

EUROPEAN COMMISSION

SECRETARIAT-GENERAL

Brussels, 15/XII/2005

SG-Greffe(2005) D/ 207014

**ACCUSÉ DE RÉCEPTION**

NOM

(en caractères d'imprimerie)

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SIGNATURE

OFFICE OF THE UNITED  
KINGDOM PERMANENT  
REPRESENTATIVE TO THE  
EUROPEAN UNION  
Av. d'Auderghem, 10

1040 BRUXELLES

**Subject : NOTIFICATION PURSUANT TO ARTICLE 254 OF THE EC  
TREATY**

**The Secretariat-General should be obliged if you would forward to the  
Secretary of State for Foreign and Commonwealth Affairs the enclosed  
Decision of the Commission.**

Received in Reference  
UK Representative of the EU

15. 12. 2005

Encl. : C (2005)5159 final

UK



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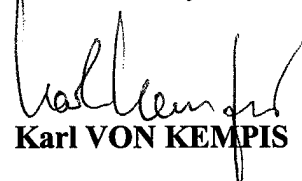
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For the Secretary-General



**Karl VON KEMPIS**

**Encl. : C (2005)5159 final**

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15/XII/2005  
C(2005) 5159 final

**COMMISSION DECISION**

**of 15/XII/2005**

**laying down detailed rules for the implementation of Council Decision 2005/267/EC  
establishing a secure web-based Information and Coordination Network for Member  
States' Migration Management Services**

## COMMISSION DECISION

of 15/XII/2005

**laying down detailed rules for the implementation of Council Decision 2005/267/EC establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services**

**(Only the Czech, , Dutch, German, Estonian, Finnish, Greek, English, French, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish, and Swedish text is authentic)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2005/267/EC of 16 March 2005 establishing a secure web-based Information and Co-ordination Network for Member States' Migration Management Services<sup>1</sup>, and in particular Article 2(3), Article 3 and Article 5(4) thereof,

Having consulted the Committee established by Council Decision 2002/463/EC of 13 June 2002 adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration

Whereas:

- (1) Enhanced co-operation between Member States' Migration Management Services should be facilitated via a rapid and secure exchange of information,
- (2) Effective co-operation between Member States requires a proper level of confidentiality relating to information exchange as well as to the use of administrative tools referred in Article 2(3) of Decision 2005/267/EC .
- (3) Any unauthorised access to the Network should be adequately prevented.
- (4) Information that has particular relevance for the longer term should be properly archived in order to facilitate future search and analysis of such information.
- (5) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>2</sup> and Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community Institutions and bodies

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<sup>1</sup> OJ L 83 1.4.2005, p.48.

<sup>2</sup> OJ L 281, 23.11.1995, p. 31

and on the free movement of such data<sup>3</sup> should apply to the processing of information in the context of this Decision.

- (6) Information which is no longer relevant or which has been found to be incorrect or otherwise not compliant with the provisions laid down in Decision 2005/267/EC or with other relevant provisions laid down in Community law in particular in the field of data protection should be deleted by the competent authority without any delay.
- (7) Information exchanged in accordance with Decision 2005/267/EC should be based on a standardised format whenever possible.
- (8) The Network should contribute to the effective co-operation among the immigration liaison officers of Member States in accordance with the Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network<sup>4</sup>
- (9) This Decision respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union as general principles of Community law.
- (10) Pursuant to Article 5 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark has decided to implement Decision 2005/267/EC in Danish law. Decision 2005/267/EC is thus binding upon Denmark in international law
- (11) As regards the Republic of Iceland and the Kingdom of Norway, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded on 18 May 1999 by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis<sup>5</sup>, except insofar as it establishes an exchange of information on the problems associated with the return of third-country nationals other than those who do not fulfil or who no longer fulfil the conditions for a short stay applicable within the territory of a Member State by virtue of the provisions of the Schengen acquis, which fall within the areas referred to in Article 1, points A, B, C and E of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement<sup>6</sup>.
- (12) As regards Switzerland, 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 and the Swiss Confederation concerning the implementation, application and development of the Schengen acquis<sup>7</sup>, except insofar as it establishes an exchange of information on the problems associated with the return of third-country nationals other than those who do not fulfil or who no longer fulfil the conditions for a short stay applicable within the territory of a Member

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<sup>3</sup> OJ L 8, 12.1.2001, p. 1.

