



**POLISH  
BORDER  
GUARD**



**EUROPEAN UNION**

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# STARTING FROM THE 1ST.10.2012

**AT ALL BORDER CROSSING POINTS IN POLAND BORDER GUARD  
BEGINS ISSUING VISAS WITH REGISTRATION DATA  
TO VISA INFORMATION SYSTEM (VIS),  
INCLUDING BIOMETRIC DATA  
(FACIAL IMAGE AND FINGERPRINTS)**

**IN EXCEPTIONAL CASES, VISAS MAY BE ISSUED  
AT BORDER CROSSING POINTS\*\***

\* Regulation of the European Parliament and of the Council (EC) No 767/2008 of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between member states on short-stay visas. ( L 218 z 13.08.2008)  
\* Regulation of the European Parliament and Council Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas ( L 243 z 18.9.2009)

\*\* article 35 Community Code on Visas



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## The Border Guards informs that from 1st October 2012

will be granting visas at the border using Visa Information System (VIS).

Visa Information System(VIS) is a system for the exchange of visa's data between Member States on short-stay visas. This system will enable authorized national authorities to introduction and update visa data and to consult these data electronically.

The launch of the system in consulates took place on 11th October 2011 and from 1st November 2011 border authorities of the Member States began the verification of data (check data) in the Visa Information System.

Notes:

# § LEGAL BASIS

## REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (EC)

*No 767/2008 of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas.*

### Article 2 - Target

The purpose of the VIS is to improve the implementation of the common visa policy improvement of consular cooperation and consultation between central visa authorities by facilitating the exchange of data between Member States on applications and related decisions, in order:

- a) simplification of the visa application procedure;
- b) to prevent the bypassing of the criteria used to determine the Member State responsible for examining an application;
- c) facilitate the fight against fraud;
- d) facilitate checks at border crossing points Member States and outside the territory Member States;
- e) help identify people who may not meet conditions for entry, stay or residence in the territory of Member States or no longer meet the conditions;
- f) facilitate the application of Regulation (EC) No 343/2003;
- g) contribute to the prevention of threats to security internal security of each Member State.

### Article 3 - Availability of data for the prevention, detection and investigation of terrorist offenses and other serious crimes

<sup>1</sup> The system will be activated gradually in the regions described by the EC Decision - COMMISSION DECISION of 30 November 2009 determining the first regions for the start of operations of the Visa Information System (VIS) (notified under document C(2009) 8542)



be issued a visa at the external border.

However, a visa with limited territorial validity for the territory of the issuing Member State may be issued at the external border for such persons in exceptional cases, in accordance with Article 25(1)(a).

6. In addition to the reasons for refusing a visa as provided for in Article 32(1) a visa shall be refused at the border crossing point if the conditions referred to in paragraph 1(b) of this Article are not met.
7. The provisions on justification and notification of refusals and the right of appeal set out in Article 32(3) and Annex VI shall apply.

### Article 36 - Visas issued to seafarers in transit at the external border

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa for the purpose of transit at the border where:
  - (a) he fulfils the conditions set out in Article 35(1); and
  - (b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.
2. Before issuing a visa at the border to a seafarer in transit, the competent national authorities shall comply with the rules set out in Annex IX, Part 1, and make sure that the necessary information concerning the seafarer in question has been exchanged by means of a duly completed form for seafarers in transit, as set out in Annex IX, Part 2.
3. This Article shall apply without prejudice to Article 35(3), (4) and (5).

**The post of the administrator of VIS data in Poland is held by Police Commander in Chief.**

#### CONTACT:

Central Technical Authority (National Information System)  
02-514 Warsaw  
Puławska 148/150  
e-mail: [cot.admin.ksi@policja.gov.pl](mailto:cot.admin.ksi@policja.gov.pl)  
More information: **Centralny Organ Techniczny KSI**

**First** - Designated authorities of Member States may in particular- specific case and for a reasonable written request or electronic access to the data stored VIS referred to in Article. 9-14, if there are reasonable grounds for believing that the search will VIS substantially to the prevention, detection or investigation of crime countries of terrorism and other serious crimes. Europol VIS can use it within the limits of powers and when it is needed to perform its tasks.

