


Procedure file

Basic information		
NLE - Non-legislative enactments Regulation	2012/0033A(NLE)	Procedure completed
Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - including the participation of United Kingdom and Ireland. Recast		
Repealing Decision 2008/839/JHA 2008/0077(CNS)		
Subject 7.10.02 Schengen area, Schengen acquis		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		16/05/2012
		PPE COELHO Carlos	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs		03/05/2012
		EFD SPERONI Francesco Enrico	
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	3213	20/12/2012
European Commission	Commission DG	Commissioner	
	Migration and Home Affairs	MALMSTRÖM Cecilia	

Key events			
30/04/2012	Initial legislative proposal published	COM(2012)0081	Summary
13/07/2012	Legislative proposal published	11142/1/2012	Summary
25/10/2012	Committee referral announced in Parliament		
05/11/2012	Vote in committee		
12/11/2012	Committee report tabled for plenary, 1st reading/single reading	A7-0368/2012	Summary
21/11/2012	Results of vote in Parliament		
21/11/2012	Decision by Parliament	T7-0440/2012	Summary
20/12/2012	Act adopted by Council after consultation of Parliament		

20/12/2012	End of procedure in Parliament		
29/12/2012	Final act published in Official Journal		

Technical information

Procedure reference	2012/0033A(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Regulation
	Repealing Decision 2008/839/JHA 2008/0077(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 074
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/09446

Documentation gateway

Initial legislative proposal		COM(2012)0081	30/04/2012	EC	Summary
Document attached to the procedure		N7-0124/2012 OJ C 336 06.11.2012, p. 0010	09/07/2012	EDPS	Summary
Legislative proposal		11142/1/2012	13/07/2012	CSL	Summary
Amendments tabled in committee		PE496.507	24/09/2012	EP	
Committee draft report		PE494.661	29/10/2012	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0368/2012	12/11/2012	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0440/2012	21/11/2012	EP	Summary
Commission response to text adopted in plenary		SP(2013)73	23/01/2013	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2012/1272](#)
[OJ L 359 29.12.2012, p. 0021](#) Summary

Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - including the participation of United Kingdom and Ireland. Recast

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 [2012/0033B\(NLE\)](#).

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 Commissions initial proposal, the 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 Councils new draft text retains the Commissions 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 Regulations 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:

- 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 will participate. These two Member States shall therefore 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.

Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - including the participation of United Kingdom and Ireland. Recast

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Carlos COELHO (EPP, PT) on the draft Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) as amended by the Council and as adapted to the recommendations of Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission.

In accordance with Parliaments Rules of Procedure, and in particular Rule 87(3), 3rd subparagraph, the committee is required to notify its intention to submit amendments to the codified parts of the proposal to the Council and the Commission and refer to point 8 of the interinstitutional agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts. In view of the fact that in the latest version of the text examined, the Council also introduced amendments in the codified part, Members also propose new amendments to these parts of the text.

The main amendments may be summarised as follows:

Division of the original text: Members agree with the splitting of the original text into two parts: one applicable to the UK and Ireland (this proposal) and the other not applicable to these two Member States ([NLE/2012/0033B](#)) for reasons of legal clarity that these two new texts provide.

Entry into force of the text: Members favour the insertion of a formal date for the entry into force of the future Regulation. They consider that the development of SIS II should be continued and should be finalised at the latest by 30 June 2013. Members think it is necessary to set a date for the finalisation of the migration and for the expiry of the Regulation. Otherwise, they fear that it will be further delayed.

Supervision of data protection: Members call for efficient supervision of the complex migration. This should be achieved through an effective cooperation between the current and future supervisory authorities. The SIS 1+ was covered by a Convention, while SIS II relies on Member States' authorities for national supervision and on the EDPS for the central unit, requiring a close cooperation between them, in order to ensure a smooth transition. They call for the Joint Supervisory Authority to be responsible for supervising the technical support function of the current SIS 1+ until the entry into force of the SIS II legal framework. National Supervisory Authorities would be responsible for the supervision of SIS 1+ data processing on the territory of their respective Member States and would remain responsible for monitoring the lawfulness of the processing of SIS II personal data on the territory of the Member States. They also suggest that the National Supervisory Authorities and the European Data Protection Supervisor should ensure the coordinated supervision of SIS II.

Quality of data: Members consider it of the utmost importance to ensure the quality of the data which eventually will be used by SIS II users.

Personal data are particularly sensitive in this regard as errors can have extremely negative consequences for persons, for example unjustified arrests or refusals at the border. It is therefore necessary to check the correctness of data, through the identification of any errors or discrepancies in the data migrated from one system to the other.

Deletion of data: Members believe that once the SIS II is fully operational, none of the current SIS data should be available outside the SIS II. It is necessary for reasons of proper data management and control to avoid that SIS data is kept elsewhere. It should therefore be clarified that this data will be deleted. These data shall be deleted at the latest one month after the end of the intensive monitoring period.