<sup>4</sup> OJ L 64, 2.3.2004, p.1.

<sup>5</sup> OJ L 176, 10.7.1999, p.36

<sup>6</sup> OJ L 176, 10.7.1999, p.31

<sup>7</sup> Council doc. 13054/04 accessible on <http://register.consilium.eu.int>

State by virtue of the provisions of the Schengen acquis, which fall in the area referred to in Article 1, points A, B, C and E of Council Decision 1999/437/EC of 17 May 1999<sup>8</sup> read in conjunction with Article 4(1) of the Council Decision 2004/860/EC of 25 October 2004 on the signing on behalf of the European Union and on the signing on behalf of the European Community, and on the provisional application of certain provisions of the Agreement<sup>9</sup>.

- (13) With respect to the provisions constituting a development of the Schengen acquis, representatives of Iceland, Norway and Switzerland should be associated with the work of the committee assisting the Commission in the exercise of its implementing powers pursuant to Article 3, Article 5 paragraph 4. and Article 6 of Council Decision 2005/267/EC.
- (14) In accordance with Article 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of 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>10</sup>, the United Kingdom takes part in Council Decision 2005/267/EC and, by consequence, in this present Decision.
- (15) In accordance with Article 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002<sup>11</sup> concerning the request of Ireland to take part in some of the provisions of the Schengen acquis, Ireland takes part in Council Decision 2005/267/EC and, by consequence, in this present Decision.
- (16) The participation of the United Kingdom and Ireland in this Decision in accordance with Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 relates to the responsibilities of the Community for taking measures developing the provisions of the Schengen acquis against the organisation of illegal immigration, in which the United Kingdom and Ireland participate,
- (17) This Decision constitutes an act building on the Schengen acquis or otherwise related to it within the meaning of Article 3(1) of the 2003 Act of Accession,.

HAS ADOPTED THIS DECISION:

## CHAPTER I

### SCOPE AND DEFINITIONS

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<sup>8</sup> OJ L 176, 10.7.1999, p.31

<sup>9</sup> OJ L 370, 17.12.2004, p. 78.

<sup>10</sup> OJ L 131, 1.6.200, p. 43.

<sup>11</sup> OJ L 64, 7.3.2002, p. 20.

## *Article 1*

This Decision lays down detailed rules for implementing Decision 2005/267/EC as regards access to and use of the secure web-based Information and Co-ordination Network for Member States' Migration Management Services (hereinafter "the Network") including rules on the confidentiality, transmission, storage, archiving and deletion of information and on standardised forms.

## *Article 2*

For the purposes of this Decision the following definitions shall apply:

- (a) 'migration management services': any governmental administrative or law enforcement authorities of the Member States responsible for execution of border management, migration and asylum policy;
- (b) 'national contact point': any person designated by a Member State under Article 4 (2) of Decision 2005/267/EC.
- (c) 'Network-element': a separate section of the Network containing the information referred to in Article 2(2) of Decision 2005/267/EC;
- (d) 'authorised user': a person who has been granted access to the Network by a national contact point;
- (e) 'immigration liaison officer' (ILO): representative of one of the Member States posted abroad pursuant to Article 1 of Council Regulation (EC) No 377/2004<sup>12</sup> (hereinafter "ILO");
- (f) 'ILO central point': any person designated by a Member State, responsible for posting immigration liaison officers abroad and for co-ordinating their activities;
- (g) 'return central point': any authority designated by a Member State, responsible for preparation and co-ordination of transit or joint return measures requiring the establishment and maintenance of contact with other Member States;
- (h) 'Archive subsection': a subsection of a Network-element to which information is moved in order to make subsequent analysis of trends and of migratory phenomena possible.

## CHAPTER II

### **SPECIAL PROVISIONS ON THE NETWORK-ELEMENTS FOR THE INFORMATION EXCHANGE**

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<sup>12</sup> OJ L 64, 2.3.2004 , p.1.

### *Article 3*

Member States shall only use the Network for the transmission of strategic, technical or operational information in relation to illegal migration. Member States shall ensure that such information does not contain personal data or any link through which such personal data is directly or indirectly available.

### *Article 4*

Each Member State shall ensure that all information is uploaded and stored in the appropriate Network element.