**Second** - Overview of the data referred to in paragraph. 1, is a through a central access point or points, responsible for ensuring strict compliance with the terms of access and the procedures laid down in Council Decision 2008/633 / JHA of 23 June 2008 on access designated authorities of Member States and Europol Visa Information System (VIS) for the purposes of view, in order to prevent terrorist offenses NYM and other serious crimes, their detection and law enforcement. Member States may designate more than one central access point if it reflects their organizational and administrative structure of the exercise- Vanya their constitutional or legal requirements. In exceptional tionally an urgent case, the central access point or points may receive a request in writing, electronic or oral, and only verify ex post whether all the conditions for access are met, including whether special urgency occurred. Is the ex post without undue delay after the collapse of the application.

**3rd** - The data obtained from the VIS in accordance with the decision referred to in the paragraph. 2, are not transferred or made available to country or international organization.

In extremely urgent case, however, the data may be communicated or made available to a third country or international organization tional only for the purpose of preventing and detecting crime countries of terrorism and other serious crimes, the conditions set out in this decision. According to the law Member States shall ensure national record such cases, the transfer of data and keep them information that you provide at the request of the national authorities responsible for data protection. Transfer of data by Member State which entered the data in the VIS shall be national law of that Member State.

**4th** - This Regulation shall be without prejudice to the any obligations arising from the provisions of the competent acid of national law to inform the competent authorities for criminal activity detected by the authorities, referred to in art. 6, in the exercise of responsibility for the prevention, investigation and prosecution related with terrorist activities.

### Article 5 - Categories of data

**First** - The VIS is recorded only to the following categories of data:

- a) alphanumeric data referred to in Article, Paragraph 9. 1-4 and art. 10-14, relating to an applicant for a visa and on visas, for which an application has been filed, issued, refused or have been canceled, revoked or extended;
- b) photographs referred to in Article. Paragraph 9. 5;
- c) fingerprints, referred to in art. Paragraph 9. 6;



d) links to other applications referred to in art. 8 paragraph. 3 and 4

## Article 6 - Access for entering, correcting, deleting and viewing data

**First** - Access to the VIS for entering, amending or deleting the data referred to in Article. 5, paragraph. 1, in accordance of this Regulation shall be reserved exclusively to duly authorized staff of the visa authorities.

## Article 7 - General principles

**First** - Each competent authority authorized to access the VIS accordance with this Regulation provides use VIS to the extent necessary, appropriate and proportionate to the tasks of the competent authorities.

**Second** - Each competent authority shall ensure that when using VIS there is no discrimination of applicants visa holders on grounds of sex, racial or origin ethnic, religion or belief, disability, age or sexual orientation, and ensure full respect for human dignity and the integrity of the applicant or holder.

## Article 9 - Data upon lodging the application

**For application file visa authority introduced following:**

- 1) the application number;
- 2) status information indicating that it was made application for a visa
- 3) the authority to which the application was made, including its location, and whether the request was made to body representing another Member State;
- 4) the following data from the application form:
  - a) surname, maiden name (previous name or last name), the name or names, sex, date, place and country of birth;
  - b) current nationality and nationality at the time of uro- Regulation;
  - c) the type and number of travel document, the authority which issued the document and the date of issue and date of expiry validity of the document;
  - d) place and date of the application;
  - e) type of visa requested;
  - f) details of the person issuing an invitation or response- party responsible for incurring the cost of living persons applicant during the stay, that is:
  - (i) in the case of a natural person - name, surname and address of the person;
  - (ii) in the case of a company or other organic organizations - the name and address of the another organization, the name and the name of the person you to contact this company or organizations;

shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling;

- (c) heads of State or government and members of a national government with accompanying spouses, and the members of their official delegation when they are invited by Member States' governments or by international organisations for an official purpose;
- (d) sovereigns and other senior members of a royal family, when they are invited by Member States' governments or by international organisations for an official purpose.

