GOVERNMENT OF THE REPUBLIC OF LITHUANIA
RESOLUTION No 1456

CONCERNING THE ESTABLISHMENT OF THE LITHUANIAN NATIONAL VISA INFORMATION SYSTEM, APPROVAL OF ITS REGULATIONS AND FIXING THE DATE OF THE COMMENCEMENT OF ITS ACTIVITIES

4 November 2009
Vilnius

In pursuance of Council Decision 2004/512/EC of 8 □June 2004 establishing the Visa Information System (VIS) (OJ 2004 L 213, p. 5), Regulation No 562/2006/EC of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1), as last amended by Regulation No 81/2009/EC of the European Parliament and of the Council of 14 January 2009 (OJ 2009 L 35 p. 56), Council Decision No 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 2008 L 218, p. 129), Regulation No 767/2008/EC 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 2008 L 218, p. 60), the Government of the Republic of Lithuania has resolved:
1. To establish the Lithuanian National Visa Information System.
2. To approve the Regulations of the Lithuanian National Visa Information System (appended).
3. To fix the date of the commencement of the activities of the Lithuanian Visa Information System, which shall be the date of the commencement of the activities of the Visa Information System fixed by the European Commission.

PRIME MINISTER   ANDRIUS KUBILIUS

MINSTER FOR THE INTERIOR   RAIMUNDAS PALAITIS

REGULATIONS OF THE LITHUANIAN NATIONAL VISA INFORMATION SYSTEM

I. GENERAL PROVISIONS

1. The Regulations of the Lithuanian National Visa Information System (hereinafter 'these regulations') shall govern the purpose and functions of the Lithuanian national visa information system (hereinafter the 'N.VIS'), the controller and processor, their rights and obligations, data processing in the N.VIS, the N.VIS security requirements, and the reorganisation and winding-up of the N.VIS.

2. The N.VIS is a state information system operating on the technical and software basis for the functions specified in paragraph 5 of these regulations.

3. The basis for establishing the N.VIS:

3.1. Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ 2004 L 213, p. 5);

3.2. Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1), as last amended by Regulation (EU) No 1051/2013 of the European Parliament and of the Council of 22 October 2013 (OJ 2013 L 295, p. l) (hereinafter the 'Schengen Borders Code);

3.3. Council Decision No 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 2008 L 218, p. 129) (hereinafter the 'VIS Decision');

3.4. 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 2008 L 218, p. 60), as last amended by Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 (OJ 2013 L 182, p. l) (hereinafter the 'VIS Regulation').

4. The N.VIS is designed to facilitate the exchange of data between Lithuania and other Member States of the European Union (hereinafter the 'EU') on visa applications and decisions relating thereto, and the exchange of visa data.

5. N.VIS functions shall be as follows:

5.1. to ensure data flows between the Central Visa Information System (hereinafter the 'C.VIS'), the Register of Aliens (hereinafter the 'RA'), the Lithuanian National Schengen Information System (hereinafter the 'N.SIS'), the Police Information System (hereinafter the 'POLIS') and the Information System of the State Border Guard Service under the Ministry of the Interior (hereinafter the 'VSATIS');

5.2. to ensure data flows between competent authorities of Lithuania and other EU Member States for the consultations on applications under Article 17(2) of the Convention of 19 June 1990 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 (OJ 2004, Special Edition, Chapter 19, volume 2, p. 9) (hereinafter the 'V.VIS Mail function);

5.3. other functions provided for in these regulations and other legislation.

6. The definitions used in these regulations are defined in the Schengen Borders Code, the VIS Regulation, the VIS Decision, the Law of the Republic of Lithuania on the legal status of aliens, the Law of the Republic of Lithuania on the legal protection of personal data, the Procedure for the establishment, creation, modernisation and winding up of state information systems approved by Resolution No 180 of the Government of the Republic of Lithuania of 27 February 2013 on the procedure for the establishment, development, modernisation and winding-up of state information systems, and the Regulations of the Information System of Internal Affairs approved by Order No 1V-1 of the Minister for the Interior of the Republic of Lithuania of 2 January 2007 on the approval of the he Regulations of the Information System of Internal Affairs and the Regulations of the security the Information System of Internal Affairs.

