European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

2009/0089(COD) - 19/03/2010 - Legislative proposal

PURPOSE: to establish a European Agency for the operational management of large-scale information technology ("IT") systems.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: in June 2009, the Commission adopted a legislative proposal package to establish an Agency responsible for the operational management of large-scale IT systems in the area of freedom, security and justice (***for more details, please refer to the summary dated 24 June 2009***).

The legislative package initially consisted of two proposals: a proposal for a Regulation establishing the Agency, and a proposal for a Council Decision conferring upon the Agency established by this Regulation tasks regarding the operational management of SIS II and VIS in application of Title VI of the EU Treaty. The proposed Regulation covered the SIS II, VIS and EURODAC to the extent they were governed by the EC Treaty. The proposed Decision covered the SIS II and VIS to the extent they were governed by the EU Treaty.

Upon entry into force of the Lisbon Treaty on 1 December 2009, the former distinction between EC Treaty and EU Treaty legal bases in the area of freedom, security and justice disappeared. Moreover, as notified to the European Parliament and to the Council by the Communication in December 2009, the proposal for a Council Decision lapsed and was formally withdrawn.

Therefore, these **two texts need to be merged into this single amended proposal for a Regulation**, which takes into account the changes resulting from the entry into force of the Lisbon Treaty and which contains the substantive provisions initially proposed as a Council Decision.

IMPACT ASSESSMENT: **five** possible options to achieve the objective of long-term

operational management of SIS II, VIS and EURODAC were analysed:

- ***Option 1 - baseline***: the operational management solution for SIS II and VIS identified for the transitional period (the Commission entrusting the operational management tasks to Member States' authorities) would be continued as a permanent solution. Currently, EURODAC is managed by the Commission and this solution would also be maintained;
- ***Option 2 - baseline+***: under which the Commission would entrust the operational management tasks related to SIS II, VIS and EURODAC to Member States' authorities;
- ***Option 3 - a new Regulatory Agency*** that would assume responsibility for the long-term operational management of SIS II, VIS and EURODAC;
- ***Option 4 - FRONTEX*** would manage the three systems, which would entail changes to both its basic act and its management structure;
- ***Option 5 - EUROPOL*** would manage SIS II, whereas the Commission would manage VIS and EURODAC. This option was considered while negotiations on the conversion of the current Europol Convention into a Community act were still ongoing.

As a result of a comparative analysis, the new Regulatory Agency option, which aims to create a joint operational management structure (**option 3**) for SIS II, VIS and EURODAC scored highest.

LEGAL BASIS: Articles 77(2)(a) and (b), 78(2)(e), 79(2)(c), 74, 82(1)(d) and 87(2)(a) of the Treaty on the Functioning of the EU. The proposal respects the principle of subsidiarity, as the objective of the proposed action, the conferring of the operational management of Central SIS II, Central VIS and the National Interfaces, Central EURODAC, as well as certain aspects of their communication infrastructure, on an Agency, cannot be achieved by the Member States individually.

CONTENT: the proposal aims to establish a European Agency for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS), EURODAC and for developing and managing other large-scale IT systems, in application of Title V of the Treaty on the Functioning of the EU. The regulatory Agency shall be established as a Union body, having legal personality.

The first tasks to be conferred on the Agency are operational, that is to say, ensuring the overall management of the information systems and the operation of the systems. It would thus become a "centre of excellence" with specialised operational staff.

The Agency's core task will be to fulfil the operational management tasks for SIS II, VIS and EURODAC, keeping the systems functioning 24 hours a day, seven days a week, thus ensuring a continuous, uninterrupted flow of data exchange.

Beyond these operational tasks, the corresponding responsibilities for adopting security measures, reporting, publishing, monitoring, information, organising specific VIS and SIS II related trainings, implementing pilot schemes upon specific and precise request of the Commission and monitoring of research will be assigned to the Agency.

The Agency could also potentially be responsible for developing and managing other large-scale IT systems in the area of freedom, security and justice. This would be subject to legislative instruments establishing such systems that in turn would provide the Agency with the respective competences.

BUDGETARY IMPLICATIONS: the Agency will be funded by the general budget of the European Union. The necessary appropriations to cover the activities of the Agency will come from the appropriations currently foreseen in the Financial Programming 2011-2013 in the budget lines:

- 18 02 04"Schengen Information System (SIS II)";
- 18 02 05"Visa Information System (VIS)";
- 18 03 11"EURODAC".

Therefore, the proposal **does not impact on the financial framework for 2007-2013**.

The financial statement annexed to this proposal is based on the assumption that it will be adopted in 2010 in order for the Agency to be legally established in 2011 and become a fully fledged Agency in **2012**.

Overall, the preparatory and start-up phase of the Agency between 2010 and 2013 is estimated at **EUR 113 million**, which will be covered by the 20072013 financial framework.