

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

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

PROPOSED ACT: Council Decision.

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 developments 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 IS 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 the test on 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 bases for this Decision are: Articles 30(1) (a) and (b); 31 (1) (a) and (b) and 34 (2) (c) of the TEU. These concern:

- operational cooperation between the competent authorities of the Member States in relation to the prevention, detection and investigation of criminal offences; and
- the collection, storage, processing, analysis and exchange of relevant information.

This proposal deals with facilitating and acceleration cooperation between the competent ministries and judicial or equivalent authorities of the Member States, including, where appropriate, cooperation through

Eurojust. For the purposes of this proposal a Council Decision is considered the most appropriate instrument in view of the need to apply common rules to the processing of data in the system. A framework Decision would not be appropriate given that the proposal involves no approximation of the laws of the Member States. A parallel proposal for a “Regulation” is being presented alongside this one. (See: [CNS/2008/0078](#)).

Territorial application: The United Kingdom, Ireland, Iceland, Norway, Switzerland and Liechtenstein will be taking part in the adoption of this Decision.

Entry into force: On a final point, the present Decision 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.