

V I S   S C G

# Visa Information System Supervision Coordination Group



## Activity Report 2021-2022

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# 1. Introduction and background

The Visa Information System ('VIS') is a system for the exchange of visa data between Member States. It was created by Council Decision 2004/512/EC of 8 June 2004<sup>1</sup> as completed by Regulation 2008/767/EC of 9 July 2008<sup>2</sup> ('VIS Regulation'). In 2021, the VIS legal framework was reformed to enable cross-checking with other databases through the adoption of Regulation (EU) 2021/1134<sup>3</sup> (the revised VIS Regulation) and Regulation (EU) 2021/1133<sup>4</sup>. The new legal framework has not entered into full application during the reporting period.

As stated in Article 2 of the VIS Regulation, the purpose of the VIS is to facilitate the visa application procedure, prevent visa shopping and fraud, facilitate border checks as well as identity checks within the territory of the Member States and to contribute to the prevention of threats to the internal security of the Member States. To this end, the VIS provides a central repository of data on all short-stay Schengen visas. This data can be accessed by authorities issuing visas, e.g. consulates of Member States (Article 15), by checkpoints at the Schengen border to verify the identity of visa holders (Article 18), as well as for the purpose of identifying third-country nationals apprehended within the Schengen Area with fraudulent or without documents (Article 19).

The VIS Regulation sets out which data must be included in the database at the various stages of processing a visa (application, issuing, discontinuation of examination, refusal, annulment/revocation, extension; Articles 9-14). Apart from data on the visa application (such as planned travel itinerary, inviting persons, etc.), it also includes a photograph of the applicant and fingerprints (Article 9 (5) and (6)).

In specific cases, the national law enforcement authorities and Europol may request access to data entered in the VIS for the purpose of preventing, detecting and investigating terrorist acts and other serious criminal offences. The procedures for such consultations are established in Council Decision 2008/663/JHA<sup>5</sup> ('VIS Decision'). These consultations are carried out via central access points in the participating countries and by Europol.

The revised VIS Regulation, which amended the VIS Regulation as well as other legislative acts, including the Visa Code has brought a number of important changes, notably:

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<sup>1</sup> Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS), OJ L 213, 15.06.2004, p. 5.

<sup>2</sup> Regulation 2008/767/EC of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, OJ L 218, 13.8.2008, p. 60.

<sup>3</sup> Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System, OJ L 248, 13.7.2021, p. 11–87.

<sup>4</sup> Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) No 603/2013, (EU) 2016/794, (EU) 2018/1862, (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the Visa Information System, OJ L 248, 13.7.2021, p. 1–10.

<sup>5</sup> Council Decision 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

1. it widens the scope of VIS to include long stay visas and residence permits' applicants (Article 1 of the revised VIS Regulation);
2. it modifies the categories of personal data processed by: lowering the fingerprinting age of child applicants for short stay visas from 12 to 6 years old (Article 13 paragraph 7 of (EC) No 810/2009 as amended by Regulation (EU) 2021/1134), processing live facial images upon the submission of applications, instead of scanning the photographs (Article 5(1)(b)); adding the scan of the biographic data page of the travel document<sup>6</sup> (Article 5(1)(ca));
3. it introduces a risk assessment to be carried out on visa and residence permits' applicants by enabling checks of the data provided against other EU information systems for third-country nationals, certain other databases and lists.

The VIS first became operational in October 2011. The system was gradually rolled out between October 2011 and February 2016<sup>7</sup> while the roll out of the reviewed VIS legal framework is currently ongoing

The architecture of the VIS mirrors that of Eurodac and other large-scale IT systems: a central unit ('central VIS') managed by the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice<sup>8</sup> ('eu-LISA') (Article 26) and connected to national units in the Member States using Testa.

As established in the VIS Regulation, the lawfulness of the processing of personal data by the Member States must be monitored by the national Data Protection Authorities ('DPAs') (Article 41) and the European Data Protection Supervisor ('EDPS') who is in charge of checking the compliance of eu-LISA (Article 42). In order to ensure a coordinated supervision of the VIS and the national systems, Article 43 establishes the VIS Supervision Coordination Group ('VIS SCG').

The revised VIS Regulation also amends Article 43(3) on the cooperation between supervisory authorities and the European Data Protection Supervisor. As a result, the coordinated supervision of the VIS will be aligned with Article 62 of Regulation (EU) 2018/1725 (EUDPR) that provides for a harmonised model of coordinated supervision, applicable where the relevant act of Union law refers to this Article. Such alignment will take place from the date set by the Commission by means of an implementing Decision, as outlined in Article 12 of Regulation (EU) 2021/1134.

The present document presents the Activity Report of the VIS SCG for the period 2021-2022. Ms Caroline Gloor Scheidegger and Ms Eleni Maragkou were respectively Chair and Vice-Chair of

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<sup>6</sup> Under the previous rules the scan of biographic data was collected at the national level, with no requirement for it to be done at the EU level.

<sup>7</sup> The roll-out to consular posts of Member States and external border-crossing points took place on a regional basis in accordance with three Commission decisions; Commission Decision 2010/49/EC of 30 November 2009 determining the first regions for the start of operations of the Visa Information System (VIS), OJ L 23, 27.01.2010, p. 62; Commission Implementing Decision (2012/274/EU) of 24 April 2012 determining the second set of regions for the start of operations of the Visa Information System (VIS), OJ L 134, 24.05.2012, p. 20; Commission Implementing Decision 2013/493/EU of 30 September 2013 determining the third and last set of regions for the start of operations of the Visa Information System (VIS), OJ L 268, 10.10.2013, p. 13.

<sup>8</sup> The Commission was responsible for the operational management of the VIS for a transitional period until the establishment of a new permanent IT Agency, eu-LISA, which became fully operational in December 2012.

the VIS SCG. This changed in 2022, when Ms Ines Walburg and Ms Eszter Horvath were respectively elected as Chair and Vice Chair at the meeting of 2 June 2022.

Section 2 of this Activity Report presents the main principles of the coordinated supervision for the VIS and summarises the four meetings that took place during this period.

Section 3 presents the main issues discussed and the main achievements of the Group during those two years.

Section 4 reports on the activities of each Member of the VIS SCG carried out at national level.

Section 5 concludes the document by giving a brief general overview of activities to come in the next reporting period to the extent they can already be anticipated.

## 2. Organisation and Coordinated Supervision

### 2.1 Main principles

The cooperation took the form of meetings held on a regular basis with all DPAs in charge of supervising the VIS at national level and the EDPS, acting together as the VIS SCG. The main purpose of these meetings was to discuss common problems related to supervision and find common solutions or approaches whenever possible. According to Article 43 (3) of the VIS Regulation, as well as Article 5 of the Group's Rules of Procedure, these meetings must take place at least twice a year. The Commission and eu-LISA are also invited to parts of the meetings in order to update the Group on new developments regarding the VIS.

### 2.2 The Supervision Coordination meetings

In the period 2021-2022, four supervision coordination meetings took place on the following dates:

- 17 June 2021;
- 24 November 2021;
- 2 June 2022;
- 22 November 2022.