II. ORGANISATIONAL STRUCTURE OF THE N.VIS

7. The organisational structure of the N.VIS consists of the controller of the N.VIS, the processor of the N.VIS and the recipients of the C.VIS data via the N.VIS.

8. The N.VIS controller, the Ministry of the Interior of the Republic of Lithuania (hereinafter the 'MoI), shall:

8.1. co-ordinate and control the activities of the processor of the N.VIS in processing the N.VIS;

8.2. approve legislation governing the processing and security of the N.VIS;

8.3. ensure that the N.VIS is processed in accordance with the legislation of the European Union, the laws and other legislation of the Republic of Lithuania and these regulations;

8.4. under the procedure prescribed by legislation, provide information about the N.VIS activities to persons concerned;

8.5. make decisions on the acquisition, introduction and development of N.VIS hardware and software;

8.6. perform other functions provided for in these regulations and other legislation.

9. The N.VIS processor, the IT and Communications Department under the Ministry of the Interior of the Republic of Lithuania, shall:

9.1. offer proposals to the N.VIS controller regarding the acquisition of hardware and software necessary for the operation, maintenance and development of the N.VIS, organise the introduction and development of hardware and software, and carry out, within the scope of its remit, maintenance works of the hardware and software of the N.VIS;

9.2. ensure continuous operation of the N.VIS;

9.3. ensure the interface between the N.VIS and the C.VIS, RA, N.SIS, POLIS and the VSATIS;

9.4. submit the resources of network servers and the telecommunications network of internal affairs to the N.VIS for processing;

9.5. draft legislation governing the processing and security of the N.VIS;

9.6. perform other functions provided for in these regulations and other legislation.

10. The recipients of the C.VIS data via the N.VIS:

10.1. the Migration Department under the Ministry of the Interior shall receive the C.VIS data via the N.VIS for the following functions:

10.1.1. the examination of applications for Schengen visa or for the extention of the validity of Schengen visa under Article 15 of the VIS Regulation;

10.1.2. carrying out checks to ascertain whether the person fulfils the conditions for the entry to, stay or residence on the territory of the Republic of Lithuania under Articles 19 and 20 of the VIS Regulation;

10.1.3. carrying out checks to determine the state responsible for examining an asylum application under Article 21 of the VIS Regulation;

10.1.4. carrying out checks in connection with the examination of asylum applications under Article 22 of the VIS Regulation;

10.1.5. drawing up statistics reports under Article 17 of the VIS Regulation;

10.1.6. carrying out functions of a central visa authority in consultations under Article 16 of the VIS Regulation;

10.2. the Migration Unit under Vilnius County Police Headquarters, the Migration Unit under Kaunas County Police Headquarters and the Migration Unit under Klaipėda County Police Headquarters shall receive the C.VIS data via the N.VIS for the following functions:

10.2.1. the examination of applications for the extension of the duration of the stay on the basis of the Schengen visa under Article 15 of the VIS Regulation;

10.2.2. carrying out checks to ascertain whether the person fulfils the conditions for the entry to, stay or residence on the territory of the Republic of Lithuania under Articles 19 and 20 of the VIS Regulation;

10.2.3. drawing up statistics reports under Article 17 of the VIS Regulation;

10.3. the State Border Guard Service under the Ministry of the Interior shall receive the C.VIS data via the N.VIS for the following functions:

10.3.1. the examination of applications for Schengen visa under Article 15 of the VIS Regulation;

10.3.2. carrying out checks at external border crossing points under Articles 18 and 20 of the VIS Regulation;

