

# Procedure file

Basic information			
CNS - Consultation procedure Regulation	2008/0078(CNS)	Procedure completed	
Schengen: migration from the Schengen Information System (SIS I+) to the second generation Schengen Information System (SIS II). Regulation			
Amended by <a href="#">2009/0136(NLE)</a> Repealed by <a href="#">2012/0033B(NLE)</a>			
Subject 7.10.02 Schengen area, Schengen acquis			

Key players			
European Parliament	Committee responsible  <span style="background-color: #e67e22; color: white; padding: 2px 5px;">LIBE</span> Civil Liberties, Justice and Home Affairs	Rapporteur  PPE-DE <a href="#">COELHO Carlos</a>	Appointed  28/05/2008
	Committee for opinion  <span style="background-color: #e67e22; color: white; padding: 2px 5px;">BUDG</span> Budgets	Rapporteur for opinion  The committee decided not to give an opinion.	Appointed
Council of the European Union	Council configuration  <a href="#">Justice and Home Affairs (JHA)</a> <a href="#">Justice and Home Affairs (JHA)</a> <a href="#">Justice and Home Affairs (JHA)</a>	Meeting  <a href="#">2899</a> <a href="#">2783</a> <a href="#">2863</a>	Date  24/10/2008 05/06/2008 18/04/2008
European Commission	Commission DG  <a href="#">Justice and Consumers</a>	Commissioner  BARROT Jacques	

Key events			
18/04/2008	Debate in Council	<a href="#">2863</a>	Summary
20/05/2008	Committee referral announced in Parliament		
05/06/2008	Debate in Council	<a href="#">2783</a>	Summary
03/09/2008	Legislative proposal published	<a href="#">11925/2/2008</a>	Summary
15/09/2008	Vote in committee		Summary
16/09/2008	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0352/2008</a>	
23/09/2008	Debate in Parliament		
24/09/2008	Results of vote in Parliament		

24/09/2008	Decision by Parliament	<a href="#">T6-0442/2008</a>	Summary
24/10/2008	Act adopted by Council after consultation of Parliament		
24/10/2008	End of procedure in Parliament		
08/11/2008	Final act published in Official Journal		

Technical information	
Procedure reference	2008/0078(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by <a href="#">2009/0136(NLE)</a> Repealed by <a href="#">2012/0033B(NLE)</a>
Legal basis	EC Treaty (after Amsterdam) EC 066
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/62019

Documentation gateway					
Supplementary legislative basic document		<a href="#">COM(2008)0197</a>	16/04/2008	EC	Summary
Committee draft report		<a href="#">PE409.548</a>	27/08/2008	EP	
Legislative proposal		<a href="#">11925/2/2008</a>	03/09/2008	CSL	Summary
Amendments tabled in committee		<a href="#">PE412.161</a>	11/09/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0352/2008</a>	16/09/2008	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0442/2008</a>	24/09/2008	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2008)6073</a>	17/10/2008	EC	
Follow-up document		<a href="#">COM(2009)0555</a>	22/10/2009	EC	Summary
Follow-up document		<a href="#">COM(2010)0221</a>	06/05/2010	EC	Summary
Follow-up document		<a href="#">COM(2010)0633</a>	05/11/2010	EC	
Follow-up document		<a href="#">COM(2011)0391</a>	29/06/2011	EC	Summary
Follow-up document		<a href="#">COM(2011)0907</a>	20/12/2011	EC	
Follow-up document		<a href="#">COM(2012)0334</a>	22/06/2012	EC	Summary
Follow-up document		<a href="#">COM(2012)0587</a>	11/10/2012	EC	Summary
Follow-up document		<a href="#">COM(2013)0305</a>	27/05/2013	EC	Summary
Follow-up document		<a href="#">COM(2013)0777</a>	02/12/2013	EC	Summary

Additional information					

## Final act

Regulation 2008/1104  
OJ L 299 08.11.2008, p. 0001 Summary

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

PURPOSE: to establish the legal framework governing the migration from (SIS 1+) to the second generation Schengen Information System (SIS II).

PROPOSED ACT: Council Regulation.