The first two meetings took place remotely, due to the COVID-19 pandemic while the last two took place in a hybrid format. They were organised back-to-back with the Eurodac SCG and the SIS II SCG meetings in order to reduce the financial, travel and administrative burdens and to ensure consistent, horizontal supervision policies of those large scale IT systems, where possible.

The first part of the meetings is devoted to a presentation by the European Commission and eu-LISA on recent developments regarding VIS that impact data protection. This helps to ensure that the Group is always kept up-to-date in order to ensure effective supervision. The second part is devoted to discussions between DPAs on issues that are in need of checking at national level or on new developments of interest for VIS supervisors.

The following paragraphs briefly recapitulate the topics discussed and actions taken at the four meetings.

### **Meeting of 17 June 2021**

The Group invited representatives of the Commission and the DPO of the eu-LISA. The data protection officer of eu-LISA updated the group on the overall performance of the VIS and the latest developments related to the quality of data in the system. The Commission then presented the latest updates concerning (i) the 2018 Proposal to amend the VIS Regulation and (ii) the Proposal on the digitalisation of the Visa procedure.

The Group exchanged views on the work on a Common Inspection Plan. The Group also discussed the issue of advanced deletion of data by the national VIS authorities.

### **Meeting of 24 November 2021**

The Group invited representatives of the Commission and the DPO of the eu-LISA. The data protection officer of eu-LISA updated the group on the overall performance of the VIS and the latest developments related to the quality of data in the system. The Commission then gave a presentation of the revised VIS Regulation which was adopted in July 2021 and includes important changes from a data protection perspective. The Commission also presented to the Group the latest updates on the Proposal for a Digital Visa.

During this meeting, the Group continued the discussions on the Common Inspection Plan as well as on the issue on advance deletion of data by the national VIS authorities..

The Group also adopted the general part of the Activity Report for the period 2019-2020.

Additionally, the Group adopted a letter on the Proposal to reform the Schengen Evaluation and Monitoring Mechanism, COM (2021) 278.

### **Meeting of 2 June 2022**

The Group invited representatives of the Commission and the DPO of the eu-LISA. The data protection officer of eu-LISA updated the group on the overall performance of the VIS and the latest developments related to the quality of data in the system. The Commission gave an update on the implementation status of the revised VIS Regulation as well as on the Proposal for a Digital Visa.

Additionally the Group continued the discussion on the Common Inspection Plan and on the advanced deletion of data by the national VIS authorities.

Lastly, the Group adopted the Work Programme for the period 2022-2024.

## Meeting of 22 November 2022

The Group invited representatives of the Commission and the DPO of the eu-LISA. The data protection officer of eu-LISA updated the Group on the overall performance of the VIS and the latest developments related to the quality of data in the system. The Commission gave a written update on the state of play of the Proposal on the digitalisation of the visa procedure and on the implementation status of the revised VIS Regulation.

The Group continued the discussion on the Common Inspection Plan and on the advanced deletion of data by the national VIS authorities.

## 3. 2021-2022: Main achievements

### 3.1 Monitoring the implementation of the revised VIS Regulation

The revised VIS Regulation<sup>9</sup> was adopted on 7 July 2021 and introduces major changes to the current VIS legal framework from a data protection perspective. It widens the scope of VIS and modifies the categories of personal data processed. It also introduces the obligation to carry out a risk assessment of visa and residence permit applicants, which will be done by cross-checking applicants' information against other databases, in line with the interoperability framework<sup>10</sup>.

The VIS SCG monitored the implementation of the revised VIS Regulation by regularly inviting European Commission's representatives to present relevant updates, in particular focussing on the following issues: (1) the fingerprinting of children, (2) law enforcement access, (3) the extension of the scope of the system to also cover long-stay visas and residence permits, and (4) the supervision architecture.

### 3.2 Review of the digitalisation of the visa procedure

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<sup>9</sup> Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System, OJ L 248, 13.7.2021, p. 11–87.

<sup>10</sup> Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27–84.

Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L 135, 22.5.2019, p. 85–135

On 27 April 2022 the European Commission adopted a legislative proposal on the digitalisation of visa procedures<sup>11</sup>.

The proposal aims to streamline and make more efficient the visa application procedure for applicants and Member States by developing an EU visa application platform that would rely on a decentralised storage of applications in national systems and to increase the security of the Schengen area through the digitalisation of the visa sticker and digitalised application procedures.

First-time applicants, repeat applicants every five years, applicants travelling with children and applicants who will be travelling on a different travel document than the one used for previous visa applications, would still need to present themselves to the consulate or visa application centre to provide biometrics and for identification purposes, or provide additional information, when necessary.

The single EU platform should automatically determine which Member State is competent to examine an application. Member States will only need to check whether the tool determined the correct competent Member State.

Checking of digital visas at the border should rely on the existing and upcoming EU system architecture for border management and should consist of the visa holder's information stored in the VIS. This information should be verified with biometric data by Member States authorities.

The VIS SCG analysed the proposal and invited the European Commission to present any further development on a regular basis.

### 3.3 Revision of the Schengen Evaluation Mechanism

On 2 June 2021, the Commission presented a proposal to amend the Regulation on the Schengen evaluation and monitoring mechanism. The objective, according to the Commission, is to increase the strategic focus of the Schengen Evaluation Mechanism, increase efficiency, effectiveness and peer-pressure; optimise the participation of Member State experts and the cooperation with Union bodies, offices and agencies; and strengthen the evaluation of the respect for fundamental rights under the Schengen acquis.

Taking into account the main changes that the proposal brought, notably the evaluation schedule, the establishment of the teams and the participation of different European institutions, the SIS II and VIS SCG issued a joint letter addressing the key challenges from a data protection point of view. In particular, the letter put forward a number of suggestions which revolved around the following aspects:

- Relevance of an evaluation on data protection and resources of the data protection supervisory authorities;

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<sup>11</sup> Proposal for a regulation of the European Parliament and the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 1683/95, (EC) No 333/2002, (EC) No 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure, 27.4.2022, COM(2022) 658 final.



- Workload during evaluations and invitation of experts;
- Training of data protection experts

## 4. Members' Reports

### 4.1. Austria

#### **Overview: state of play and developments**

There were no problems reported neither by the Ministry of the Interior as controller of VIS, the Ministry of Foreign Affairs as processor, nor by any data subjects.

#### **Inspections**

The Austrian DPA initiated an inspection of VIS in the second half of 2019, which had to be halted in 2020 due to the COVID-pandemic and was completed in December 2021. The inspection focused on an overall assessment, ESP contracts and the data security of the processing system at the Ministry of Foreign Affairs facilities.

The AT DPA concluded that both the Ministry of the Interior as controller of VIS as well as the Ministry of Foreign Affairs as processor complied with the data protection requirements within the scope of the inspection.

#### **Complaints**

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#### **Remarks**

The AT DPA initiated a new inspection of VIS in the second half of 2023. The inspection will focus on the user level in embassies and ESPs, and will also include Eurodac applications. This inspection is still ongoing.

### 4.2. Belgium

#### **Overview: state of play and developments**

The Belgian Act of 3 December 2017 establishing the Data Protection Authority provides for the establishment of an inspection service, which is the investigative body of the DPA. On 24 April 2019, the new DPA was installed, with the new Inspector General being appointed and the inspection service becoming fully operational.

