

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

2008/0078(CNS) - 24/10/2008 - Final act

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.