10.3.3. carrying out checks to ascertain whether the person fulfils the conditions for the entry to, stay or residence on the territory of the Republic of Lithuania under Articles 19 and 20 of the VIS Regulation;

10.3.4. drawing up statistics reports under Article 17 of the VIS Regulation;

10.4 territorial and specialised police authorities shall receive the C.VIS data via the N.VIS for carrying out checks to ascertain whether the person fulfils the conditions for the entry to, stay or residence on the territory of the Republic of Lithuania under Articles 19 and 20 of the VIS Regulation;

10.5. the Consular Department under the Ministry of Foreign Affairs of the Republic of Lithuania, diplomatic missions and consular posts of the Republic of Lithuania shall receive C.VIS data via the N.VIS for the following functions:

10.5.1. the examination of applications for Schengen visa under Article 15 of the VIS Regulation;

10.5.2. drawing up statistics reports under Article 17 of the VIS Regulation;

10.5.3. developing consular cooperation under Article 16 of the VIS Regulation;

10.6. the State Security Department of the Republic of Lithuania, the Second Investigation Department under the Ministry of National Defence, the State Border Guard Service under the Ministry of the Interior, the Police Department under the Ministry of the Interior, Financial Crime Investigation Service under the Ministry of the Interior, Special Investigation Service of the Republic of Lithuania, Customs Criminal Service, Office of the Prosecutor General of the Republic of Lithuania (hereinafter 'central access points'), where their requests to use C.VIS data for the purpose of the prevention, detection or investigation of terrorist offences or other serious criminal offences (requests under the VIS Decision) meet the requirements of Article 5(1) of the VIS Decision, shall search C.VIS data via the N.VIS on the basis of requests under the VIS Decision and/or provide C.VIS data to the requesting pre-trial investigation or criminal intelligence entities;

10.7. pre-trial investigation or criminal intelligence entities subordinate to the central access points, shall obtain C.VIS data via the central access points under Article 5 of the VIS Decision, i.e. for the purpose of the prevention, detection or investigation of terrorist offences or other serious criminal offences.

III. FUNCIONAL STRUCTURE OF THE N.VIS

11. The N.VIS consists of the following components:

11.1. the interface between the N.VIS and the C.VIS;

11.2. the interface between the N.VIS and the RA;

11.3. the interface between the N.VIS and the N.SIS, VSATIS and the POLIS;

11.4. the interface for the performance of the N.VIS Mail function;

12. the N.VIS shall not perform the function of data collection and storing.

13. the N.VIS shall ensure the following data flows:

13.1. between the RA and the C.VIS:

13.1.1. the RA consults the N.VIS for checking on the computer screen C.VIS data specified:

13.1.1.1. in Article 15(3) of the VIS Regulation, for the functions under Article 15(1) of the VIS Regulation (the examination of applications visa and taking decisions relating thereto);

13.1.1.2. in Article 21(2) of the VIS Regulation, for the functions under Article 21(1) of the VIS Regulation (determining of the Member State, which is responsible for examining an asylum application under Articles 9 and 21 of Regulation (EC) No 343/2003 of the Council of 18 February 2003, establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2004, Special Edition, Chapter 19, volume 6, p. 109);

13.1.1.3. in Article 22(2) of the VIS Regulation, for the functions under Article 22(1) of the VIS Regulation (the examination of asylum applications and taking decisions relating thereto);

13.1.1.4. in Article 17 of the VIS Regulation, for the functions under Article 17 of the VIS Regulation (for the purpose of reporting and statistics);

13.1.1.5. in Article 5(2) and (3) of the VIS Decision, for the functions under Article 1 of the VIS Decision (for the purpose of the prevention, detection or investigation of terrorist offences or other criminal offences);