After the installation of the new members of the executive committee of the DPA, the inspection service started with the drawing of an audit plan regarding the Ministry of Foreign Affairs (MFA)

and the Federal Immigration Office (FIO). This audit plan takes into scope the VIS processing at national level and in the foreign embassies and consulates of the MFA. An audit methodology was designed with standard questionnaires and standard reporting templates.

The covid pandemic in 2020-2021 disrupted this audit plan and postponed the initial schedule.

The Inspection Service remains in close contact with the DPO of the Belgian MFA and the DPO of the FIO.

## **Inspections**

As regards the supervision of VIS, the DPA completed the following audits at its own initiative:

<b>Audit</b>	<b>Year</b>	<b>Status</b>
Belgian ICT department of MFA	2021-2022	Finalized
Belgian Embassy in London and the Belgian External Service Provider ESP in London (UK)	2022	Finalized

The covid pandemic prevented onsite inspection during the 2020-2021 period. At the end of 2021, inspection activities were gently restarted.

## **Complaints**

The Belgian DPA did not receive any formal complaints.

## **Remarks**

It is important to note that the audit obligation has not been included in the official legal tasks of the Belgian DPA in the national DPA Act, but is carried out by the Belgian DPA solely on the basis of the European regulations. Considering the lacking legal framework, the DPA lacks the required time and resources for such audits, which require significant time and effort (cf. the workload of the SchEval), hence resulting in no or limited visibility to such work.

## **4.3. Bulgaria**

### **Overview: state of play and developments**

In 2021 and 2022 continued the active participation of the CPDP in the SCG VIS activity.

In accordance with Article 20 (3) of the Ordinance on the procedure for access to the National Visa Information System of the Republic of Bulgaria and to the European Union Visa Information System, CPDP is the responsible authority for monitoring the legality of the personal data processing in VIS, as well as, for ensuring individuals' protection in their personal data processing and the access to those data.

The CPDP's supervisory powers with regards to data protection and data processing activities in the VIS are governed by the Personal Data Protection Act and the VIS Regulation.

CPDP is also involved in the developing of information materials on VIS via its regular provision and up-date of the information and documentation on the Visa Information System Supervision Coordination Group (available in Bulgarian, English and French) on the following links:

- In Bulgarian- <https://www.cdpd.bg/index.php?p=element&aid=1296> – up-dated on 10.02.2022
- In English- <https://www.cdpd.bg/en/index.php?p=element&aid=1296> – up-dated on 10.02.2022
- In French- <https://www.cdpd.bg/fr/index.php?p=element&aid=1296> – up-dated on 10.02.2022

CPDP is involved in the setting up of the staff training programme and provides documents and presentations on the relevant VIS matters, subject to the training.

With regard to VIS, data protection is a part of the training curriculum of the newly appointed consular officers. In 2022 experts from the DPA carried out a training on the different aspects of the protection of personal data, as well as the different scenarios that may occur in the course of their work, and the procedures, related to the handling data subjects' requests. Such training is also planned for 2023.

In 2022, experts from the CPDP took part in the missions to evaluate the SIS II and VIS state in Iceland and Norway.

## **Inspections**

Since 2009, on every four years CPDP carries out audits on the data processing in the VIS. As a result, CPDP prepares a report, which is approved at CPDP's plenary meeting.

In 2021 is conducted an inspection of the Visa center in the Consular Relations Directorate of the Ministry of Foreign Affairs. No audits of the consulates or ESP were carried out due to the Covid-19 pandemic, but were planned to be performed at later stage.

As result of the inspection was issued a corrective measure under Art. 58 (1), it.(d) GDPR- an order to bring the processing operations into compliance with the GDPR. The relevant report included recommendations to the VIS controller. The Ministry of Foreign Affairs, in its capacity as VIS controller, notified CPDP on the compliance with the recommendations included in the report.

In 2022 "Fact Finding Mission" was carried out by the European Commission to ensure the fulfillments of Schengen acquis from the Republic of Bulgaria.

There is an ongoing process for the implementation of a new software for processing biometric data in some of the Bulgarian consulates and the CPDP will carry out inspections.

Simultaneously, in 2022 the CPDP started planning inspections of the consulates where ESP processes visa applications.

### **Complaints**

At this stage, no complaints about the personal data processing in the national VIS unit were received.

### **Remarks**

A consultative procedure is started in 2022 between CPDP and the Ministry of Foreign Affairs in order to determine the consulates and the External Service Providers which should be audited.

## **4.4. Croatia**

### **Overview: state of play and developments**

Due to an earthquake that struck Zagreb and area in 2020, buildings of Ministry of Foreign and European Affairs ("MFEA"), as data controller, located in old part of town were heavily damaged and in 2021 and 2022 most of offices were dislocated but it did not affect security of processing in VIS system.

In the past period, the Croatian Visa Information System - HVIS was upgraded for the purpose of connecting to the central system (CVIS), all in accordance with the project "Adaptation and upgrade of the Croatian Visa Information System - HVIS". The above also includes several functional refinements necessary for the functioning of the system in the Schengen environment and replacing equipment used until 2021; storage, servers and load balancers. HVIS is fully compliant with ICD documentation ver. 3.0.0.0. issued by the competent agency euLISA. In addition to the above, the system is also prepared for the introduction of interoperability at the central level (EES).

Also, back-up site of MEFA is from the beginning of 2022. established on site 65 km of distance from main one.

### **Inspections**

On previously requested written reporting in form of "follow up" on what was done in relation to the comments and / or recommendations contained in the minutes/reports of inspections in diplomatic and consular missions of the Republic of Croatia carried out in previous period, data controller informed Agency that most of the comments and recommendations were implemented but due to other circumstances some activities were postponed for 2023.

Agency held several working meetings with data controller representatives and DPO about ongoing working procedures, updates on developments in diplomatic and consular missions, about

organized trainings for new and current employees, and statistics regarding data subject requests. Considering specific situation regarding reduced workspace and dislocation of data controller offices on several locations it was mutually agreed to schedule Agency supervision for 2023.

### **Complaints**

In 2021 and 2022, the Ministry of Foreign and European Affairs ("MFEA") did not receive requests from the data subject regarding the processing of his/her personal data in the VIS ("CVIS"). Visa applicants submitted inquiries concerning only the visa application process and the lodging of an appeal in cases where a visa was refused.

During the reporting period, the Croatian DPA did not receive any complaints regarding the processing of personal data in the VIS ("CVIS").

### **Remarks**

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## **4.5. Cyprus**

### **Overview: state of play and developments**

On 05/05/2021, the Council of Ministers decided to include the Cyprus Intelligence Service in the authorities that will have access to the N.VIS.

Furthermore, the Ministry of Foreign Affairs, after a public procurement, assigned to a contractor the design and development of the new N.VIS, taking into account the functions foreseen in the new VIS Regulations. However, this assignment has been challenged by other tenderers, both administratively and judicially, causing delays to the launching of the project

### **Inspections**

No inspection has been carried out.

### **Complaints**

No complaints have been submitted to the DPA insofar.