BACKGROUND: the Schengen Information System (SIS) was first established in 1990 as an information exchange network, servicing fifteen EU Member States plus Iceland and Norway. Initially it acted on an intergovernmental basis. Its purpose: to act as an information exchange network to allow the Member States to obtain information on certain categories of persons and properties (mostly vehicles) upon the lifting of internal restrictions. Its remit covers the free movement of people within the EU as well as judicial co-operation between the authorities in criminal matters. SIS is vital to the proper functioning of an internal space in which borders have been lifted and where common borders operate.

In 2001, prior to enlargement, the Council agreed to update and modernise the SIS network to take account of an enlarged Schengen geographical area. The new system, SIS II, will be developed, operated and managed by the Commission with funding for its operations stemming from the EU's budget as opposed to Member State contributions. The legal act confirming this development is Regulation (EC) No 2424/2001. (See [CNS/2001/0818](#)).

Whilst waiting for SIS II to be completed, the Council has prepared a transitory version capable of assuming the same functions of the future SIS II and based upon the original SIS, namely SIS 1+. With SIS II close to completion it now time to prepare for a transition phase whereby SIS 1+ users can migrate onto SIS II. Preparing the legal structure for this migration process is the purpose of this proposal. It should be noted that the legal structure of SIS II has already been in place since 2006 with the adoption of two legislative acts, namely: Regulation (EC) No 1987/2006 [COD/2005/0106](#); and Council Decision 2007/533/JHA [COD/2005/0103](#).

CONTENT: the purpose of this proposal is:

- to establish the legal framework governing the migration from (SIS 1+) to the second generation Schengen Information System (SIS II);
- to prepare a comprehensive test, demonstrating that the level of performance of SIS II is at least equivalent to that achieved with SIS 1+; and
- to regulate tests on the exchange of supplementary information.

Interim Migration architecture:

The proposal amends the Schengen Convention by setting up an interim migration architecture for the operations of SIS 1+ during a transitional period until the migration process has been completed. To this end, the proposal defines an interim Schengen Information System architecture and lays down the tasks and responsibilities for its development as well as the tasks and responsibilities during the migration process. The technical architecture will allow the current central system of SIS 1+ to remain in operation during a transitional period. Beyond the availability of SIS 1+ and the Central SIS II, a technical tool (referred to as a ?converter?) will allow for the successful exchange of SIS data between SIS 1+ and SIS II. This is to be used for a very limited period of time only.

Some elements of the interim architecture will be made available by the Member States, others by France acting on behalf of the Member States, and others by the Commission. The Commission will have the option of contracting out the execution of certain tasks to, amongst others, national public bodies. The Commission and the Member States must closely collaborate in the development and operation of the technical elements for the SIS interim architecture.

Migration to the SIS II:

With France offering support, all Member States using SIS 1+ will be asked to migrate to SIS II using the interim migration architecture. The migration will follow a schedule defined by the Member States and France will make the SIS 1+ database available to SIS 1+ users.

Maintenance and development:

The proposal covers all maintenance and further development activities of the Central SIS II, the communication infrastructure and the national systems (N.SIS II) that will prove necessary during the period of its application. Under the terms of the proposal the Commission will maintain responsibility for the Central SIS II and the communication infrastructure, whilst the Member States will maintain responsibility for N.SIS.II.

Personal data:

The Commission will be responsible for ensuring that every access to and all exchange of personal data within Central SIS are recorded for the purpose of checking whether or not the search is lawful, monitoring the lawfulness of data processing and ensuring the proper functioning of Central SIS II and of the national systems, data integrity and security.

Costs:

The total financial envelope set aside for this proposal amounts to EUR 9.350 million for the year 2009. The costs arising from activities at SIS 1+ level, including supplementary activities of France, acting on behalf of SIS 1+ Member States, will be borne in line with Article 119 of the Schengen Convention. This article provides that the costs of installing and operating the technical support function of SIS 1+, including the cost of lines connecting the national sections of the Schengen Information System to the technical support function, are borne jointly by the Member States. The cost of installing and operating the national section of the Schengen Information System, on the other hand, are to be borne by each Member State individually.

#### Legal base:

The legal basis of this proposal is Article 66 of the TEU concerning:

- measures to ensure cooperation between the relevant departments of the administration of the Member States; and
- between those departments and the Commission for policies related to the free movement of persons.