### *Article 5*

1. The Early Warning System on illegal immigration and facilitator networks (hereinafter: EWS) shall provide for early warning messages relating, in particular, to:
  - (a) first indications of illegal immigration and facilitator networks;
  - (b) concentrations of specific nationalities of illegal migrants,
  - (c) perceptible changes in routes and methods of immigration
  - (d) new types of large-scale forgery of travel documents or of other documents assisting third country-nationals to enter and stay in the territory of a Member State;
  - (e) significant increase in figures of illegal immigrants apprehended at the land, air or sea borders of the Member States;
  - (f) large-scale facilitation;
  - (g) other events and incidents which herald new developments in the field of illegal immigration and facilitation and which represent a threat such that immediate counter-measures are required.
2. Early warning messages shall be uploaded by national contact points. Member States may establish a separate 24 hour service in order to issue early warning messages. Member States shall notify the Commission of the establishment of any such service.
3. Early warning messages shall be uploaded in the standard format specified in Annex II as soon the information becomes available. The user uploading the information may attach further documents relating to that message.
4. National contact points shall grant access to the Early Warning System to all authorised users of the Network.
5. Member States shall ensure that where an authorised user obtains information relating to the matters referred to in paragraph 1 that information is forwarded to the national contact points or to the 24 hour service referred to in paragraph 2.



## *Article 6*

1. The information uploaded onto the Immigration Liaison Officers' Network shall include the following:
  - a) an updated list of ILO central points in the Member States (including Member State, name, postal address, telephone and fax numbers, email addresses);
  - b) the format of the ILO report provided for in Article 6 (1) and (2) of Regulation (EC) No 377/2004.

It may also include other information such as :

- a) an updated list of immigration liaison officers of Member States (including names, postal address, telephone and fax numbers and email addresses);
  - b) factual information on the regions/countries in which immigration liaison officers are posted.
2. Each Member State shall designate an ILO central point and shall notify the Commission thereof.
3. Only ILO central points and the Commission shall upload the information referred to in point (a) of the first subparagraph of paragraph 1 and point (a) of the second subparagraph of paragraph 1. The information referred to in point (b) of the second subparagraph of paragraph 1 may be uploaded by the national contact points, the ILO central point and by the Commission.
4. The information referred to in point (b) of the second subparagraph of paragraph 1 shall only be made available to the immigration liaison officers and ILO central points.

## *Article 7*

1. Information exchange on the use of visas, borders and travel documents relating to illegal immigration may cover, in particular, information on:
  - a) experiences of visa and document forgeries and best practice in combating counterfeiting and forgeries;
  - b) new techniques and modus operandi of smugglers and traffickers in human beings and best practice in combating human smuggling and trafficking.
2. The information referred to in paragraph 1 shall only be uploaded by the national contact points.
3. National contact points shall grant access to the information referred to in paragraph 1 to all authorised users of the Network.

## *Article 8*

1. Information exchange on return related issues may include, in particular, information on:
  - (a) the relevant Community and national law in force in the field of return;
  - (b) security provisions for removal operations;
  - (c) best practice in establishing the identity of third country nationals and obtaining travel documents in order to facilitate their return;
  - (d) incidents which have occurred during return operations, lessons to be learnt;
  - (e) planned or scheduled joint return flights, as specified in Annex III;
  - (f) notifications of planned or scheduled transit removal operations;
  - (g) updated list of national return central points (including names, postal address, telephone and fax numbers, email addresses);
2. Each Member State shall designate a return central point responsible for the exchange of information with other Member States and shall notify the Commission thereof.
3. The information referred to in paragraph 1 (d), (e) and (f) shall only be uploaded by the national contact point or the return central point.
4. National contact points shall grant access to the information referred to in paragraph 1 to authorised users, including immigration liaison officers, whose tasks and capacity are related to the return of illegally staying third-country nationals.

## *Article 9*

1. Administrative tools shall be established for the Network, including the following:
  - (a) directory of users, containing the full name, user name, email address;
  - (b) emailing system;
  - (c) newsgroups;
  - (d) common calendar;
  - (e) events;
  - (f) search tool
2. Information gathered from the directory of users shall not be shared with third parties without the prior written consent of the person concerned.

3. Unless the information is marked as public, the emailing system shall not be used for direct transmission of information downloaded from the Network.

#### *Article 10*

Member States may make reference to other relevant information, such as the public website of their migration management services, via the appropriate links indicated in the information section of the Network. All users shall have access to the information section.