### **Remarks**

No remarks

## **4.6. Czech Republic**

### **Overview: state of play and developments**

In 2021-2022, the Czech SA has independently monitored the lawfulness of the processing of personal data in the VIS, both by carrying out inspections and by being available to all data subjects

to deal with their VIS-related requests and complaints. The Czech SA also actively cooperated with the Czech VIS authorities in order to ensure an adequate protection of personal data, e.g. on the issue of advance deletion of data.

## **Inspections**

The Czech SA carried out 2 VIS-related inspections:

In July 2020, an inspection was initiated by the Czech SA at the Police of the Czech Republic, as the data controller of the N.VIS. This inspection was based on the SA's inspection plan and also on the recommendations of the 2019 Schengen evaluation. The inspection was completed in February 2021 and no infringements were found.

In the period July 2022 - May 2023, the Czech SA carried out an inspection of the processing of personal data in the VIS at the Ministry of Foreign Affairs, which also included verification of the processing at the Czech embassy in a selected third country, including the use of an external service provider. The inspection included an on-site visit to the embassy and the relevant visa centre. The inspection revealed minor deficiencies concerning security measures, the obligation to provide information to data subjects, and also deficiencies concerning the documentation of the embassy's checks on the external service provider. In the follow-up to the inspection, the Ministry of Foreign Affairs stated that by August 2023, the deficiencies had either been rectified or were in the process of being rectified.

## **Complaints**

During the period under review, the Czech SA received a total of 16 requests regarding the Czech visa policy. Since the Czech SA is not competent for issuing any general statements concerning visa policy, nor it can provide any visa applications or appointments, it was necessary to inform the applicants about the division of its powers in the visa sector and inform the applicants about how to contact the Ministry of Foreign Affairs.

The Czech SA received only one request concerning the VIS and the data subject was informed of his rights and referred to the Police of the Czech Republic as the controller of the VIS.

No complaints in relation to data processing within VIS were received during the period of 2021-2022.

## **Remarks**

None

## **4.7. Denmark**

### **Overview: state of play and developments**

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## **Inspections**

The Danish DPA conducted two inspections regarding the processing of data in VIS during the period of 2021-2022.

The first inspection concerned the checking of log-files in regard to visa application cases in VIS. The second inspection concerned the deletion of data in VIS.

## **Complaints**

The Danish DPA did not receive any complaints regarding the processing of data in VIS during the period of 2021-2022.

## **Remarks**

In October 2022 Denmark was evaluated on the application of the Schengen *acquis* in the field of data protection (Schengen evaluation).

## **4.8. EDPS**

### **Overview: state of play and developments**

The EDPS continued to play an active role in the VIS SCG during the reporting period, drawing on its role as supervisor of eu-LISA, as laid down in Article 42 of the VIS Regulation.

The EDPS is tasked with ensuring that all the personal data processing activities concerning VIS, by Union institutions, bodies and agencies, are carried out in accordance with this Regulation as well as with the EUDPR (Regulation (EU) 2018/1725). In this context, in 2021 the EDPS issued an Opinion in response to a prior consultation by Europol regarding Europol's access to Visa Information System (VIS) data. In its Opinion, the EDPS provided Europol with a set of recommendations aimed at improving the level of safeguards to mitigate the risks of the processing. These included recommendations to ensure that justifications for law enforcement access by Europol to VIS data are adequately substantiated and subject to proper assessment.

## **Inspections**

During the reporting period in 2022 the EDPS performed an audit under Article 42(2) of the VIS Regulation at eu-LISA focusing on several areas of IT security governance, on methodology and practices for the secure development and testing of VIS and on security incidents and personal data breaches. The final audit report was sent to eu-LISA, the European Parliament, the Council, the European Commission and the national DPA after the reporting period.

## **Complaints**

The EDPS did not receive any complaints related to processing of data in the VIS (central system) during the reporting period. Given the role of the central system, complaints against the processing of personal data in VIS will most likely be directed against processing under the responsibility of

the Member States. If such complaints reach the EDPS, complainants would be referred to the relevant national DPAs. Only complaints related to processing by the central unit or the further processing of VIS data by EU institutions, bodies or agencies would be relevant for the EDPS.

## **Remarks**

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## **4.9. Estonia**

### **Overview: state of play and developments**

The EE DPA had regular activities within the VIS SCG and a supervisory and consultative role at national level for authorities and the public.

### **Inspections**

The EE DPA started new VIS audit in 2022. The EE DPA conducted 3 on-site visits and had number of meetings with the Data Controller and Processors. The audit questionnaires were based on two available modules.

The audit was not finished in 2022.

### **Complaints and access requests**

A data subject filed for an access request with the EE DPA to receive his personal data in the VIS. We forwarded his request to the Estonian authority that is responsible for the national part of VIS. The data subject was informed accordingly and the proceedings did not go any further.

## **Remarks**

None.

## **4.10. Finland**

### **Overview: state of play and developments**

The Office of the Data Protection Ombudsman has an annual audit plan including audits of the VIS. The Office of the Data Protection Ombudsman shall cooperate with the authorities using the VIS and the relevant ministries to monitor and develop the data protection of the VIS. Pursuant to Article 41 of Regulation (EC) No 767/2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), the national supervisory authority shall ensure that the data processing carried out in the national system is checked at least every four years in accordance with relevant international auditing practices.

### **Inspections**

The Office of the Data Protection Ombudsman had carried out an audit of the national system for the last time in 2016. The starting of a new audit was postponed from 2020 to 2021 and 2022 due



to the COVID-19 pandemic. The audit started on 18 June 2021 and was completed on 24 April 2023. The audit was carried out using the draft joint inspection plan prepared by the VIS Monitoring Coordination Group, applicable ISO standards and national security audit criteria (Katakri 2020). In practice the inspection was carried out by asking the controller to answer questions drawn up on the basis of the above-mentioned standards in writing and by evaluating the documentation obtained from the controller, and also by interviewing the controller's experts and a representative of the management. On the basis of the audit, recommendations were made to the controller on the issues identified during the audit.

### **Complaints**

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### **Remarks**

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## **4.11. France**

### **Overview: state of play and developments**

The VIS is used for the examination of requests for visas and decisions to refuse, extend, cancel or revoke a visa. It is also used to facilitate the verifications and identifications of visa applicants. In France, the Ministry of Interior and the Ministry for Europe and Foreign Affairs share competences with regards to the common visa policy.

Today, the VIS data can be accessed from the RMV2 system, which is being replaced by the France Visas system. For the deployment of the latter system, which should theoretically last until mid-2023, pilots have been scheduled in 2021.

With regards to visa statistics,

- In 2021, 982,896 visa applications were received.
- In 2022, 2.3 million visa applications were received.

The French DPA took part in all activities and meetings of the VIS SCG and fulfilled its supervisory and consultative role at the national level.

### **Inspections**

In March 2021, the French DPA conducted an onsite inspection at the Digital Directorate (DNUM) of the Ministry for Europe and Foreign Affairs and the Directorate for Foreigners in France (DGEF) of the Ministry of Interior. Investigations on the basis of the observations made in that context are ongoing and will enable the French DPA to determine the appropriate follow-up.

These inspections closed the audit cycle in 2021. The next inspection will therefore take place before 2025.

## Complaints

The French DPA has not received any complaints in relation to data processing within the VIS.

