EDPS Formal comments on the draft Commission Implementing Decision concerning the integration into VIS of the list of documents which entitle the holder to cross the external borders and which may be endorsed with a visa, and the Member States notifications regarding the recognition and non-recognition of the listed documents

1. Introduction and background

The VIS Regulation\(^1\) defined the purpose of, the functionalities of and the responsibilities for the Visa Information System (VIS), setting up the conditions and procedures for the exchange of data between Member States on applications for short-stay visas and on the decisions taken in relation thereto.

On 7 July 2021, the VIS Regulation was amended by two Regulations: Regulation (EU) 2021/1134\(^2\) for the purpose of reforming the Visa Information System, and Regulation (EU) 2021/1152\(^3\) as regards the establishment of conditions for assessing other EU information systems for the purposes of the European Travel Information and Authorisation System.

The amended VIS Regulation aims at strengthening the security of the short-stay visa procedure, including long-stay visas and residence permits in the VIS database, and ensuring interoperability between the VIS and other relevant EU systems and databases.

Pursuant to Article 5a of the amended VIS Regulation, the VIS shall provide for the centralised management of the list of recognised travel documents and of the notification of the recognition or non-recognition of the list travel documents pursuant to Decision 1105/2011/EU. The consultation of the list of travel documents, in conjunction with the notifications on the recognition or non-recognition of the list of travel documents, is a compulsory element of the short-stay visa examination procedure.

The present formal comments of the EDPS are issued in response to a legislative consultation by the European Commission of 3 February 2022, in accordance with Article 42(1) of

---


Regulation (REU) 2018/1725\(^4\), on a draft Implementing Decision concerning the integration into VIS of the above mentioned list of documents, and the table of Member States’ notifications regarding the recognition and non-recognition of the listed documents.

The following formal comments do not preclude any future additional comments by the EDPS, in particular if further issues are identified or new information becomes available. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of Regulation (EU) 2018/1725.

2. Comments

2.1 General Comments

The EDPS welcomes the reference, in Recital 11 of the draft Implementing Decision, to Regulation (EU) 2018/1725 of the European Parliament and of the Council, which should apply to the activities of eu-LISA and the European Border and Coast Guard Agency, when carrying out the tasks entrusted to them in the revised VIS Regulation.

2.2. Specific comment on the connection with False and Authentic Documents Online System

According to Recital 10 of the draft Implementing Decision, the Commission considers “desirable” to enable eu-LISA and the European Border and Coast Guard Agency to establish a connection between the table of notifications of the recognition or non-recognition of the listed travel documents, as integrated in VIS, and the new False and Authentic Documents Online (FADO) system, “once it will be operational and contain images and other information about false and authentic documents”.

In line with this recital, Article 2 of the draft Implementing Decision provides that “eu-LISA and the European Border and Coast Guard Agency shall endeavour to establish a connection between the table of notifications of the recognition or non-recognition of the listed travel documents, as integrated in VIS, and the new False and Authentic Documents Online (FADO) system, once it is operational in accordance Regulation (EU) 2020/493, regarding images and other information about false and authentic documents”.

While the EDPS understands the possible practical benefits of a connection between the table of Member States’ notifications regarding the recognition and non-recognition of the listed

---

documents and the new FADO system, he also notes that such a connection has not been provided for in Article 5a of the amended VIS Regulation, which is the basis of the current draft Implementing Decision.

In any case, should the Commission decide to provide in this draft Implementing Decision for the future establishment of a connection between the table of notifications of the recognition or non-recognition of the listed travel documents and the FADO system, the EDPS recommends recalling in the preamble to the draft Implementing Decision of Article 5(3) of Regulation 2020/493, according to which the European Border and Coast Guard Agency “shall ensure that technical and organisational measures, such as pseudonymisation, are in place in order to ensure that personal data are only processed to the extent strictly necessary for the purpose of operating the FADO system in line with the principle of data minimisation in a way which does not permit the identification of any natural person through the FADO system without using additional data”.

Brussels, 9 March 2022

(e-signed)
Wojciech Rafał WIEWIÓROWSKI

---