## Article 35 - Visas applied for at the external border

1. In exceptional cases, visas may be issued at border crossing points if the following conditions are satisfied:
  - (a) the applicant fulfils the conditions laid down in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code;
  - (b) the applicant has not been in a position to apply for a visa in advance and submits, if required, supporting documents substantiating unforeseeable and imperative reasons for entry; and
  - (c) the applicant's return to his country of origin or residence or transit through States other than Member States fully implementing the Schengen acquis is assessed as certain.
2. Where a visa is applied for at the external border, the requirement that the applicant be in possession of travel medical insurance may be waived when such travel medical insurance is not available at that border crossing point or for humanitarian reasons.
3. A visa issued at the external border shall be a uniform visa, entitling the holder to stay for a maximum duration of 15 days, depending on the purpose and conditions of the intended stay. In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.
4. Where the conditions laid down in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity, in accordance with Article 25(1)(a) of this Regulation, for the territory of the issuing Member State only.
5. A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article 22 shall, in principle, not



#### Article 4 - Authorities competent for taking part in the procedures relating to applications

1. Applications shall be examined and decided on by consulates.
2. By way of derogation from paragraph 1, applications may be examined and decided on at the external borders of the Member States by the authorities responsible for checks on persons, in accordance with Articles 35 and 36.

#### Article 13- Biometric identifiers

1. Member States shall collect biometric identifiers of the applicant comprising a photograph of him and his 10 fingerprints in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child.
2. At the time of submission of the first application, the applicant shall be required to appear in person. At that time, the following biometric identifiers of the applicant shall be collected: - a photograph, scanned or taken at the time of application, and - his 10 fingerprints taken flat and collected digitally.
3. Where fingerprints collected from the applicant as part of an earlier application were entered in the VIS for the first time less than 59 months before the date of the new application, they shall be copied to the subsequent application.

However, where there is reasonable doubt regarding the identity of the applicant, the consulate shall collect fingerprints within the period specified in the first subparagraph.

Furthermore, if at the time when the application is lodged, it cannot be immediately confirmed that the fingerprints were collected within the period specified in the first subparagraph, the applicant may request that they be collected.

7. The following applicants shall be exempt from the requirement to give fingerprints:
  - (a) children under the age of 12;
  - (b) persons for whom fingerprinting is physically impossible. If the fingerprinting of fewer than 10 fingers is possible, the maximum number of fingerprints shall be taken. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant

- g) the place where the main destination and the time duration of the intended stay;
  - h) purpose of travel;
  - i) planned date of arrival and departure;
  - j) border, which according to plan will be exceeded as First, entry or transit route;
  - k) place of residence;
  - l) current occupation and employer; for students: name of school;
  - m) in the case of minors - surname and first name (s) father and mother of the applicant
- 5) photograph of the applicant in accordance with Regulation (EC) No 1683/95;
  - 6) fingerprints of the applicant, as with the relevant provisions of the common consular instructions.

#### Article 23 - Retention period

**First** - Each application file is stored in the VIS for a maximum period of five years, without prejudice for the deletion, referred to in art. 24 and 25, and the ability to keep the records referred to in art. 34th

This period starts:

- a) the expiry date of the visa, if a visa was issued;
- b) with a new expiry date of the visa, if a visa has been extended;
- c) creation date of a file in the VIS data application, if the application has been withdrawn, closed or discontinued;
- d) date of the decision of the visa authority if a visa has been canceled, revoked or the validity period has been shortened.

**Second** - After the expiry of the period referred to in paragraph 1, the VIS automatically deletes the application file and returns the link to the file referred to in art. Paragraph 8.3 and 4.

#### Article 29 - Responsibility for the use of data

**First** - Each Member State shall ensure lawful data processing, in particular, ensure that access to data processed in the VIS was only for authorized personnel, who use them to perform their tasks in accordance with this Regulation. A proper Member State shall ensure, in particular:

- a) gathering data in accordance with the law;
- b) transmission of data to the VIS in accordance with the law;
- c) reliability and validity of the data at the time of transfer to the VIS.



## Article 31-Transfer of data to third countries or international organizations.

**First** - Data processed in the VIS in accordance with this Regulation Regulation is not transferred or made available to country or international organization.