A Council Regulation based on Article 66 of the TEU is the most appropriate instrument in view of the need to apply fully-harmonised rules for the migration process. The provisions set out in this Regulation must be a set of precise and unconditional provisions directly and uniformly applicable in a mandatory way and, by their very nature, require no action by Member States to transpose them into national law. A parallel proposal for a ?Council Decision? is being presented alongside this one. (See: [CNS/2008/0077](#)).

Territorial application: Denmark, the United Kingdom and Ireland will not be taking part in the adoption of this Regulation.

#### Entry into force:

On a final point, the present Regulation needs to be adopted by October 2008 at the latest in order to ensure the continuity of preparations and the timely execution of activities covered.

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

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The Council took note of a report on the development of the SIS II project.

According to the SIS II time schedule, Compliance Tests for all Member States should be completed by 3 October 2008 at the latest.

After the enforcement of the Schengen Association Agreement associating Switzerland with the implementation of the provisions of the Schengen acquis on 1 March 2008, the Swiss Government declared its readiness for the Schengen evaluation process. The Slovenian Presidency welcomes Switzerland's commitment to giving the highest priority to the SIS II project.

The Council also confirmed the conclusions of a report on the open issues relating to SIS II and took note of the Commission proposals on migration from SIS 1+ to the second generation Schengen Information System (SIS II).

Finally, the Commission confirmed that, on the basis of the open issues report, it will present a detailed schedule for SIS II implementation at the June 2008 Justice and Home Affairs Council.

It should be noted that the Council meeting on 28 February adopted a number of conclusions regarding the development of the second generation of the Schengen Information System (SIS II), inter alia, an additional mechanism, supporting the SIS II development in the Member States until the start of operations. The Council also invited the Slovenian Presidency to report to the Council in April 2008 on open issues relating to the detailed SIS II schedule, on the basis of a report prepared by the Friends of SIS II, the mechanism which was, pursuant to the Council conclusions, established immediately.

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

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The Council took note of the current state of play and of a new schedule for implementing the second generation of SIS (SIS II). In accordance with the schedule, migration from SIS1+ to SIS II is planned for September 2009.

This schedule will allow all sides (Schengen states, non-Schengen states and the Commission) to prepare their planning for the further development and start of the operations of the SIS II.

The schedule was afterwards adopted by the Council without discussion.

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

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The Council has agreed upon a revised version of the proposal for a Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

The new version is based on a compromise reached between Member State delegations. The text should now be examined by the European Parliament.

Two main amendments have been made to the proposal, they concern :

- Article 3, paragraph 1: comprehensive test: the amendments are the result of informal discussions between the Presidency and the Commission in order to take account of concerns expressed by certain Member States at the last meeting of the ?Schengen Acquis? Group while maintaining the global schedule for SIS II, approved by the Council on 6 June 2008 (please refer to the Council activities

of June 2008 : it is provided that the migration of SIS 1+ to SIS II is planned for September 2009;

- Article 11, paragraph 1: amendment of Article 92 of the Schengen Convention on the obligations as regards the technical support function of the Central SIS II.

Comprehensive test: in order to overcome potential problems due to the migration from SIS 1+ to SIS II, it is proposed to set up and test an interim migration architecture for the operations of SIS 1+ during a transitional period until the migration process has been completed. In the revised text, the comprehensive test shall only be carried out after the Commission has validated the SIS II tests referred to [Council Regulation \(EC\) No 189/2008](#) on the tests of the second generation Schengen Information System (SIS II). The comprehensive test shall be executed by the Member States participating in SIS 1+ and by the Commission. The comprehensive test shall follow a detailed schedule and detailed specifications defined by Member States participating in SIS 1+ acting within the Council in cooperation with the Commission. Moreover, the Commission and the Member States participating in SIS 1+ acting within the Council shall define the criteria for determining whether the level of performance of SIS II is at least equivalent to that achieved with SIS I.

Test on supplementary information: ?test on supplementary information? means functional tests between the SIRENE Bureaux, aimed to test the exchange of supplementary information. The test on supplementary information shall follow a detailed schedule and be based on technical specifications defined by Member States participating in SIS 1+ acting within the Council. Member States not participating in SIS 1+ may participate in the test on supplementary information.