## Remarks

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## 4.12. Germany

### Overview: state of play and developments

In 2022, the Federal Foreign Office started a pilot phase of the (digital) Consular post service. During the pilot phase, visa applications and passport applications can be submitted online via the Consular Services Portal at selected German missions. Regarding visa applications, the pilot process concerns the application for a Blue Card (EU) visa at some consular posts, but is planned to be extended in future to further consular post and more types of visa application. The Federal Commissioner for Data Protection and Freedom of Information (BfDI) advises the Federal Foreign Office on data protection issues relating the introduction of the new services.

### Inspections

#### a) The Federal Commissioner for Data Protection and Freedom of Information

- **BfV (German domestic intelligence services)**

As mentioned in the previous report (VIS Activity Report 2019-2020, p. 17), an inspection at the BfV was carried out in 2020 and concluded in 2021. The formal defects and deficiencies which were detected during this inspection have been resolved by the BfV in the meantime.

- **BKA (Federal Criminal Police Office)**

In 2022, the BfDI carried out an inspection on the lawfulness of BKA's access re-quests to the VIS database. A sample of 12 % of the access requests for the purpose of crime investigation was inspected. The legitimacy of the access requests was apparent in all cases. The BfDI recommended a standardisation of the documentation of the requests and the results.

- **Embassy and Consulate in Kazakhstan**

The German Embassy and Consulate in Kazakhstan were inspected regarding the use of VIS, including an inspection of the external service provider in Almaty.

Within the course of the inspection, it was clarified that the Federal Foreign Office and the Federal Administration office act as joint controllers according to Art. 26 GDPR with regards to the data

processing in VIS. In particular, the Federal Administration Office serves as a communication and service interface and is the designated national authority according to Art. 28 VIS regulation.

The inspection showed that the Federal Administration Office keeps log files according to Art. 34 VIS regulation. However, the BfDI found that the manner of recording could be improved to facilitate the analysis of the files.

The BfDI informed the Federal Foreign Office about the conclusions, including recommended measures concerning the organisation of the Consulate's office which have already been implemented in the meantime.

#### **b) Commissioner for Data Protection and Freedom of Information of the federal state Bremen**

- **Bremen Police**

In 2021-2022 The State Commissioner for Data Protection and Freedom of Information of the Free Hanseatic City of Bremen carried out one inspection at the Bremen Police.

No objections and no major deficiencies were found. The inspection led to the conclusion that all legal requirements were met.

It was assumed that the usage of VIS is rather low, as the number of queries since 2015 has been overall only in the lower three-digit range.

#### **c) The Bavarian State Commissioner for Data Protection**

- **District Administrative Authority in Bavaria**

The Bavarian State Commissioner for Data Protection carried out one inspection at a District Administrative Authority (i. a. by means of a questionnaire regarding the technical connection, assignment of access rights, clarification of application scenarios and training of persons with access rights) during the reporting period. This inspection was carried out randomly and independent of a specific occasion.

No major deficiencies in the handling of VIS were detected.

It was recommended to focus even more on training, especially regarding data security and data protection, and on self-monitoring.

#### **Complaints**

None.

#### **Remarks**

None.

#### 4.13. Greece

##### **Overview**

The Hellenic DPA maintained a steadfast working relationship with the controller of N.VIS i.e., the Ministry of Foreign Affairs. In this context, auditors from the HDPa regularly participate with presentations on data protection at training courses delivered at the Diplomatic Academy of the Ministry of Foreign Affairs and collaborate with the Ministry's DPO in preparing relevant training material for the internal training courses and material that the DPO provides to the employees.

Moreover, in 2021 the HDPa participated in the consultation launched by the Commission on the digitalisation of the Visa procedure by sending its contribution and views on the issue.

##### **Inspections**

Greece and in particular the Hellenic DPA was evaluated on the application of the Schengen acquis in the field of data protection in 2021. In relation to this evaluation and in accordance with the obligation to conduct audits and inspect amongst others the VIS, the Hellenic DPA initiated a remote inspection of consulates highly involved with the procedure of visa issuance by sending out a comprehensive questionnaire to both the Ministry of Foreign Affairs and the consulates themselves. The HDPa was further engaged with the follow up of the recommendations that it had issued to the Ministry of Foreign Affairs as a result of the last inspection it had conducted.

Furthermore, the HDPa participated in a coordinated action – within the framework of the VIS SCG - of supervision of the advance deletion of data in VIS by the national VIS authorities according to article 25 of the Regulation 2008/767. In the course of this action the HDPa sent out the relevant questionnaire prepared by the VIS SCG to the Ministry of Foreign Affairs so as to provide its replies.

##### **Complaints**

The Hellenic DPA did not receive any complaints in relation to data processing within the VIS.

##### **Remarks**

No further remarks.

#### 4.14. Hungary

##### **Overview**

**Name of the DPA:** Hungarian National Authority for Data Protection and Freedom of Information

##### **Inspections**

In October 2022 the DPA conducted on-site inspections at the National Directorate-General for Aliens Policing and the Ministry of Foreign Affairs and Trade as data controllers with access to the Visa Information System. For the audit the DPA prepared an investigation plan in which it indicated the legal basis of the audit, the purpose and the methodology of the audit and also the procedure for evaluation of the audit. The DPA examined whether the audited bodies comply with the data protection provisions of national and EU legislation relevant to their operation furthermore, it examined the purpose limitation and the proportionality of data processing, the logging of data processing operations and compliance with the retention period. The audit also covered the technical architecture and functioning of the VIS. During the inspection the DPA paid special attention to checking whether the deficiencies identified in the inspection reports of previous inspections had been corrected and the recommendations made by the DPA had been implemented.

## **Complaints**

16 (2021-6; 2022-10)

**Main issues object of complaints:** The DPA received data subjects' requests for information on data stored in VIS or request for general information on VISA application process mainly.

## **Remarks**

The DPA has recently updated the general information for data subjects provided on Visa Information System on the DPA's website (both in Hungarian and English languages).

### **Link for VIS information in the DPA website:**

In Hungarian: [Vízuminformációs Rendszer \(VIS\) - Nemzeti Adatvédelmi és Információszabadság Hatóság \(naih.hu\)](#);

In English: <http://www.naih.hu/visa-information-system---vis.html>.

## **4.15. Iceland**

### **Overview: state of play and developments**

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### **Inspections**

The Icelandic DPA did not conduct any inspections regarding the processing of data in VIS during the period of 2021-2022. The last VIS audit was conducted in 2019. The audit for 2023 is currently in process.

### **Complaints**

Neither the Icelandic DPA or the data controller (the Directorate of Immigration) received any complaints regarding the processing of data in VIS during the period of 2021-2022.

## Remarks

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## 4.16. Italy

### Overview: state of play and developments

In 2020 Italy answered the questionnaire developed by the Commission in respect of the planned evaluation process on the correct implementation of the Schengen acquis in the field of data protection (c.d. Schengen evaluation), scheduled for the first half of 2021. The Schengen evaluation of Italy was carried out in September 2021, and we are currently about to receive the definitive final report.

At European level, the Italian DPA took part in all meetings of the VIS SCG and answered all questionnaires of the VIS SCG.

In the relevant period expert of the Italian DPA participated in the Schengen evaluation of Sweden.

In 2021, the DPA budget was significantly increased.

### Inspections

Due to the measures in force in Italy for the pandemics to protect public health, all DPA's inspection activities – not only in the activities referred to in the Article 41 (1) of the VIS Regulation (EC) 767/2008 - were suspended until December 2021. Therefore, the planned checks could be performed - after the discontinuation - only in 2022.

The supervision activity were wide ranging in scope and concerned the lawfulness of processing of personal data and security issues, along with the control of access log files, at operational units and the sites and areas where the national information systems (I-VIS and N-VIS) are located.

As for the Ministry of the Interior (MoI), which is competent for border visa issuance and asylum applications, the relevant on-site inspections were carried out at the Border Police Office of Fiumicino International Airport in October 2022, at the (marittime) Border Police office of Civitavecchia harbour in November 2022, at the National Police Elaboration Center (CEN) in October 2022, at the General Directorate for Migration and Border Police of MoI in November 2022. Regarding the Ministry of Foreign Affairs and International Cooperation, which is competent for visa issuance abroad, the relevant checks were carried out at the Central Visa Office of the Ministry, including the Central Directorate for IT systems in December 2022, as well as at the Tunis Consulate and at an external service provider in February 2023.

### Complaints

The Italian DPA did not receive any formal complaints regarding the processing of personal data in the VIS. However, in the relevant period, the Italian DPA received several unspecific complaints against visa refusal, or, in general, concerning the visa application process. In these cases, the DPA informed the complainants on how to contact the Ministry for Foreign Affairs and exercise data subjects' rights, providing clarifications also on its supervisory competences regarding the VIS.

### **Remarks**

No specific remarks.

## 4.17. Latvia

### **Overview: state of play and developments**

To ensure effective supervision of the processing of personal data, the Data State Inspectorate of Latvia (hereinafter- the DSI) carried out investigations, regular audits and other supervisory activities to promote more effective protection of personal data in VIS.

In Activity period - 2021-2022, the DSI carried out the mandatory audit in accordance with international standards on the use of N.VIS and also other inspections.

### **Inspections**

#### **2021**

**Subject:** Assessment of the adequacy of the processing of personal data Schengen Information System and Visa Information System

**Respective authorities:** The Information Centre of the Ministry of the Interior and The Office of Citizenship and Migration Affairs

**Methodology:** international auditing standards: ISO/IEC 27001:2013 “Information Security Management System” and ISO/IEC 27002:2013 “Information technology — Security techniques — Code of practice for information security controls”.

**Nature of audit:** The audit, observing the recommended epidemiological safety measures regards Covid-19, was carried out remotely. The information used in the audit was obtained from the information (answers to previously prepared questions based on the international auditing standards and the documentation) provided by the respective authorities using the information system. Based on received answers and documentation the DSI compared and assessed the compliance of the activities carried out by the respective authorities with the controls specified in the international auditing standards.

**Recommendations and action plan:** at the end of the audit the DSI issued a report on its findings with recommendations to the respective authorities. In cooperation with the respective authorities

a plan to address identified deficiencies has been drawn and currently being implemented by the respective authorities and monitored by the DSI.

## 2022

**Subject:** Assessment of the compliance of the processing of personal data with the regulatory framework by accessing the N.VIS at the border control point “Lidosta Riga”

**Respective authority:** Airport “Riga” I category BCP Riga Board State Border Guard of Latvia

**Methodology:** The inspection was assessed on the basis of their compliance with international auditing standard ISO/IEC 27002:2013 “Information technology — Security techniques — Code of practice for information security controls”: human resources security; protection of critical infrastructure; controls at the entrance to the premises; control of media; control of storage; control of data entry; data access control; job descriptions of staff; communication control; control of data processing operations; transmission control; self-monitoring.

**Nature of inspection:** On site inspection was carried out on the processing of information at one of the endpoints of connecting to the system, the Riga Airport. Based on received answers and information gathered during onsite inspection the DSI compared and assessed the compliance of the activities carried out by the respective authority with the controls specified in the international auditing standards.

**Key findings:** Some improvements in regard to transparency of data processing information was needed, since the on site availability of information regarding data subject rights in the systems was lacking.

**Recommendations:** place information on the data subject’s rights as set out in Article 37, 38 of the Visa Regulation; introduce technical solutions to restrict the possibilities of using data carriers (USB) in workstations.

Subject: Assessment of the replies to data subjects within the N.VIS

**Respective authority:** The Office of Citizenship and Migration Affairs

**Methodology:** Information request to provide 4 anonymised answers based on Article 38 of the VIS Regulation sent to data subjects to the respective authority.

**Nature of inspection:** An inspection was carried out on the compliance of the standard answers to data subjects used by the Office of Citizenship and Migration Affairs with the laws and regulations governing the operation of the VIS. As part of the inspection, copies of the standard replies were obtained and analysed for compliance.

**Key findings and recommendations:** The DSI issued a recommendation to review the standard replies to data subjects and include some additional information to comply with the requirements of Article 38 of the VIS Regulation.



## **Complaints**

There have been no complaints received regarding the data processing in the VIS.

## **Remarks**

N/A

## **4.18. Liechtenstein**

### **Overview: state of play and developments**

Nothing to report

### **Inspections**

Nothing to report

### **Complaints**

Nothing to report

### **Remarks**

Nothing to report

## **4.19. Lithuania**

### **Overview: state of play and developments**

None.

### **Inspections**

The Lithuanian DPA has not carried out any inspections regarding data processing in the VIS in the period 2021-2022.

### **Complaints**

The Lithuanian DPA has not received any complaints regarding data processing in the VIS in the period 2021-2022.

### **Remarks**

None.

## 4.20. Luxembourg

### **Overview: State of play and developments**

In 2022, the Schengen Evaluation of Luxembourg in the field of data protection took place. The Luxembourg DPA contributed as coordinator for said policy field, as well as organizer of the on-site visits and they accompanied the experts during their stay in Luxembourg.

### **Inspections**

In December 2021, the Luxembourg DPA launched an audit on VIS that continued throughout 2022. The audit included a follow-up on the recommendations issued during the 2017/2018 audit, and covers the following topics: distribution of tasks between the implicated actors, supervision of access to VIS by the data controller, supervision of transfers of data from VIS by the data controller, training provided by the data controller and supervision of logs by the data controller.

### **Complaints**

No complaints relating to VIS have been received during the reporting period.

### **Remarks (issues or problems)**

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## 4.21. Malta

### **Overview: state of play and developments**

#### ***VIS operation***

During the period 2020-2021, the VIS operation for Malta was relatively smooth and no major issues or disruptions were encountered with regards to the overall operation of the system, both from a technical point of view and also at an organizational level. During 2021 the Maltese DPA has been notified that the upgrades to the computer infrastructure that was planned for 2021 has been achieved.

### **Inspections**

During 2021 the Maltese DPA carried out physical inspections at the Maltese Central Visa Unit, at the Ministry for Foreign Affairs, Immigration Tribunal and at the Border (for Visas issued at the Border).

During these visits the workflow of each respective entity was audited and inspected. Physical and technical security was checked at each point where there is access to the VIS. User authentication mechanisms, user logs and user activity inspections were also carried out at each point.

Due to the COVID-19 pandemic no missions were visited during year 2021, however the Maltese DPA took note of VIS statistics and conducted two separate questionnaires. One questionnaire was intended to cover the policies and procedures at the Diplomatic Missions of Malta and the second questionnaire covered policies and procedures in relation to Data Protection and Security of the External service provider used by the Ministry of Foreign Affairs of Malta.

## **Complaints**

No complaints were received during the period 2021 - 2022.

## **Remarks**

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## **4.22. Netherlands**

### **Overview: state of play and developments**

Based on the results of the mandatory recurring VIS audit that took place in 2019-2020, action plans had been drawn up by all users in order to implement the recommendations. Users had one year to implement these recommendations, which ended before the summer of 2022. Most users had implemented the recommendations by then. However, some users requested a delay of a year because of capacity problems, whereas with other users, a norm-conveying dialogue has subsequently taken place. The follow-up to the VIS audit was completed in June 2023, as all users implemented the recommendations satisfactorily.

### **Inspections**

During the reporting period 2019-2020 inspections of the consular posts of London and Dublin as well as the Dutch Consular Services Organisation and the External Service Provider's office were carried out. In 2021 the final inspection report was handed over to the DPA's enforcement department, after which the Ministry of Foreign Affairs was fined in the spring of 2022 for insufficient security of the national visa system and the fact that visa applicants were insufficiently informed about the sharing of data with other parties. An order subject to periodic penalty payments was also imposed to put these 2 matters in order.

Moreover, during the period covered by this activity report, the NL DPA conducted the questionnaire of the SCG VIS in the field of advance deletion.

In April 2021 the Schengen Evaluation Data Protection was carried out in the Netherlands by an EU Schengen Evaluation team. Because of the pandemic and limited availability of team members it still needed to take place on-line instead of on-site. The Scheval Report was adopted by the Schengen Committee at its meeting of 8 March 2022. The corresponding Recommendations were adopted by the Council in July 2022.

## **Complaints**

Whereas several requests for access to data in the VIS were made to the Dutch DPA by mistake, no official complaints were filed in this period. Requests for access to data are standard forwarded to the Ministry of Foreign Affairs.

## **Remarks**

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## 4.23. Norway

### **Overview: state of play and developments**

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### **Inspections**

In the reporting period 2021-2022, the Norwegian Data Protection Authority (NO DPA) carried out an inspection of the Governor of Svalbard regarding their processing of personal data within the Visa Information System. The NO DPA looked into various issues under the VIS regulation and the GDPR, including responsibility, internal control and data subjects' rights.

Following its investigation, the NO DPA found breaches in regards to the responsibilities of the controller and internal control. The NO DPA imposed an order on the Governor of Svalbard to establish internal controls adapted to their business and their responsibilities in regards to processing of personal data.

### **Complaints**

The Norwegian DPA did not receive any complaints during the reporting period.

### **Remarks**

Schengen Evaluation of Norway in the field of Data Protection took place in 2022.

## 4.24. Poland

### **Overview: state of play and developments**

On 1<sup>st</sup> December 2022, the Act amending the Act of 24 August 2007 on the Participation of the Republic of Poland in the Schengen Information System and Visa Information System (Act on SIS and VIS) was passed to align with the provisions of the SIS Recast. Prior to its issuance, the bill was submitted for a period of 14 days to the President of the Personal Data Protection Office.

The President of the Office's comments mainly concerned the possibility for too many authorities and institutions to access an overly broad catalogue of personal data, including special categories of personal data. The President of the Office pointed out that the drafted provisions would become an autonomous basis for the personal data processing, including acquisition, by the mentioned

entities, in isolation from the regulations of the pragmatic acts. It was also pointed out that the wording of the provision on the acquisition of personal data from national registers and systems, notwithstanding the limitations and closed catalogues of entities entitled to obtain data provided for in the legislation governing the maintenance of the catalogue or register in question, would create a high risk and go beyond the purpose of the Act.

Due to the comment, in the proposed new drafting of art. 3(5) of the Act on SIS and VIS proposed during the reconciliation conference, the reference to national registers and systems was dropped. Moreover, in view of the imbalance in access to data between the Border Guard and the other authorities entitled to make entries in the SIS and the lack of acceptance of the wording 'separate provisions', it was decided to refer to the scope of data indicated in art. 20 of Regulations 2018/1861 and 2018/1862.

The remaining comments have been taken into account, the relevant provisions have been deleted or modified. The wording of the modified provisions was confirmed at a reconciliation conference on 18 January 2022.

## **Inspections**

In 2021, the President of the Personal Data Protection Office carried out an inspections at the Police Headquarters. It constituted a mandatory audit of data processing operations, carried out every four years in accordance with international auditing standards as referred to in art. 41(2) of VIS Regulation 767/2008. The subject of the inspection was the manner in which the controller's duties were carried out by the Police Headquarters (Central Technical Authority of the National IT System). In particular, the organizational and technical measures used to ensure compliance with applicable data protection regulations were examined, including, among others: security, data subjects rights, legality of entries created and accessing them. In the course of the audit, no deficiencies were found in the performance of the aforementioned data processing operations.

In 2022, the inspections covered data processing operations carried out by the State Protection Service (the Polish uniformed service providing VIP security for the Polish government) in connection with direct and indirect access to the National Information System for the purpose of viewing entries in SIS and VIS. The scope of the access has changed after the amendment from December 2022 to the Act on SIS and VIS, which altered the authorizations of this formation and the scope of data for the indicated systems.

The second inspection concerned personal data processed at the Consulate General of the Republic of Poland in Istanbul in connection with access to the National IT System for the purpose of entering VIS data and viewing VIS data and SIS data. Consuls have the right to direct access to the Visa Information System in order to view VIS data in connection with examining visa applications submitted by foreigners and issuing decisions regarding these applications. During the inspection, special attention was paid to the processing of visa applicants' data at visa application reception points run by External Service Provider with which the Consulate General of the Republic of Poland in Istanbul cooperates under a contract.

In connection with the work of the VIS Supervision Coordination Group, the President of the Office issued a letter to 3 Voivodes (Masovia, Małopolska, Lower Silesia) and the Ministry of Foreign Affairs inquiring about the advance data deletion from the VIS as a result of acquiring the

nationality of a Member State that applied for the visa, pursuant to Art. 25 of Regulation 767/2008. According to the collected material, an inspection was carried out at the Masovian Voivodeship Office covering the processing of personal data in connection with direct access to the NITS for the purpose of entering data in VIS. As a result of the inspection, the President of the Personal Data Protection Office asked the Minister of the Interior and Administration to examine this issue as part of the supervision of voivodes in order to effectively implement the obligations imposed on the state under the VIS regulation.

### **Complaints**

There was no complaint from data subject on the VIS, therefore no actions were taken in this manner

### **Remarks**

The above inspections took place in accordance with the Annual Inspection Plan adopted by the President of the Personal Data Protection Office, which is legally binding pursuant to Art. 78(2) of the Act on the Protection of Personal Data.

## **4.25. Portugal**

### **Overview: state of play and developments**

n/a

### **Inspections:**

In 2022, the Portuguese Data Protection Authority (CNPD) carried out the audit provided for in Article 41(2) of the VIS Regulation, which was concluded in December 2022. The audit covered inspections to the VIS data controller as well as the Ministry of Foreign Affairs. The access to VIS by law enforcement authorities was also inspected in the two central points of access that exist in Portugal.