Completion of the switchover process: at the end of the complex migration process, there should be a validation to determine if the migration and the following switchover were successful. As a result, on the basis of information provided by the Member States and the responsible supervisory authorities, the Commission shall report to the European Parliament and the Council on the completion of the migration, in particular on the switchover of the Member States to SIS II. This report shall confirm whether the migration and in particular the switchover have been carried out in full compliance with this Regulation at central as well as at national level, and that the processing of personal data during the entire migration was in accordance with Regulation (EC) No 45/2001 and Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Migration of the SIRENE bureaux: Members recall that the SIS 1+ and the SIRENE systems operate at the moment on the SISNET communications network. The launch of SIS II operations requires also the migration of the SIRENE bureaux to the S-TESTA network for the exchange of supplementary information.

Information to the European Parliament: lastly, Members consider that the sis-monthly report prepared by the Commission on the progress of the development of SIS II and the migration from SIS I+ to SIS II should also include information of the results of the migration tests.

Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - including the participation of United Kingdom and Ireland. Recast

The European Parliament adopted by 631 votes to 46, with 15 abstentions, a legislative resolution on the draft Council Regulation on migration from the Schengen Information System (SIS I+) to the second generation Schengen Information System (SIS II) (recast).

Parliament adopted the Councils draft, as adapted to the recommendations of Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, and amended as follows:

Division of the original text: Parliament agrees with the splitting of the original text into two parts: one applicable to the UK and Ireland (this proposal) and the other not applicable to these two Member States ([NLE/2012/0033B](#)) for reasons of legal clarity that these two new texts provide.

Entry into force of the text: Parliament favours the insertion of a formal date for the entry into force of the future Regulation. It considers that the development of SIS II should be continued and finalised at the latest by 30 June 2013. It also considers it is necessary to set a date for the finalisation of the migration and for the expiry of the Regulation. Otherwise, it fears that it will be further delayed.

Revision of the Regulation: Parliament calls for the elaboration of an alternative technical scenario for developing SIS II based on SIS 1+ evolution (SIS 1+ RE) as the contingency plan, in case the tests demonstrate non-compliance with the milestone requirements. In this case, the Commission should present a proposal to revise this Regulation.

Supervision of data protection: Parliament calls for efficient supervision of the complex migration. This should be achieved through an effective cooperation between the current and future supervisory authorities. The SIS 1+ was covered by a Convention, while SIS II relies on Member States' authorities for national supervision and on the EDPS for the central unit, requiring a close cooperation between them, in order to ensure a smooth transition. It calls for the Joint Supervisory Authority to be responsible for supervising the technical support function of the current SIS 1+ until the entry into force of the SIS II legal framework. National Supervisory Authorities would be responsible for the supervision of SIS 1+ data processing on the territory of their respective Member States and would remain responsible for monitoring the lawfulness of the processing of SIS II personal data on the territory of the Member States. It also suggests that the National Supervisory Authorities and the European Data Protection Supervisor should ensure the coordinated supervision of SIS II.

Quality of data: Parliament considers it of the utmost importance to ensure the quality of the data which eventually will be used by SIS II users. Personal data are particularly sensitive in this regard as errors can have extremely negative consequences for persons, for example unjustified arrests or refusals at the border. It is therefore necessary to check the correctness of data, through the identification of any errors or discrepancies in the data migrated from one system to the other.

Deletion of data: Parliament believes that once the SIS II is fully operational, none of the current SIS data should be available outside the SIS II. It is necessary for reasons of proper data management and control to avoid that SIS data is kept elsewhere. It should therefore be clarified that this data will be deleted. These data shall be deleted at the latest one month after the end of the intensive monitoring period.

Completion of the switchover process: at the end of the complex migration process, there should be a validation to determine if the migration and the following switchover were successful. As a result, on the basis of information provided by the Member States and the responsible supervisory authorities, the Commission shall report to the European Parliament and the Council on the completion of the migration, in particular on the switchover of the Member States to SIS II. This report shall confirm whether the migration and in particular the switchover have been carried out in full compliance with this Regulation at central as well as at national level, and that the processing of personal data during the entire migration was in accordance with Regulation (EC) No 45/2001 and Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Migration of the SIRENE bureaux: Parliament recalls that the SIS 1+ and the SIRENE systems operate at the moment on the SISNET communications network. The launch of SIS II operations requires also the migration of the SIRENE bureaux to the S-TESTA network for the exchange of supplementary information.

Information to the European Parliament: Parliament considers that the sis-monthly report prepared by the Commission on the progress of the development of SIS II and the migration from SIS I+ to SIS II should also include information of the results of the migration tests.

Other territorial provisions: lastly, Parliament stipulates that the Regulation constitutes a development of provisions of the Schengen acquis, in which Bulgaria and Romania are participating in accordance with the 2005 Act of Accession.