### CHAPTER III

#### ACCESS TO THE NETWORK

#### *Article 11*

1. The national contact point shall be responsible for establishing and maintaining contacts with the Commission and with other migration management services at national or at Community level.
2. The notification of a national contact point shall contain the following information:
  - (a) Member State;
  - (b) name;
  - (c) organisation;
  - (d) postal address;
  - (e) telephone and fax number;
  - (f) e-mail address.

Member States shall notify the Commission in writing without delay of any changes to the contact details.

3. The national contact points shall have full access to the Network in order to perform their tasks.

#### *Article 12*

1. National contact points shall be responsible for granting access to one or more Network-elements.
2. Authorised users shall be staff members of the migration management services of a Member State who require the requested access in the course of their duties.

3. Authorised users may request access to other Network-elements other than those they have been granting access. Reasons for such requests shall be given by the users concerned.
4. Applications for access shall be submitted to the national contact point using the standard form set out in Annex I.

#### *Article 13*

1. National contact points shall ensure that any change to the authorised users' tasks which requires a modification of their access to the Network is reported to the national contact points and that changes are made accordingly.
2. The national contact point shall establish and regularly update a detailed list of users for the respective Member State, including their access rights.
3. The Commission may verify all grants of access.

#### *Article 14*

National contact points shall withdraw access to the Network from any authorised user who:

- (a) no longer requires access in the course of his/her duties or;
- (b) is no longer a staff member of the migration management services of a Member State or;
- (c) intentionally disclosed information gathered from the Network to any unauthorised third party.

### CHAPTER IV

### **RULES ON CONFIDENTIALITY, TRANSMISSION AND SHARING OF INFORMATION**

#### *Article 15*

Any information uploaded to the Network shall be clearly marked with a reference to its owner.

#### *Article 16*

1. Member States shall not upload information that is formally classified as "EU RESTRICTED" or higher in accordance with Council Decision 2001/264/EC<sup>13</sup>.

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<sup>13</sup> OJ L 101 11.4.2001 p. 1.

2. The Commission shall provide encryption of the information marked as “limited” during transmission to and from the website.
3. Member States shall ensure that their authorised users are able to access the Network by means of a secure connection.

#### *Article 17*

Information not marked as “public” shall only be disclosed to national administrative, law enforcement and judicial bodies with responsibility for fighting illegal immigration.

### *CHAPTER V*

#### **STORAGE, MODIFICATION, ARCHIVING AND DELETION OF INFORMATION**

#### *Article 18*

1. The information uploaded onto the Network shall be as accurate as possible and in compliance with the relevant provisions of Community or national law in particular in the field of data protection.
2. Only the person who uploaded the information or the national contact point shall be authorised to modify, supplement, correct or delete the information concerned.
3. National contact points shall monitor the information uploaded onto the Network in order to ensure compliance with paragraph 1. If the information uploaded is found to be inaccurate, or not to comply with the provisions referred to in paragraph 1, the national contact points shall take the necessary measures to modify or delete that information.
4. Each Member State may establish more detailed guidelines for their authorised users in order to ensure that all information uploaded by them is regularly reviewed and updated, as necessary.
5. If an authorised user has evidence that the information available on the Network is factually incorrect or unlawful, it shall advise its national contact point who shall verify the information as soon as possible. The national contact point shall correct or delete the information immediately, if necessary.
6. Where the information was uploaded by an authorised user from another Member State, the relevant national contact points shall come to an agreement on the correction or deletion of the information concerned. If they are unable to reach agreement, the matter shall be referred to the Commission. The Commission shall take the necessary measures in accordance with Article 19.

#### *Article 19*

1. The Commission shall supervise the content of the Network and shall delete any information that does not comply with Decision 2005/267/EC or this Decision or

with other relevant provisions of Community or national law in particular in the field of data protection.

2. The Commission shall notify without delay the national contact point of the Member State concerned without delay if it deletes any information pursuant to paragraph 1.

#### *Article 20*

An expiry date may be set for information at the time the information is uploaded to the Network. The information shall be deleted on the date of expiry.

If no expiry date has been set, the Commission will transfer the information to the “Archive” subsection of the element concerned one year after of its upload.

#### *Article 21*

1. All information transferred to an “Archive” subsection shall be kept for ten years. At the end of that period it will be deleted by the Commission.
2. All authorised users shall have access to archived information to the same extent as they had to the information before it was archived.

#### *Article 22*

Any use of information obtained from the Network which does not comply with Articles 9 (2)(3) and Article 16 shall be considered as misuse of information under the national law of each Member State.

