Summary of EMN Ad-Hoc Query No. 2016.1036

Member States' Experiences with the use of the Visa Information System (VIS) for Return Purposes

1. INTRODUCTION

This summary highlights the main findings of the EMN Ad-Hoc Query 2016.1042 on (Member) States' experiences with the use of the *Visa Information System (VIS)* for return purposes, launched by the European Commission on 18th of March 2016. It is based on contributions from 24 EU Member States and Norway[1].

2. BACKGROUND AND CONTEXT

On 10th June 2013 the European Commission launched an Ad-Hoc Query on First Experiences with the use of the Visa Information System (VIS) for Return Purposes. The Ad-Hoc Query revealed that, in general, (Member) States' experience in this area was limited at that point in time.

The European Commission is currently in the process of conducting an evaluation of the implementation of the VIS. As part of this exercise, a VIS evaluation survey was conducted among the (Member) States. As this survey provided little information on the use of the VIS for return purposes, the European Commission decided to launch a new Ad-Hoc Query on the subject in order to gather additional details on Member States' practical experiences in this area as well as on any obstacles that (Member) States may be encountering thereof.

3. SUMMARY

3.1. What are your experiences with the use of VIS data for return purposes?

The Ad-Hoc Query results evidence that most of the (Member) States carry out verifications of third-country nationals' data in the VIS (BE, CY, DE, EE, ES, FI, FR, HU, IT, LT, LV, NL, PL, SE and NO). Whilst some of the replying (Member) States reported that they use VIS for the purpose of return procedures (CY, DE, FI, FR, HU, LT, NL, PL, SE and NO), others currently use it primarily for the identification of irregularly staying third country nationals or to check their status, thus indirectly also in preparation of the arrangements for return and readmission (BE, ES, IT, LV, MT).

Six (Member) States reported they systematically use the VIS at external border crossing points or in other phases of migration-related checks (CY, EE, FI, HU, NL, PL).

In **Belgium**, the authorities competent for identification and return do not have direct access to the VIS yet and receive fingerprint VIS hits for third country national subject to administrative detention through their diplomatic representations or those of the other Member States. In **Cyprus**, the VIS supports the collection of information for the purposes of return in cases of detection of a false/falsified visa or of fraudulent documents. Moreover, VIS equipment has recently been installed in the locations where migrants apply for the extension of a visa. Training on the use of VIS has been recently provided to officers and a handbook for the use of the VIS equipment is under preparation. **Estonia** also made available VIS data verification to the units responsible for migration controls within its territory. **Finnish** police authorities use the VIS data system also for refusals of entry. **France** accesses the VIS for readmission requests, when there is no travel or identity document. **Germany** uses VIS data to identify persons as well as to facilitate the issuance of Emergency Travel Documents by the consulates of the countries of origin. **Lithuania** performs searches in VIS with a view to verifying the information supplied by the persons to be returned regarding the circumstances of their entry and/or stay and in order to take a decision on

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return. In the **Netherlands**, VIS data is included in a so called 'identification column' when the law enforcement authorities receive hits based on the biometric data of persons who have applied for a visa of one of the Schengen countries. Such information is then systematically transmitted to the authorities responsible for return that will use the data for return and readmission purposes. In **Poland**, the Border Guard uses the VIS in the identification of third country nationals suspected to be irregularly staying. **Sweden** is using VIS data for return purposes in requests for temporary travel documents and readmission requests sent to the authorities of the country of origin. **Norway** uses the VIS primarily to identify possible, but makes use of the VIS during routine migration checks and in processing return cases as well.

However, in some (Member) States the use of VIS data for return purposes is limited (BE, DE, EE, ES, HU, MT, PL, SE). For instance, in **Belgium**, where as noted above authorities competent for identification and return have not yet direct access to the VIS, although this is foreseen for the near future. **Estonia** and **Hungary** were not in a position to report any cases of success where the use of VIS data had led to the successful identification of person to be returned. **German** authorities only rarely get VIS database hits. **Malta** and **Spain** reported that most irregular migrants do not fall under the category of are not in the VIS, thus relevance of VIS for identification purposes is limited.

