

Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - without the participation of United Kingdom and Ireland. Recast

2012/0033B(NLE) - 13/07/2012 - Legislative proposal

PURPOSE: to recast the Council Regulation on the migration from the Schengen Information System (SIS I+) to the second generation Schengen Information System (SIS II) and to supplement the existing legal framework with additional flexibility to avoid unnecessary costs relating to the migration process.

PROPOSED ACT: Council Regulation.

BACKGROUND: on 30 April 2012, the Commission presented a proposal for a Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast) (please refer to the summary dated 30 April 2012).

This proposal was examined by the competent bodies within the Council. Following their discussions, it emerged that **the initial proposal should be divided into two identical and parallel texts in order to reflect the particular positions of Ireland and the United Kingdom.**

The other parallel proposal is the subject of a separate procedure file [2012/0033A\(NLE\)](#).

For further background information, please refer to the summary dated 30 April 2012.

LEGAL BASIS: Article 74 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: as was the case of the Commission's initial proposal, this draft Council Regulation seeks to recast [Regulation \(EC\) No 1104/2008](#) and [Council Decision 2008/839/JHA](#) in a legal act in the form of a single regulation.

For the most part, the Council's new draft text **retains the Commission's proposals** concerning:

- the recasting of the text in a single legal act subject to the same legal basis;
- the legal regimes for the migration from SIS I to SIS II;
- the technical aspects of the switchover from one system to the other;
- the creation of an interim migration architecture for the operations permitting SIS 1+ to function in parallel during a limited transitional migration period towards the SIS II;
- the removal of the Regulation's expiry date in order to deal with any unexpected difficulties that the central system or one or several national systems could face during the migration process;
- the allocation of EUR 35.24 million in operational appropriations to fund costs relating to the Member States' participation in the preparations for the migration, and in particular in regard to the coordination of tests.

The main **new aspects introduced by the Council** may be summarised as follows:

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- **switchover:** for reasons of legal certainty, the period of switchover should be kept as short as possible, and **should not exceed 12 hours**;
- **monitoring period:** the migration should be achieved following an intensive monitoring period. This intensive monitoring period should be limited in time and **should not exceed 30 days from the date of the switchover** from one system to the other of the first Member State;
- **non-participation in this text of the UK and Ireland:** this draft regulation revised by the Council and its *raison d'être* are linked to new territorial provisions. It is stipulated that this text will constitute a development of the provisions of the Schengen *acquis* in which Ireland and the UK do not take part. These two Member States shall therefore not be concerned by this draft text;
- **entry into force and application:** this draft Regulation should enter into force as rapidly as possible and should expire on the date when the migration is completed. If that date is not respected due to technical difficulties relating to the migration process, the Regulation will expire on another date to be agreed by the Council.