13.1.2. RA data, specified in paragraphs 21.2-21.7, 21.6, 25.1.1-25.1.3, 25.1.4.3, 25.1.4.6, 25.1.4.8-25.1.4.11, 25.1.4.14, 25.1.4.15, 25.1.4.17, 25.1.6-25.1.8, 25.2.1-25.2.5, 25.2.7-25.2.12 and 25.3-25.6 of the Regulations of the Register of Aliens (hereinafter the 'RA regulations), approved by Resolution No 968 of the Government of the Republic of Lithuania of 17 September 2014 regarding the reorganisation of the Register of Aliens and the approval of the Regulations of the Register of Aliens (hereinafter the 'RA regulations) shall be provided automatically via the N.VIS to the C.VIS;

13.2. between the RA and the N.SIS - the RA consults the N.VIS for checking on the computer screen N.SIS data specified in paragraphs 1 and 2 of the Annex to the Regulations of the Lithuanian National Schengen Information System, approved by Order No 1V-324 of the Minister for the Interior of the Republic of Lithuania of 17 September 2007 on the approval of the Regulations of the Lithuanian National Schengen Information System;

13.3. between VSATIS, POLIS and RA, C.VIS:

13.3.1. for the performance of the functions under Article 18(1) of the VIS Regulation (carrying out checks at external border crossing points under the Schengen Borders Code) and under Article 19(1) (checking whether the conditions for entry to, stay or residence on the territory of the Republic of Lithuania are fulfilled) VSATIS and POLIS use it for checking on the computer screen RA data, specified in paragraph 16^1 of the RA regulations, and C.VIS data, specified in Article 18(4) and Article 19(2) of the VIS Regulation;

13.3.2. for the performance of the functions under Article 20(1) of the VIS Regulation (for the identification of any person when checking a person crossing the external border in accordance with the Schengen Borders Code or a person who may not, or may no longer,

fulfil the conditions for the entry to, stay or residence on the territory of the Republic of Lithuania) VSATIS and POLIS use it for checking on the computer screen C.VIS data, specified in Article 20(2) of the VIS Regulation;

13.4. between competent visa authorities of Lithuania and other EU Member States for the performance of the N.VIS Mail function under Article 16 of the VIS Regulation.

14. To obtain C.VIS data, specified in Article 5(2) and (3) of the VIS Decision, for the purpose of the prevention, detection or investigation of terrorist offences or other serious criminal offences, pre-trial investigation or criminal intelligence entities shall submit a request under the VIS Decision, in writing or electronically, to the relevant central access point referred to in paragraph 10(6) of these regulations. The central access point, after verifying the request under the VIS Decision and having determined the fulfilment of the conditions referred to in Article 5(1) of the VIS Decision, shall transmit the C.VIS data requested under the VIS Decision to the requesting pre-trial investigation or criminal intelligence entities. In an exceptional case of urgency, pre-trial investigation or criminal intelligence entities may submit requests under the VIS Decision to the central access point, in writing or electronically, and the central access point shall immediately transfer the requested VIS data to pre-trial investigation or criminal intelligence entities. In these exceptional cases of urgency, the central access point shall verify the compliance of the request under the VIS Decision with Article 5(1) of the VIS Decision immediately after the VIS data have been transferred to the pre-trial investigation or criminal intelligence entity.

15. Data processing actions performed via the N.VIS shall be recorded in the user administration sub-system of the central data bank of the information system of internal affairs in order to verify the legitimacy of processing of these data. These records shall be retained for the time limit set in Article 34(2) of the VIS Regulation. At the expiry of this time-limit, the records on the processing actions shall be automatically deleted from the user administration sub-system of the central data bank of the information system of internal affairs.

IV. N.VIS SECURITY

16. The security of the N.VIS is regulated by the N.VIS safety regulations approved by the N.VIS controller and the Description of the general electronic information security requirements, approved by Resolution No 716 of the Government of the Republic of Lithuania of 24 July 2013 on the Description of the general electronic information security requirements, the Description of the guidelines on the content of security documents, and the Description of the guidelines for the classification of the state information systems, registers and other information systems and the determination of the importance of electronic information.

