

Schengen: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)

2010/0006(NLE) - 29/01/2010 - Legislative proposal

PURPOSE: to amend [Decision 2008/839/JHA](#) on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) in order to postpone its expiry date.

PROPOSED ACT: Council Regulation.

BACKGROUND: the Schengen Information System (SIS) was established in 1985 between the governments of the States of the Benelux Economic Union, Germany and France on the gradual abolition of checks at their common borders, and its development, SIS 1+, constitute an essential tool for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union.

The development of the second generation of SIS (SIS II) has been entrusted to the Commission pursuant to [Council Regulation \(EC\) No 2424/2001](#) and [Council Decision 2001/886/JHA](#) on the development of the second generation Schengen Information System (SIS II). SIS II will replace SIS 1+ which has become obsolete and no longer responds to the needs of the enlarged European Union.

Provisions on the establishment, operation and use of SIS II are laid down in [Regulation \(EC\) No. 1987/2006](#) of the European Parliament and of the Council on the establishment, operation and use of the second generation Schengen Information System (SIS II) and [Council Decision 2007/533/JHA](#) on the establishment, operation and use of the second generation Schengen Information System (SIS II). These instruments foresee that they will apply to the Member States participating in SIS 1+ only as of dates to be fixed by the Council, acting by the unanimity of its Members representing the governments of the Member States participating in SIS 1+. They will then replace the provisions of the Schengen acquis governing SIS 1+, in particular the relevant provisions in the Schengen Convention.

Before this can happen, **the users of the SIS 1+ will have to migrate to the SIS II environment**. A legal framework for the migration from SIS 1+ to the SIS II environment was therefore designed. In order to reduce the risks of service disruption during migration an interim technical architecture for the operations of SIS 1+ will allow SIS 1+ and certain technical parts of the architecture of SIS II to operate in parallel for a transitional period.

However, the time-frame of the current migration instruments ([Council Decision 2008/839/JHA](#) and [Council Regulation No 1104/2008](#)), and in particular their date of expiry which is currently set to be **30 June 2010** at the latest, **appears no longer realistic**. This proposal therefore aims at preventing expiry of Council Decision 2008/839/JHA before migration will take place. For legal reasons, this proposal only amends the decision.

CONTENT: the objective of the present proposal is to **prevent expiry of Council Decision 2008/839/JHA before migration**, as well as to:

- to ensure **legal flexibility** for an alternative technical scenario to attain SIS II functionalities based on SIS 1+, in case a switchover to this scenario should take place;

- to render management of SIS II development and migration, in particular regarding coordination of Commission and Member State projects, as efficient as possible. In order to achieve the latter objective, the GPMB is set up as an **expert group at global programme level**. The GPMB's role would be to act as a focal point between the actors and stakeholders involved in global SIS II development. In particular, it would allow the Commission and the Member States to coordinate the global programme in keeping with their respective responsibilities and activities regarding the central and national SIS II projects. The GPMB shall be composed of maximum of 10 experts. The administrative costs and travel expenses arising from the activities of the GPMB shall be borne by the general budget of the European Union. Transparency of the SIS II development process for the European Parliament is maintained through the existing reporting obligation.

Legal elements of the proposal: it should be noted that this proposal is being submitted as a **Regulation** under the appropriate legal basis of the Treaty on the Functioning of the European Union which has recently entered into force. The proposal is complemented by a proposed parallel Regulation on the same issue (see [NLE/2009/0136](#)).

Territorial application: due to reasons of a legal nature laid down in the Treaty, the United Kingdom and Ireland will only be associated for part of the implementation and the application of the present text (application of the “variable geometry” system). It also applies to Denmark, however it may decide, within a period of six months after the adoption of this Regulation, whether it will implement it in its national law. Lastly, Norway, Iceland, Switzerland and Liechtenstein will be associated with the implementation of this text in accordance with the bilateral agreements concluded with the EU on the Schengen acquis.

IMPACT ASSESSMENT: non applicable.

BUDGETARY IMPLICATIONS: the costs of setting up, operating and maintaining Central SIS II and the communication infrastructure are to be borne by the general budget of the European Union. The costs of setting up, operating and maintaining each N.SIS II shall be borne by the Member State concerned.

Under Article 15 of Regulation (EC) No 1104/2008 and Council Decision 2008/839/JHA as they have been phrased heretofore, additional costs for migration, testing, maintenance and development measures at the central level (Central SIS II and Communication Infrastructure) had been allocated to the general budget of the European Union as well. Testing, migration, maintenance and development costs for the national systems, including N.SIS II, have continued to be borne by each Member State concerned.

The present proposal does not modify this basic structure. It will, however, extend the existing legal basis to cover the **post-30 June 2010 period until migration**.

In addition, the cost arising from the meetings of the GPMB which is being set up by this proposal, including expenses for members and experts attending, would be borne by the general budget of the European Union. The necessary appropriations to cover the cost arising from the meetings of the GPMB will come from the appropriations currently foreseen in the Financial Programming 2010-2013 for the Schengen Information System (SIS II).

The Commission has prepared a financial statement annexed to this proposal which provides a budget of **EUR 12.850 million** in operational expenditure until 2012 (only costs caused by prolongation of the development and migration phase beyond 30 June 2010, will be taken into account. This excludes costs to be committed until 30 June 2010).