The inspection reports were adopted by the CNPD that issued binding decisions imposing corrective measures to the different bodies inspected under Article 58(2)(d) of the GDPR.

### **Complaints:**

There were no complaints submitted to the DPA

### **Remarks:**

The DPA is making the follow-up of its decisions to ensure their adequate and timely implementation.

## **4.26. Romania**

### **Overview: state of play and developments**

Romania is not connected to the VIS and does not have access to it. Even if Romania informed that it has already fulfilled its legal obligations concerning the VIS, as well as its technical obligations relating to the establishment and operation of a national VIS system, it continues to use a National Visa Information System (NVIS) for visa issuance and related checks of third country nationals.

Romanian is not yet a full-fledged Schengen Member State. Therefore, Romanian authorities do not have the possibility to register or delete data in the VIS.

### **Inspections**

The National Supervisory Authority for Personal Data Processing participated in the coordinated action related to the supervision of the advance deletion of data in VIS by the national VIS authorities, by sending the questionnaire prepared by VIS SCG to the National Visa Centre (CNV).

In 2022, the National Supervisory Authority for Personal Data Processing performed the audit to the National Visa Information System.

### **Complaints**

The National Supervisory Authority for Personal Data Processing has not received any complaints in relation to data processing in the VIS.

### **Remarks**

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## **4.27. Slovak Republic**

### **Overview: state of play and developments**

Nothing to report.

### **Inspections**

In 2021 and 2022, four inspections were conducted as far as the activity of the Slovak DPA regarding VIS is concerned.

In 2021, there were two inspections. One was conducted at Embassy of the Slovak Republic in Prague and one at Embassy of the Slovak Republic in Warsaw. Both inspections started in October 2021. The first one (Prague) was finished in December 2022 and the second one (Warsaw) in August 2022. They were focused mainly on processing operations within national part of the Visa Information System and compliance with data protection rules. The Slovak DPA did not find any inconsistencies within personal data processing in Visa Information System.

In 2022, two inspections were conducted. First inspection was conducted at Central Visa Authority (under the Ministry of Interior of the Slovak Republic). The inspection started in July 2022 and

was completed in November 2022. It was focused on processing operations of the Central Visa Authority within VIS, data subject's rights and security of processing under data protection rules at stake. The Slovak DPA did not find any inconsistencies within personal data processing within VIS. Second inspection was conducted at Ministry of Foreign and European Affairs. This inspection started in June 2022 and was completed in December 2022. The inspection was focused on processing operations within national part of the Visa Information System, data subject's rights and security of processing under data protection rules at stake. The Slovak DPA did not find any inconsistencies within personal data processing in Visa Information System.

### **Complaints**

In 2021-2022 the Slovak DPA did not received any complaint regarding data processing in Visa Information System.

### **Remarks**

no remarks.

## **4.28. Slovenia**

### **Overview: state of play and developments**

The national VIS database is called VIZIS. The data controller of VIZIS is the Ministry of Foreign Affairs. Slovenian users can only access VIS data through VIZIS.

The Slovenian DPA has good and constant relations with the Ministry of Foreign Affairs.

### **Inspections**

In the period 2021-2022 no inspections were carried out. A general VIS inspection is planned in 2023.

### **Complaints**

In the period 2021-2022 the Slovenian DPA did not receive any complaint regarding data processing in the VIS.

### **Remarks**

In the period 2021-2022 the Slovenian DPA was not informed of any problems with the VIS database.

## **4.29. Spain**

### **Overview: state of play and developments**



During the period 2020-21, the Spanish DPA continued with the development of the Schengen Evaluation Action plan 2018-2022. Six meetings were held with the Sección de Consulares (Consular Section of the Ministry of Foreign Affairs of the Kingdom of Spain and the National Police during this period on dates: 21-02-2021, 08-03-2021, 17-03-2021, 27-04-2021, 18-05-2021, 17-09-2021, and 16-12-2021.

Additionally, the Spanish DPA in cooperation with the Ministry of Foreign Affairs and the National Police monitored the application of the measures described in the action plan to meet the requirements set by the Scheval team during the 2017 Scheval Evaluation of the Kingdom of Spain. An Action Plan Monitoring Report was delivered on the 27th of April 2021.

### **Inspections**

No inspections were carried out during the reference period due to the COVID-19 pandemic.

### **Complaints**

No complaints with regards the functioning of the VIS system have been lodge during the period 2021-2022.

### **Remarks**

No remarks.

## **4.30. Sweden**

### **Overview: state of play and developments**

A Data Protection Schengen Evaluation was carried out in Sweden in 2022 which included the VIS system and the Swedish Data Protection Authority's activity in relation to supervision of this system. The final inspection report has not been provided yet. In 2021, the Swedish DPA concluded an investigation of the Swedish Migration Authority's handling of information in the VIS system. This investigation was initiated in 2019 but had been delayed due to the pandemic.

### **Inspections**

The Swedish Authority for Privacy Protection (IMY) carried out a general investigation of the Swedish Migration Authority's handling of information in the VIS system in 2021. The investigation was finalised in November 2021 and included questions of controllership, competent authorities, information exchange with other EU Member States, deletion of data, third country transfers, data subjects' rights, training of staff and IT security.

The IMY issued two warnings related to the documentation of the IT architecture and the erasure of user activity logs. In the first case, the IMY concluded that it was unclear to readers that the

documentation of the IT architecture was formally adopted. This could lead to insecurity as to the effect of the documentation and, in the end, a possible lack of appropriate technical and organisational security measures. In the second case, the deadline for erasure had not yet occurred but the IMY concluded that a lack of a procedure for such erasure could lead to information being stored for too long.

The investigation also included questions on advance deletion and the IMY did not have any comments on the described procedure for this.

### **Complaints**

The IMY has not received any complaints in relation to the VIS system

### **Remarks**

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## **4.31. Switzerland**

### **Overview: state of play and developments**

At national level, the Swiss DPA continued being in contact with the data protection officer (DPO) of the Swiss State Secretariat for Migration (SEM) and, when necessary, with the DPOs of the Swiss Federal Department of Foreign Affairs (FDFA) and the Federal Office of Police (fedpol). No specific technical or organisational issues were encountered. At European level, the Swiss DPA attended all coordinated supervision meetings and answered all questionnaires of the VIS SCG.

### **Inspections**

The Swiss DPA has started an inspection at fedpol as Central Access Point VIS in April 2022.

### **Complaints**

The Swiss DPA received no complaints in 2021 and 2022.

### **Remarks**

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## 5. What to expect next

The VIS Work Programme 2022-2024 aims to ensure the follow-up to the activities started by the Group during the reporting period 2021-2022, but also envisages other new issues to be explored. Therefore, given the work already performed in 2021 and 2022, the planned activities include the following:

- Monitoring of the implementation of Regulation (EU) 2021/1134 and Regulation (EU) 2021/1133;
- Advanced deletion of data.

Besides the activities foreseen, the VIS SCG will work on a permanent basis on the follow-up of policy and legislative developments, any ongoing issues, exchange of experiences and mutual assistance.