17. The controller and the processor of the N.VIS shall be responsible for the security of N.VIS data.

18. The controller of N.VIS data shall take all necessary measures to ensure the security of N.VIS data in order:

18.1. to prevent unauthorised persons from access to N.VIS processing equipment used for data processing;

18.2. to prevent the unauthorised processing of data in the C.VIS and any unauthorised modification or deletion of data processed in the N.VIS;

18.3. to ensure that the recipients of the C.VIS data have access only to the data covered by their access authorisation;

18.4. to ensure that it is possible to verify and establish to which receivers C.VIS data are transmitted using N.VIS data communication equipment;

18.5. to ensure that it is possible to verify and establish what data has been retrieved from the N.VIS, when, by whom and for what purpose;

18.6. to prevent, by means of appropriate encryption techniques, the unauthorised reading, copying, modification or deletion of data during the transmission of personal data to or from the N.VIS or during the transport of data media;

18.7. other goals provided for in the legislation of the Republic of Lithuania.

V. SUPERVISION OF PERSONAL DATA PREOTECTION, AND THE RIGHTS OF THE DATA SUBJECTS

19. Independent control over the legitimacy of personal data processing in the N.VIS shall be conducted by the State Data Protection Inspectorate (hereinafter the 'N.VIS Personal Data Supervision Service) in accordance with laws and other legislation of the Republic of Lithuania.

20. Each data subject shall have the right to apply to the controller of the N.VIS in order to get access to his personal data processed in the C.VIS and receive the data, free of charge, under the procedure prescribed by law (including the information of the Member State which transmitted his data to the C.VIS).

21. In the case where the data subject finds out after reviewing his personal data that they are incorrect, incomplete, inaccurate or unlawfully processed and contacts the controller of the N.VIS in writing or by electronic means, the controller of the N.VIS shall immediately ensure the verification of the personal data, the rectification of the incorrect and inaccurate data, the completion of the incomplete personal data or the deletion of unlawfully processed data in accordance with the procedure laid down in the RA regulations and Article 38 of the VIS Regulation.

If the data relating to the data subject has been transferred to the C.VIS by another EU Member State, the right of the data subject to request the rectification, deletion or suspension of the processing of his personal data shall be implemented by the competent authority of the other EU Member State in accordance with Article 38 of the VIS Regulation and in accordance with the national legislation. The controller of the N.VIS shall transfer the data subject's request to the competent authority of that Member State within 14 calendar days from the date of its receipt, notifying the data subject thereof.

22. The controller of the N.VIS shall immediately inform the data subject and the recipients of C.VIS data to whom incorrect, inaccurate, incomplete data have been transmitted about the personal data corrected or deleted at the request of the data subject or about the suspension of the processing of the personal data, except where the provision of such information proves impossible or involves a disproportionate effort.

23. The controller of the N.VIS shall not be required to implement the rights of the data subject in the cases provided for in Article 23(2) of the Law of the Republic of Lithuania on the legal protection of personal data.

24. A refusal of the controller of the N.VIS to satisfy a request of the data subject shall be reasoned. The controller of the N.VIS shall provide the refusal to satisfy the request of the data subject within 30 calendar days from the date of receipt of the request from the data subject.

25. The data subject may challenge the actions (omission) of the controller of the N.VIS before the N.VIS Personal Data Supervision Service within 3 months from the date of receipt of the refusal from the controller of the N.VIS or within 3 months from the date of the expiry of the time-limit prescribed for a response.

VI. N.VIS FINANCING

26. N.VIS shall be financed from the budget of the Republic of Lithuania and from other sources of financing provided for in the legislation.

VII. N.VIS REORGANISATION AND WINDING UP

27. N.VIS shall be reorganised and wound up in accordance with the procedure prescribed by the legislation of the EU and the Republic of Lithuania.

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