improving exchanges of information between the Member States (at consular posts and at border crossing points) on visa applications and responses thereto;
- (b) contribute to the improvement of consular cooperation and to the exchange of visa information between central consular authorities;
- (c) facilitate checks that the carrier and the holder of the visa are the same person, at external border checkpoints or at immigration or police checkpoints;
- (d) contribute to the prevention of "visa shopping";
- (e) facilitate application of the Dublin Convention<sup>24</sup> determining the State responsible for examining applications for asylum;
- (f) assist in the identification and documentation of undocumented illegals and simplify the administrative procedures for returning citizens of third countries;
- (g) contribute towards improving the administration of the common visa policy and towards internal security and to combating terrorism.”

The present proposal is designed to allow the development of the VIS, to take place by means of Community financing as of 2004 and in accordance with the relevant provisions of the Treaty, whereas the national infrastructures shall be developed within the responsibility of Member States.

#### *5.1.2. Measures taken in connection with ex ante evaluation*

Following the Seville Conclusions (point 30), a **feasibility study** on technical and financial aspects of the VIS was launched by the Commission on 16 September 2002 and submitted to the Council in May 2003. The study provides an analysis of the technical and financial aspects of the VIS. It is based on the Technical and Functional guidelines for the feasibility study, as set out in part II of the guidelines, adopted by the Council on 13 June 2002, and provides possible technical solutions for the VIS, including the use of biometrics, and assesses the impact of each solution on financial and human resources. The study does not cover an assessment of the existing national systems, but considers their interoperability with the VIS system.

Following the Council guidelines, the VIS should comprise a Central Visa Information System (CS-VIS) and a National Visa Information System (NI-VIS) in each Member State. On that basis, the study has assessed two basic options for the architecture of the VIS:

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<sup>24</sup> Replaced by Council Regulation (EC) No 343/2003 of 18.2.2003 ("Dublin II" - OJ L 50, 25.2.2003, p. 1), except for Denmark.



Under the precondition that VIS must have a similar architecture to that of the existing Schengen Information System, two fundamental architectural options have been considered by the feasibility study:

- a separate VIS (option 1), or
- a technical integration of VIS and SIS II, in view of the synergies (option 2).

### **Option 1: Separate VIS system**

There are only two variations on this solution, suitable for this purpose (**centralised** or **hybrid**). Both solutions equally support the VIS business context.

1. In the **centralised solution**, all the data and functions are exclusively located at the central level (CS-VIS);
2. In the **hybrid solution** only basic data (mainly alphanumeric data and indexes) is stored at the central level (CS-VIS), while bulk data (such as photographs, biometric images, scanned documents, etc.) are stored at the corresponding national level (NI-VIS).

### **Option 2: Technical integration of the VIS and SIS II**

The two feasible solutions exhibiting the synergistic architecture are:

1. Solution 1, uses a **common technical platform** with both systems located in the same building and connection to the same network through a single access point. It uses the same technological platforms and allows for the sharing of management tools and staff between the two systems;
2. Solution 2, uses a **common technical platform and services**, introduces synergies at the application level in addition to those commonalties described above (pt.1). The systems share or use common services as well as the biometric components.

For Option 1, i.e. a separate VIS, it is recommended to opt for a centralised solution. The solution introduces operational efficiency, is less expensive and entails less in the way of systems administration. It provides a moderate risk profile making it a clear favourite.

For Option 2, the technical integration of VIS and SIS II at central level is recommended, as it significantly reduces the overall investment and associated operational costs of the two systems. In order to maximise the synergies between the two systems, it is suggested to implement VIS and SIS II in parallel, possibly even launching a common call for tender covering the construction of both systems. Likewise, it is advisable that the project management concerning the implementation be assumed by a single organisation.

The solution of the common technical platform and services (Option 2 / Solution 2), despite its advantages, may introduce additional complexity to the application development.

All things considered, it is recommended to opt for Option 2 / Solution 1: sharing of a common technical platform between VIS and SIS II. Technology convergence will introduce cost savings. Moreover VIS and SIS could share common maintenance and administration procedures and thus technical human resources supporting these operations.

Further points assessed by the study as requested by the Council guidelines are, in particular, the communication infrastructures for the VIS, the future development of the Schengen consultation network VISION, the interoperability with other systems and the categories of information to be stored and processed, namely alphanumeric data, photographs, supporting documents and biometric identifiers. The **importance of biometrics** for the overall efficiency of the system must be underlined. The study has assessed three options, which can be envisaged as biometric identifiers for the time being: iris scanning, facial recognition and fingerprints and recommends the latter as primary biometric identifier. Fingerprints technology would provide the required accuracy to identify individuals and fingerprint databases would still be used for the next decades even if the biometric technology changes. A second biometric identifier such as facial recognition could be implemented to improve the accuracy. In any case, the use of biometrics at such an unprecedented scale will bear a significant impact on the system, both in technical and financial terms.

On the **budgetary** aspects, the estimates set out in the feasibility study cover the fixed costs of the central system, the CS-VIS, and for (27) NI-VIS, including their communication infrastructure, with additional the annual costs for operations, networks and human resources. These costs, of which the development and operation of the “biometrics” module represents a high proportion, could however be spread over a period of ten to twelve years, depending on the implementation (big bang or step-wise approach) and how quick consular posts will be connected to the VIS. These estimates do not cover additional external resources to support and assist the Commission in managing, controlling and set-up the project.

A substantial additional financial burden will be borne by the Member States for the national infrastructures, in particular for the adaptation of existing national systems, the world-wide connections to their consular posts and their equipment, shipping and training.

