

## 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)***(Only the Bulgarian, Czech, Dutch, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are authentic)**

(2010/49/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

- (4) According to this assessment, the first region where the collection and transmission of visa data to the VIS should start for all visa applications should be North Africa.

Having regard to the Treaty establishing the European Community,

- (5) The second region where the collection and transmission of visa data to the VIS should start for all visa applications should be the Near East, with the exception of the occupied Palestinian territory due to the serious technical difficulties that might be encountered in the equipping of the consular posts or offices concerned. At a later stage a decision should be adopted concerning the start of operations of the VIS in this territory.

Having regard to 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) <sup>(1)</sup>, and in particular Article 48(4) thereof,

Whereas:

- (6) The third region where the collection and transmission of visa data to the VIS should start for all visa applications should be the Gulf Region.

(1) Article 48 of Regulation (EC) No 767/2008 provides for a progressive implementation of the VIS operations. Accordingly, it is necessary to determine the first regions where the data to be processed in the VIS, including photographs and fingerprint data, shall be collected and transmitted to the VIS for all visa applications in the region concerned, during the first phases of the progressive implementation.

- (7) To avoid a gap when fighting illegal immigration and protecting internal security, the Schengen border crossing points should be designated as a separate region for the roll-out in order to cover the visa applications lodged at the external borders. Member States should endeavour to start collecting and transmitting the data to the VIS at the external border crossing points as soon as possible in order to avoid that the roll-out in the regions is circumvented by third country nationals of these regions, lodging their applications at the external borders.

(2) Article 48(4) of Regulation (EC) No 767/2008 provides for the determination of these regions based on the following criteria: the risk of illegal immigration, threats to the internal security of the Member States and the feasibility of collecting biometrics from all locations in this region.

- (8) The starting date of the operations in each of these regions is to be determined by the Commission pursuant to Article 48(1) and (3) of Regulation (EC) No 767/2008.

(3) The Commission has made an assessment for the different regions as defined in 2005 by the Member States' experts for the progressive implementation of the VIS, and taking into account, notably for the first criterion, elements such as the average visa refusal and entry refusal rates for each of the regions concerned, and, for the third criterion, the fact that consular presence or representation should be increased in certain regions in order to efficiently implement the VIS in these regions.

- (9) For the determination of the further regions, subsequent decisions should be taken at a later stage on the basis of an additional and up-dated assessment of these other regions in accordance with the relevant criteria and the experience with the implementation in the first regions defined by this Decision.

<sup>(1)</sup> OJ L 218, 13.8.2008, p. 60.

- (10) In accordance with Article 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark did not take part in the adoption of Regulation (EC) No 767/2008 and is not bound by it nor subject to its application. However, given that Regulation (EC) No 767/2008 builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark, in accordance with Article 5 of the Protocol, notified by letter of 13 October 2008 the transposition of this *acquis* in its national law. It is therefore bound under international law to implement this Decision.
- (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>(1)</sup>. The United Kingdom is therefore not bound by it or subject to its application. This Decision should therefore not be addressed to the United Kingdom.
- (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 the Schengen *acquis*<sup>(2)</sup>. Ireland is therefore not bound by it or subject to its application. This Decision should therefore not be addressed to Ireland.
- (13) 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 latter's association with the implementation, application and development of the Schengen *acquis*<sup>(3)</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 that Agreement<sup>(4)</sup>.
- (14) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>(5)</sup>, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of the Council Decisions 2008/146/EC<sup>(6)</sup> and 2008/149/JHA<sup>(7)</sup>.
- (15) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the association of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of the Council Decisions 2008/261/EC<sup>(8)</sup> and 2008/262/EC<sup>(9)</sup>.
- (16) As regards Cyprus, this Decision constitutes provisions building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.
- (17) As regards Bulgaria and Romania, this Decision constitutes provisions building on the Schengen *acquis* or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession.
- (18) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 51(1) of Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)<sup>(10)</sup>.

HAS ADOPTED THIS DECISION:

#### Article 1

The regions where the collection and transmission of data to the Visa Information System (VIS) shall start according to Article 48(1)(c) and (3) of Regulation (EC) No 767/2008 are the following:

<sup>(1)</sup> OJ L 131, 1.6.2000, p. 43.

<sup>(2)</sup> OJ L 64, 7.3.2002, p. 20.

<sup>(3)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(4)</sup> OJ L 176, 10.7.1999, p. 31.

<sup>(5)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(6)</sup> OJ L 53, 27.2.2008, p. 1.

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 50.

<sup>(8)</sup> OJ L 83, 26.3.2008, p. 3.

<sup>(9)</sup> OJ L 83, 26.3.2008, p. 5.

<sup>(10)</sup> OJ L 381, 28.12.2006, p. 4.

- The first region:
- Oman,
- Algeria, Qatar,
- Egypt, Saudi Arabia,
- Libya, United Arab Emirates,
- Mauritania, Yemen.
- Morocco,

*Article 2*

- Tunisia.
- The second region:
- Israel,
- Jordan,
- the Lebanon,
- Syria.
- The third region:
- Afghanistan,
- Bahrain,
- Iran,
- Iraq,
- Kuwait,

External border crossing points, as defined by 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) <sup>(1)</sup>, constitute a separate region. For visa applications lodged at the external borders, the collection and transmission of the data to the VIS shall start according to Article 48(3) of Regulation (EC) No 767/2008.

*Article 3*

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

Done at Brussels, 30 November 2009.

*For the Commission*  
Jacques BARROT  
*Vice-President*

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<sup>(1)</sup> OJ L 105, 13.4.2006, p. 1.