Migration from SIS 1+ to SIS II: the revised text states that for the migration from C.SIS to Central SIS II, France shall make available the SIS 1+ database and the Commission shall introduce the SIS 1+ database into Central SIS II. The Member States participating in SIS 1+ shall migrate from N-SIS to N.SIS II using the interim migration architecture, with the support of France and of the Commission, by 30 September 2009 at the latest. The migration of the national system from SIS 1+ to SIS II consists of the data loading of SIS II, when that SIS II is to contain a data file (a 'national copy'), containing a complete or partial copy of the SIS II database, followed by a switchover from SIS to SIS II for each Member State. The migration shall follow a detailed schedule provided by the Commission and the Member States participating in SIS 1+ acting within the Council. The Commission shall assist in coordination and support of the common activities during the migration.

Main responsibilities for the development of SIS II: clarifications have been made concerning the responsibilities of the Commission and the Member States in the implementation of SIS II. These new provisions determine in particular the responsibility of the Commission which should remain responsible for the Central SIS II, its maintenance, development, its communication infrastructure and the converter which will allow for the successful exchange of SIS data between SIS 1+ and SIS II. Additional development of the Central SIS II should at all times include the correction of errors. The Commission should provide coordination and support for the joint activities. The Commission should provide, in particular, the necessary technical and operational support to the Member States at Central SIS II level including the availability of a helpdesk. As regards the Member States, they should remain responsible for their national systems (N.SIS II) and France should remain responsible for the technical support function of SIS 1+. This responsibility is expressly provided for in the provisions of Article 92(3) of CISA. This particular position should result in a special role for France during final tests, as described by this Regulation, and migration from SIS 1+ to SIS II. Representatives of the Member States participating in the SIS 1+ should coordinate their actions within the framework of the Council. It is necessary to set out a framework for that organisational action. The Commission has the possibility to contract out to third parties, including national public bodies, tasks conferred upon it by this Regulation and tasks relating to the implementation of the budget. Data protection rules should be respected in accordance with the provisions of the Schengen Convention.

Amendment of the provisions of the Schengen Convention: additional amendments have been made to the Schengen Convention to take account of the changes made to the proposal. As regards SIS 1+, Article 92 of the Schengen Convention provides for a technical support function (C.SIS). As regards SIS II, Regulation (EC) No 1987/2006 and Decision 2007/533/JHA provide for a Central SIS II composed of a technical support function and a uniform national interface (NI-SIS). In the revised text, the Council states that the technical support function of Central SIS II shall be located in Strasbourg (France) and a back-up in St. Johann im Pongau (Austria). France is and should remain responsible for the technical support function of SIS 1+.

It should be noted that during the migration, the provisions of Title IV of the 1990 Schengen Convention shall continue to apply to the Schengen Information System.

Comitology: new provisions have also been provided as regards decision-taking and comitology. Technical provisions are provided concerning the general purpose and the definitions associated with the SIS.

The proposed Regulation should expire as soon as the SIS II enters into force.

Lastly, the United Kingdom has maintained its parliamentary scrutiny reserve on this text.

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

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drafted by Carlos COELHO (EPP-ED, PT) approving the draft Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

Two amendments, adopted under the consultation procedure, concern the following points:

- the Commission shall submit by the end of every six-month period, and for the first time by the end of the first six-month period of 2009, a progress report to the European Parliament and the Council concerning the development of SIS II and migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II);
- the Regulation should expire no later than 30 June 2010.

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

The European Parliament adopted, by 492 votes to 25 with 40 abstentions, a legislative resolution amending the draft Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II). The report had been tabled for consideration in plenary by Carlos COELHO (EPP-ED, PT) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

The amendments, adopted under the consultation procedure, concern the following points:

- a new Article on reporting states that the Commission shall submit by the end of every six-month period, and for the first time by the end of the first six-month period of 2009, a progress report to the European Parliament and the Council concerning the development of SIS II and migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II);
- the Regulation should expire no later than 30 June 2010.

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

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PURPOSE: to establish the legal framework governing the migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

LEGISLATIVE ACT: Council Regulation (EC) No 1104/2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

BACKGROUND: the Schengen Information System was established at the same time as the Schengen Convention (1990) as a compensatory tool for the gradual removal of border controls and an essential element for the free movement of persons in an area without internal borders, the Schengen area. Initially acting on an intergovernmental basis, SIS consists of an information exchange network to allow the Member States to obtain information on certain categories of persons and properties (mostly vehicles) and has gradually been integrated into the EU framework.