Five (Member) States (FI, FR, PL, SK) and Norway considered the VIS a beneficial tool which has worked well in return procedures. Four (Member) States considered it a useful tool with potential to be of added value for the return process (BE, DE, EE, PL, NO).

3.2. Do you use VIS data to identify irregular migrants in practice? Do you use VIS data to facilitate the issuance of Emergency Travel Documents by consulates of the countries of origin?

Overall, (Member) States use VIS in practice for:

★ **Identifying irregular staying third-country national** (BE, DE, FI, FR, HU, IT, LT, LV, NL, PL, SE, SK, NO). **Estonia** reported that queries based only on fingerprints were not available yet, therefore in practice VIS data was not used to identify irregular migrants.

★ **Acquiring Emergency Travel Documents** (BE, DE, FI, FR, HU, NL, PL, SK, NO). On this point, **Belgium** noted that the added value of VIS was limited because a copy of the passport was considered as stronger evidence than just the passport details found in VIS.

3.3. If yes, are you already in a position to provide for first statistics or quantitative estimations on how this has impacted return/readmission procedures? Have you used this information in support of an EU travel document? Have you been confronted with some countries refusing the issuance of an Emergency Travel Document or the use of an EU travel document despite the evidence collected in the VIS? If yes, please list the countries concerned.

The replying (Member) States were not able to provide statistics. **Italy** carried out 182,558 VIS queries in 2015 to check third country nationals with c-visas on their passports at the moment of arrival. In the first two months of 2016, the queries amounted to 59,086 showing a rapid increase in the use of the VIS. (In NO the *Norwegian Directorate of Immigration (UDI)* can produce statistics on the number of persons returned to their country of origin or to another Dublin state on the basis of VIS registrations, but such statistics had not yet been prepared.)

3.4. If no, what are the reasons why you do not use VIS data for return and readmission purposes?

Most of the replying (Member) States used the VIS for return-related purposes. Three (Member) States do not have any practical experience in using VIS in the return process (CZ, LU, PT). **Czech Republic** uses other databases, since VIS data for the purpose of identification and return has not been necessary so far.

Four (Member) States did not make use of VIS because they were not implementing the Schengen *acquis* (BG, HR, IE, UK).

Reported **limitations** in the use of VIS were:

★ Limited awareness of this possibility among the responsible authorities (HU, IT)

★ Irregular third-country nationals to be returned often are not in VIS because they have not applied for a visa (no need of visa/clandestine entry), or have not submitted fingerprints in doing so (DE, EE, ES, MT)

★ Data has already been deleted at the Embassies when running the query (DE)

★ The person gives false data at entry, or the names are transliterated in different ways into European alphabets (HU)

★ No direct access for return authorities to VIS database (BE)

★ Software to check fingerprints in the VIS database is not yet available (DE, EE, LT)

★ Personal data and/or a photo is not sufficient to obtain information (DE)

★ Incorrect data (fingerprints and photos) has been registered in the VIS database (PL)

★ Embassies do not always archive the documents correctly or documents are inaccessible (BE, NO)

Only a few (Member) States reported on third countries not cooperating in the issuance of Emergency Travel Documents, despite the evidence collected in the VIS (BE, FI, FR, SE). **Belgium** reported that some consulates and embassies do not reply or refuse to send a copy of the passports, even if the request refers to the VIS Regulation. This was also the experience of **Finland** with some Sub-Saharan countries. **France** reported that some countries consider this information only as a prima facie evidence (China), and others do not recognise it at all (Angola, Mali, Mauritania, Moldavia, Mongolia, Pakistan, Senegal and the Maghreb countries). **Sweden** reported that, in a few cases, VIS data complementing the request of travel documents was presented to the Embassy of Lebanon, but this did not issue the travel document without having investigated and verified the information itself.

Suggested improvements to the VIS in order to facilitate the return process were the following:

★ Introducing the obligation to enter a scanned copy of the passport in a data page of VIS, as including the emergency travel document together with the passport copy would speed up the return process (BE, SE)

★ Using the VIS Mail application 24h/7 by all entitled users for the purpose of exchange of information (PL)

★ Extending the use of the VIS to more embassies and beyond visa applications, especially in connection with family reunification (NO)

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