Cost estimates and cost-benefit analysis concerning the impacts of VIS on national infrastructures and national budgets are within the responsibility of each Member State. As requested by the Council guidelines adopted on 13 June 2003, the VIS feasibility study provides cost estimates only for the investment and operational costs of the CS-VIS, the National Interfaces (NI-VIS) and the communication infrastructure between the CS-VIS and the NI-VIS. These estimates do not cover the impacts on the national infrastructures. To provide any further cost estimates would require a detailed analysis of every national environment and national organisation. This can only be done by Member States themselves. However, for the respective assessment of each Member State the study provides cost estimates for an office issuing visa on the basis of a standard configuration.

The financial statement made in this sheet relates to the procurement of technical expertise, management expertise, hardware and software, etc. for the first steps of the setting-up of the VIS system containing alphanumeric data and photographs. Supporting documents and the biometric identifiers might be implemented at a later stage. It is based on estimates provided by the feasibility study on technical and financial aspects of a system for the exchange of visa data between Member States.

### 5.1.3. *Measures taken following ex post evaluation*

Not applicable.

## **5.2. Action envisaged and budget intervention arrangements**

This proposal envisages the development of the Visa Information System consisting of a Central Visa Information System (CS-VIS) with an interface in each Member State (NI-VIS) and the communication infrastructure between the CS-VIS and the national interfaces.

The development and establishment of the Visa Information System will be done in four project phases:

- Project Phase I - Detailed technical design, resulting in full system specifications. The results of this phase must include a full set of interface specifications defining the communication processes.
- Project Phase II - Development, testing and deployment of the systems.
- Project Phase III - Migration, Integration and Support to users for the connection of their national infrastructures.
- Project Phase IV – IT Service Management.

The biometric components and a component for the use of scanned documents could be developed at a later stage, but are not included in this proposal.

To meet the objectives, stated in 5.1.1, according to Article 2 (2) of the Decision, the national infrastructures beyond the national interfaces in the Member States shall be by the Member States. This includes the financial burden for the development of these infrastructures, in particular for the adaptation of existing national systems to the VIS, the world-wide connections to their consular posts and their equipment, shipping and training. As one element for the respective assessment of each Member State the feasibility study provides cost estimates for offices issuing visas on the basis of a standard configuration.

## **5.3. Methods of implementation**

Direct management by the Commission using regular staff assisted by external contractors. The development of the system (main contract) will be tendered. Additional technical support will also be tendered to assist Commission services in the follow up of the implementation.

Member States will be closely involved in the work via the committee according to Article 4 of this Decision and Member States' experts meetings.

## 6. FINANCIAL IMPACT

### 6.1. Total financial impact on Part B - (over the entire programming period)

Commitments (in € million to three decimal places)

Breakdown	2004	2005	2006	Indicative annual amounts in 2007 and subsequent years
<u>Phase I. Detailed analysis and technical design</u>	3.000			
<u>Phase II. System development and deployment</u>		8.200		
<u>Phase III. Migration, integration and support</u>			11.300	
<u>Phase IV. IT service Management</u>				7.000
<b>SUBTOTAL<sup>25</sup></b>	<b>3.000</b>	<b>8.200</b>	<b>11.300</b>	<b>7.000</b>
External assistance for project management, audit and evaluation <sup>26</sup>	2.000	2.800	2.700	1.000
<b>TOTAL</b>	<b>5.000</b>	<b>11.000</b>	<b>14.000</b>	<b>8.000</b>

## 7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

### 7.1. Impact on human resources

Depending on the political orientation of the Council (cf. 4.) estimates hereunder might have to be revised.

Types of post		Staff to be assigned to management of the action using existing resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A	3		3	
	B	2		2	
	C	1		1	
Other human resources		2		2	2 National Experts
Total		8		8	

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.

<sup>25</sup> Operating expenditure directly derived from the feasibility study.

<sup>26</sup> Other operating expenditure - High quality external assistance needed due to limited internal resources.

## 7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials 18010101	648 000	6 officials * 108 000
Other human resources 1801020103	86 000	2*43 000 END
Total	734 000	

The amounts are total expenditure for twelve months.

## 7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
<b>Overall allocation (Title A7)</b>		
1801021101 – Missions	66 000	30*1000+12*3000
1801021102 – Meetings	300 000	10*30 000
1801021103 – Compulsory committees	15 000	2*7500
1801021102 – Conferences	500 000	2-3 studies per year
1801021104 – Studies and consultations		
Other expenditure (specify)		
<b>Information systems (A-5001/A-4300)</b>		
<b>Other expenditure - Part A (specify)</b>		
Total	881 000	

The amounts are total expenditure for twelve months. In 2004 only a quarter will be spend, with complete yearly expenditure from 2005 until 2009.

I.	Annual total (7.2 + 7.3)	1 615 000 €
II.	Duration of action	At least 5,25 years
III.	Total cost of action (I x II)	8 478 750€

## 8. FOLLOW-UP AND EVALUATION

### 8.1. Follow-up arrangements

For each of the four phases in point 5.2 deliverables are foreseen. Each deliverable produced will be submitted to an acceptance procedure, which will vary depending on the type of the deliverable.

The system will be considered as delivered when all the acceptance tests have been run successfully and when the system is effectively ready for production. Follow-up (Project Master Plan, Project Quality Plan, Methodology etc.) and acceptance means requirements are detailed in the call for tender documents and in the Contract that will be signed between the Contractor and Commission services.

## **8.2. Arrangements and schedule for the planned evaluation**

The Decision foresees that the Commission will present to the Council and the European Parliament a yearly progress report concerning the development of the VIS.

From phase IV onwards, when the VIS has become operational, it will be evaluated every four years to assess the results and the effectiveness of the system.

## **9. ANTI-FRAUD MEASURES**

The Commission procedures for the award of contracts will be applied, ensuring compliance with Community law on public contracts.