Operational since 1995, it quickly became necessary to develop the functionalities of SIS to enable it to use advanced technologies. As a result, as of 2001 the Council conferred on the Commission the task of developing a second generation Schengen Information System, or SIS II, through a specific legal framework ([Decision 2001/886/JHA](#) and [Regulation \(EC\) No 2424/2001](#)), and providing that expenditure for this development should stem from the general EU budget.

Whilst waiting for SIS II - which can take account of an enlarged Schengen geographical area - to be completed, the Council has prepared a transitory version capable of assuming the same functions of the future SIS II and based upon the original SIS, namely SIS 1+.

As this transition phase is coming to an end, the migration of SIS 1+ users to SIS II is now necessary. To enable this migration to take place, an interim architecture and test-run are essential, in order to ensure the uninterrupted functioning of SIS during the migration phase. This Regulation makes provisions for this (as does the corresponding Decision ? see below).

Following the migration, the legal framework of SIS II, which has been in place since 2006, will take over from the legal framework adopted here in [Regulation \(EC\) No 1987/2006](#) and [Council Decision 2007/533/JHA](#) on the establishment, the operation and the use of SIS II.

Specific legal character of the provision: the Regulation is based on Article 66 of the TEU. Given that SIS II falls under the first and third pillars, a [parallel Council Decision](#) based on Article 30(1), points a) and b), and Article 34(2), point c) of the TEU complements this Regulation.

CONTENT: in the framework of the migration from SIS 1+ to SIS II, this Regulation defines the tasks and responsibilities of the Commission, France and other Member States participating in SIS 1+ in terms of:

- the maintenance and continuation of the development of SIS II;
- a comprehensive test of SIS II;
- a test on supplementary information and testing of a converter (a system to move from one system to another);
- the establishment and testing of a provisional migration architecture;
- the migration from SIS 1+ to SIS II.

Main activities: an interim SIS migration architecture shall be set up and a test of that architecture shall be performed by the Commission together with France (which ensures the technical support function of Central SIS II) and the other Member States participating in SIS 1+. The Commission and the Member States participating in SIS 1+ shall perform the migration from SIS 1+ to SIS II, whereas the Member States participating in SIS 1+ shall perform a test on the exchange of supplementary information. The comprehensive test shall be executed by the Member States participating in SIS 1+ and by the Commission. In this context, there are provisions to define the respective responsibilities of the Commission and the Member States in terms of supporting the implementation of the migration.

Costs: the costs arising from migration, the comprehensive test, the test on supplementary information, maintenance and development measures at Central SIS II level or concerning the communication infrastructure shall be borne by the general budget of the European Union. The costs arising from migration, testing, maintenance and development of the national systems shall be borne by each Member State concerned. The costs arising from activities at SIS 1+ level, including supplementary activities of France, acting on behalf of the Member States participating in SIS 1+, shall be borne in accordance with the Schengen Convention.

Comprehensive test: the Regulation defines the different stages needed to carry out the comprehensive test as well as the responsibilities of the Member States and the Commission in this respect. There are also provisions for planning the test on supplementary information.

Interim migration architecture: the Regulation provides for the establishment of an interim SIS migration architecture. It provides, in particular, the technical terms for the migration from SIS 1+ to SIS II. The migration should take place by 30 September 2009.

The Regulation also contains provisions to formalise cooperation between the Member States and the Commission with a view to implementing all the activities covered by the Regulation. Lastly, a series of provisions focus on the necessary modifications to the Schengen Convention, alongside the adoption of this Regulation. During the migration, provisions under Title IV of the Schengen Convention shall continue to apply to SIS.

Reports: the Commission shall submit to the European Parliament and the Council a twice-yearly report on the implementation of this Regulation (and for the first time at the end of the first half of 2009).

Territorial provisions: the Regulation shall apply to Iceland, Norway, Switzerland and Liechtenstein as countries associated with the Schengen acquis. However, it shall not apply to the United Kingdom, Ireland and Denmark, unless these countries subsequently decide otherwise in accordance with the relevant provisions of the Treaty and its Protocols.

Entry into force and applicability: the Regulation shall enter into force on 11 November 2008. In any case, it shall expire no later than 30 June 2010.