Schengen area: migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) - including the participation of United Kingdom and Ireland. Recast

PURPOSE: further to the entry into force of the Lisbon Treaty, to merge the migration legal framework into a single legal act which was previously split between two legislative instruments according to the pillar structure of the previous Treaties ([Regulation \(EC\) No 1104/2008](#) and [Council Decision 2008/839/JHA](#) on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)) and to include in the legal framework some additional flexibility to avoid unnecessary costs relating to the migration process.

LEGISLATIVE ACT: Council Regulation (EU) No 1272/2012 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast).

BACKGROUND: the Schengen Information System (SIS) set up pursuant to the provisions of Title IV of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, and the further development, thereof, SIS 1+, constitute essential tools for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union.

With rapid technological development and the geographical extension of the SIS, a second generation SIS or SIS II became necessary. The establishment, operation and use of SIS II are laid down in the following two key texts:

- [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);
- [Council Decision 2007/533/JHA](#) on the establishment, operation and use of the second generation Schengen Information System (SIS II).

The migration from the current SIS1+ to SIS II is itself governed by two legal instruments: [Council Regulation \(EC\) No 1104/2008](#) and [Decision 2008/839/JHA](#), in line, from a legal point of view, with pillar structure of the previous TEC and TEU Treaties.

This migration is still under way.

Furthermore, the Regulation contains a series of new provisions designed to take account of the complex migration programme under way.

CONTENT: this Regulation seeks to recast the two legislative acts into a single legal instrument, in accordance with the Lisbon Treaty, the previous texts some of which have become obsolete and could not be amended in their previous form.

In addition to the recast of these texts, this Regulation also seeks to integrate changes in form as well as content in order to take into account the complex migration process that is under way:

1. **Switchover to the new system:** the Migration Plan envisages that within the switchover period all Member States, consecutively, will perform their individual switchover of the national application from SIS 1+ into SIS II. It is desirable from a technical point of view that Member States that have switched over to be able to use the full scope of SIS II from the time of the switchover and not have to wait until other Member States have also switched over, i.e. once the first Member State has launched the switchover.

For reasons of legal certainty, the period of switchover should be kept as short as possible, and should not exceed 12 hours.

2. **Interim migration architecture:** in order to better manage the potential difficulties brought about by the migration from SIS 1+ to SIS II, an interim migration architecture for SIS is to be established and tested. The interim migration architecture for the operations of SIS 1+ allows SIS 1+ and certain technical parts of the SIS II architecture to operate in parallel during a limited transitional period. It is planned to maintain the application of certain provisions of Title IV of the Schengen Convention on a temporary basis by incorporating those provisions into this Regulation as they provide the legal framework for the converter and the interim migration architecture during the migration.

3. **Financing and costs arising from migration:** with regard to the migration process from SIS 1+ to SIS II, the evolution in requirements and the advances made in the completion of the SIS II project led to a redefinition of the migration architecture, of the migration calendar and of the testing requirements. An important part of the activities that would now be required at Member State level for the migration to SIS II were not anticipated at the time when Regulation (EC) No 1104/2008 and Decision 2008/839/JHA were adopted or at the time when the financial package and the multiannual programmes under the External Borders Fund (EBF) were drawn up. It is, therefore, necessary to partly realign the cost distribution principles for the migration from SIS 1+ to SIS II. Certain national activities related to that migration, in particular in connection with the participation of Member States in migration-related testing activities could be co-financed from the SIS II budget line of the general budget of the Union. That possibility should cover specific and well-defined activities beyond, and not to coincide with, other SIS II related actions which would continue to be supported under the EBF. The financial assistance thus provided under this Regulation should be complementary to that provided by the EBF.

4. **Timetable and expiry date:** the migration from SIS 1+ to SIS II is a complex process which, despite extensive preparation by all stakeholders, entails significant technical risks. The legal framework provides for the necessary flexibility to respond to unexpected difficulties which the central system or one or several national systems could face during the migration process. Therefore, while for reasons of legal certainty the switchover phase and the intensive monitoring period during which the interim migration architecture continues to exist should be as short as possible, provision is made for the Council, in case of technical difficulties, to fix the final date for the termination of migration in accordance with Article 55(2) of Regulation (EC) No 1987/2006 and Article 71(2) of Decision 2007/533/JHA.

Territorial provisions: it should be noted that for reasons of legal clarity, two parallel Regulations have been adopted, of which one (this Regulation) is applicable in the United Kingdom and Ireland, while the second one is not ([2012/0033B\(NLE\)](#)).

ENTRY INTO FORCE: the Regulation enters into force on 30.12.2012. It shall expire upon the termination of the migration. If that date cannot be complied with due to outstanding technical difficulties related to the migration process, it shall expire on a date to be fixed by the Council,