### CHAPTER VI

#### **FINAL PROVISIONS**

#### *Article 23*

1. The Commission shall notify the national contact points about any technical developments or changes to the technical platform of the Network.
2. The Commission shall notify the national contact points about any planned temporary downtime of the Network due to technical maintenance or other reasons.

#### *Article 24*

Training for authorised users may benefit from available Community funding.

*Article 25*

1. National contact points shall report to the Commission annually on the number of users provided with access to the Network.
2. National contact points shall report annually on the overall number of exchanges of information that have taken place in accordance with Article 17.

*Article 26*

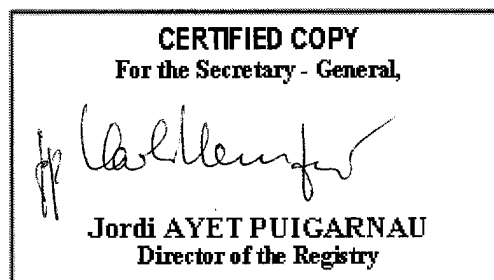
Whenever the Commission concludes an agreement with a third party concerning the granting of access to the Network pursuant to Article 7 (1) of Decision 2005/267/EC, that agreement shall be in conformity with this Decision.

*Article 27*

This Decision is addressed to the Kingdom of Belgium the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, 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, the Republic of Slovenia, The Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 15/XII/2005.

*For the Commission*  
*Franco FRATTINI*  
*Member of the Commission*



## ANNEX I

### APPLICATION FORM

For access to the Information and Co-ordination Network for Member States' Migration Management Services

Requesting Authority:

Telephone number:

Fax number:

E-mail address:

#### **1. Data of user requesting access or modification of access**

Surname:

First name:

Date of birth:

Username<sup>14</sup>:

E-mail address:

Organisation:

Title:

Description of the user's area of responsibility:

2. Requested Network-element:

3. Special request for access to other Network-elements:

Motivation of the special request:

Date:

Signature

Validated by:

Full name of the validator:

Position:

Date:

Signature

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<sup>14</sup> Users without existing user name generated by the Communication & Information Resource Centre Administration (CIRCA) shall sign up to CIRCA on the following Web address: <http://forum.europa.eu.int/jai> before they send their application to the National contact point.



**ANNEX II**

**TEMPLATE FORM FOR EARLY WARNING MESSAGES**

Date: Reporting State: Reference: EWS/ / /200

Subject area: : Specification:

Subject detail: (e.g. method used):

1. Place and date of detection / suspected entry:

Place: - (concrete place)

Date:

2. Nationality (nationalities) and numbers of third country nationals detected: (ISO code)

Nationality Number

Nationality Number

Nationality Number

3. Illegal border crossing using facilitators:  Yes  No

Nationality (nationalities) and number of facilitators. (ISO code)

Nationality Number

Nationality Number

Nationality Number

4. Means of transport:  on foot  car  minibus  bus /coach  lorry  aeroplane  
 passenger train  goods train  ship

5. Route:

From ..... via ..... to .....

6. Travel or Identity documents used

Ordinary passport  Services passport  Diplomatic passport  National identity document  
 Convention travel document (1951 Geneva Convention)  Non-convention alien's identity document   
Residence permit  Other (specify) Country by which travel or identity document issued (ISO code):  
Place of issue:

7. Visa used:  Airport transit  Short stay  Transit  Long stay  None

Date and place of issue: Country issuing visa (ISO code):

8. Types and numbers of forgeries detected: Total number:

Photograph substituted (number )  Counterfeit (number )

Entries altered (number )  Stolen blank (number )

Pages replaced (number )  Use of foreign official documents (number )

Other (specify) (number )

9. Comments / Action taken:

Total pages in report:

Accompanying sheet or file with additional information:  yes  no

## **ANNEX III**

### **INFORMATION ON PLANNED OR SCHEDULED REMOVAL FLIGHTS**

- (1) Organising Member State (country and name of the authority responsible for the operation):
- (2) Date of Departure:
- (3) Place of Departure:
- (4) Place of final Destination:
- (5) Other intermediate stops of the flight:
- (6) Maximum number of returnees to be taken on board:
- (7) Number of available seats of the flight:
- (8) Estimated costs (€/persons)
- (9) Number of returnees by nationalities already booked on:
- (10) Contact details (name, telephone and/or fax number, e-mail address) if differs from the return central point:

Other comments: