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

2010/0006(NLE) - 03/06/2010 - Final act

PURPOSE: to amend Decision 2008/839/JHA on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) in order to provide a new expiry date.

LEGISLATIVE ACT: Council Regulation (EU) No 542/2010 amending Decision 2008/839/JHA on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

BACKGROUND: the Schengen Information System (SIS) was established in 1985 between the governments of the States of the Benelux Economic Union, Germany and France on the gradual abolition of checks at their common borders (the Schengen Convention), and its development, SIS 1+, constitute an essential tool for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union.

The development of the second generation of SIS (SIS II) has been entrusted to the Commission pursuant to Council Regulation (EC) No 2424/2001 and Council Decision 2001/886/JHA on the development of the second generation Schengen Information System (SIS II). SIS II will replace SIS 1+. SIS II development takes into account the latest evolutions in the field of information technology and allows the introduction of added functionalities.

Provisions on the establishment, operation and use of SIS II are laid down in Regulation (EC) No. 1987/2006 of the European Parliament and of the Council and Council Decision 2007/533/JHA. These instruments foresee that they will apply to the Member States participating in SIS 1+ only as of dates to be fixed by the Council, acting by the unanimity of its Members representing the governments of the Member States participating in SIS 1+. They will then replace the provisions of the Schengen *acquis* governing SIS 1+, in particular the relevant provisions in the Schengen Convention.

Before this can happen, **the users of the SIS 1+ will have to migrate to the SIS II environment**. A legal framework for the migration from SIS 1+ to the SIS II environment was therefore designed. In order to reduce the risks of service disruption during migration an interim technical architecture for the operations of SIS 1+ will allow SIS 1+ and certain technical parts of the architecture of SIS II to operate in parallel for a transitional period.

The time-frame of the current migration instruments (Council Decision 2008/839/JHA and Council Regulation (EC) No 1104/2008), and in particular their date of expiry which is currently set to be **30 June 2010** at the latest, **appears no longer realistic**. This Regulation therefore aims to amend the expiry date of Decision 839/2008/JHA and to provide an alternative technical solution if migration fails.

CONTENT: Decision 2008/839/JHA is amended as follows

Extending the expiry date of Decision 2008/839/JHA: the Regulation extends until **31 March 2013** the preconditions for migration from SIS 1 to SIS II.

Global Programme Management Board: the Regulation establishes a group of technical experts, called the Global Programme Management Board. The Board shall be an advisory body for assistance to the central SIS II project and shall facilitate consistency between central and national SIS II projects. The Board shall have no decision-making power nor any mandate to represent the Commission or Member States. It shall be composed of a maximum of 10 members, meeting on a regular basis. A maximum of 8 experts and an equal number of alternates shall be designated by the Member States acting within the Council. A maximum of two experts and two alternates shall be designated by the Director-General of the responsible Directorate-General of the Commission from among the Commission officials. The meetings of the Board may be attended by other Member States' experts and Commission officials directly involved in the development of the SIS II projects, at the expense of their respective administration or institution. The Board shall regularly submit written reports about the progress of the project. The administrative costs and travel expenses arising from the activities of the Board shall be borne by the general budget of the Union.

Towards an alternative technical scenario in case migration fails: the Regulation states that a study has been conducted concerning 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. Based on these parameters, the Council may decide to invite the Commission to switch to the alternative technical scenario. SIS 1+ RE could be a possible technical solution to develop Central SIS II and to achieve the objectives of the SIS II laid down in Regulation (EC) No 1987/2006 and Decision 2007/533/JHA.

As regards the **financing of the development of the Central SIS II based on an alternative technical solution**, it should be covered by the general budget of the Union.

In case of a switchover to an alternative technical scenario, the date to be noted for the expiration of Decision 839/2008/JHA shall be **31 December 2013**.

Territorial application: Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. It may decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law. The United Kingdom and Ireland will participate. Lastly, Iceland, Norway, Switzerland and Liechtenstein will be associated in the implementation of this Regulation.

ENTRY INTO FORCE: 25 June 2010.