**Second** - By way of derogation from paragraph. 1, the data referred to Article. Paragraph 9. 4 point. a), b), c), k) and m) can be transmitted or made available to a third country or organization international listed in the Annex, where it is necessary in specific cases in order to prove the identity of third-country nationals, including for the purpose of returns only if the following conditions:

- a) Commission adopts a decision on adequacy personal data in the third country in accordance of art. Paragraph 25. 6 of Directive 95/46/EC, or of the readmission agreement concluded between the Community and the a third country, or the application of the provisions of art. 26 paragraph. 1 point. d) of Directive 95/46/EC;
- b) the third country or international organization to use the data only for the purposes for which they were provided;
- c) transferred or made available in accordance with appropriate Dimen Community law, in particular readmission agreements, and in accordance with national law Member State which transmitted or made available data, including those on security and data protection, and
- d) consent of the Member State (s) which entered the data in the VIS

**3rd** - Transfer of personal data to third countries or international organizations do not infringe the rights of refugees and persons seeking international protection, in particular receivables in respect of non-refoulement.

## Article 37 - Right to information

**First** - Persons applying for a visa and the person referred to art. Paragraph 9. 4 point. f) shall be informed by the responsible Member State of:

- a) identity of the data referred to Article. 41 paragraph. 4, including contact details with him;
- b) purposes of the processing in the VIS;
- c) categories of recipients, including the bodies of which- referred to in Art. 3;
- d) data retention period;
- e) to obtain the data for the examination application;
- f) right of access to data relating to them, and right to request correction of erroneous data about them or to remove non-processed data by law, including the right to receive information on procedures for exercising those rights and contact information to national authorities supervisory authorities referred to in Article. 41 paragraph. 1, which take action for the protection of personal data.

**Second** - The information referred to in paragraph. 1, are given to the person applicant in writing at the time of obtaining data from the application form, photograph and fingerprints, referred to in art. Paragraph 9. 4, 5 and 6.

**3rd** - The information referred to in paragraph 1 shall be persons referred to in Article. Paragraph 9. 4 point. f) in the forms to be signed by the person providing proof invitation, sponsorship and accommodation. In the absence of such a form signed by the person is made available in accordance with Article. Article 11 of Directive 95 /46/EC.

## Article 38 - The right to access, correct and delete data

**First** - Without prejudice to the obligation to provide other information tion in accordance with Article. Point 12. a) of Directive 95/46/EC, any person has the right to obtain information about the data for, registered in the VIS, and on the state State which transmitted the data to the VIS. Such access to the Data can only be granted by a Member State States. Each Member State shall record any requests for such access.

**Second** - Any person may request an adjustment inaccurate data about data deletion and registered illegally. Rectification or erasure is carried out without delay by the responsible Mem- ber State in accordance with its laws, regulations and procedures.

**3rd** - If the request referred to in paragraph. 2 is made to the State State other than the Member State responsible State, authorities of the Member State to which the application has been complex, contact the authorities responsible Member State within 14 days. Responsible Member shall verify the accuracy of data and compliance the law of the processing in the VIS within one month.

**4th** - If it turns out that the data are recorded in the VIS inaccurate or have been recorded unlawfully, respon- sible Member State shall correct or delete the data accordance with the Articles. 24 paragraph. 3rd Responsible Member State immediately confirm in writing to the person concerned that taken action to correct or erase the data on.

**5th** - If the responsible Member State does not match the fact that data recorded in the VIS are inaccurate, or have been recorded unlawfully, immediately explain in writing the person concerned why it is not prepared to correct or erase the data.

**6th** - Responsible Member State shall provide the person concerned with information as to the steps that he can take if he does not presented explanation. This includes information on how to initiate an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the national supervisory authorities, referred to in art. 41 paragraph. 1, available as with the laws, regulations and procedures dures that Member State.

## Article 40- Remedies

**First** - In each Member State, any person has the right to to initiate an action or a complaint before the competent the competent authorities or courts of that Member State, that the person refused the right to access or the right to correct or delete information relating to a specific Article. 38 sec. 1 and 2

**Second** - Support from the national supervisory authorities, which Article. 39 paragraph. 2, is available for the entire duration procedures.

## Regulation of the European Parliament and Council Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas