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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates
(COM(2005)0237 – C6-0175/2005 – 2005/0104(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Carlos Coelho

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates (COM(2005)0237 – C6-0175/2005 – 2005/0237(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0237)¹,
 - having regard to Article 251(2) and Article 71 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0175/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 2

(2) Regulation XX/2006/EC of the European Parliament and of the Council and Council Decision 2006/XX/JHA on the establishment, operation and use of the second generation of the Schengen Information System (hereinafter "SIS II") constitute the legislative basis for governing the SIS II, which constitutes a shared database between Member States containing, inter alia, data on motor vehicles with a cylinder capacity exceeding 50 cc which have been stolen,

(2) Regulation XX/2006/EC of the European Parliament and of the Council and Council Decision 2006/XX/JHA on the establishment, operation and use of the second generation of the Schengen Information System (hereinafter "SIS II") constitute the legislative basis for governing the SIS II, which constitutes a shared database between Member States containing, inter alia, data on motor vehicles with a cylinder capacity exceeding 50 cc **and trailers with an unladen weight exceeding 750 kg and caravans which**

¹ OJ C ... / Not yet published in OJ.

misappropriated *or* lost.

have been stolen, misappropriated and lost and data on registration certificates for vehicles and vehicle number plates which have been stolen, misappropriated, lost *or invalidated*.

Justification

All data contained in the SIS II to which vehicle registration authorities will get access to by this regulation should be mentioned.

Amendment 2

Recital 7

(7) Government or non-government services clearly identified for this purpose and responsible in the Member States for issuing registration certificates for vehicles should have access to data included in the SIS II concerning motor vehicles with a cylinder capacity exceeding 50cc, trailers ***and caravans*** with an ***unladen*** weight exceeding 750 kg and vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated in order to enable them to check whether the vehicles presented to them for registration have been stolen misappropriated or lost.

(7) Government or non-government services clearly identified for this purpose and responsible in the Member States for issuing registration certificates for vehicles should have access to data included in the SIS II concerning motor vehicles with a cylinder capacity exceeding 50cc, trailers with an ***unladen*** weight exceeding 750 kg ***and caravans*** and vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated in order to enable them to check whether the vehicles presented to them for registration have been stolen misappropriated or lost.

Justification

The text of this recital is changed to reflect the modification of the Schengen Implementing Convention by the so called Spanish initiatives (see Article 1(7)(b) of Council Decision 2005/211/JHA). The difference is that the text of the Spanish initiatives provides for the inclusion of all caravans while the old Schengen Implementing Convention included only caravans with a weight exceeding 750 kg.

Amendment 3
Recital 9

(9) To the extent that services in the Member States responsible for issuing registration certificates for vehicles are non-government bodies, such access should be granted indirectly, that is to say through the intermediary of an authority granted access in accordance with Decision 2006/XX/JHA, responsible for ensuring compliance with the security and confidentiality rules of the Member States.

(9) To the extent that services in the Member States responsible for issuing registration certificates for vehicles are non-government bodies, such access should be granted indirectly, that is to say through the intermediary of an authority granted access in accordance with Decision 2006/XX/JHA, responsible for ensuring compliance with the security and confidentiality rules of the Member States, ***as referred to in Article 10 of this Decision.***

Justification

Given the sensitivity of the security and confidentiality rules it seems to be appropriate to add the precise reference.

Amendment 4
Recital 10

(10) Decision 2006/XX/JHA defines the action to be taken if an access to SIS II brings to light an alert for an object entered in the System.

(10) Decision 2006/XX/JHA, ***in particular Article 36 thereof***, defines the action to be taken if an access to SIS II brings to light an alert for an object entered in the System.

Justification

The reference is added for clarification.

Amendment 5
Recital 12 a (new)

(12a) This Regulation respects the fundamental rights and observes the principles recognised, in particular by the Charter of Fundamental Rights of the European Union.

Justification

The standard recital, which is included in the proposed Regulation and Decision for the SIS II, should also be included here.

Amendment 6
Article 1, paragraph 1

1. Notwithstanding Articles 35, 37 and 40 (1) of Decision 2006/XX/JHA, the services in the Member States responsible for issuing registration certificates for vehicles as referred to in Directive 1999/37/EC, shall have access to the data entered into the SIS II in accordance with Article 35 (a) (b) and (f) of that Decision for the sole purpose of checking whether vehicles presented to them for registration have been stolen, misappropriated or lost.

1. Notwithstanding Articles 35, 37 and 40 (1) of Decision 2006/XX/JHA, the services in the Member States responsible for issuing registration certificates for vehicles as referred to in Directive 1999/37/EC, shall have access to the **following** data entered into the SIS II in accordance with Article 35 (a) (b) and (f) of that Decision for the sole purpose of checking whether vehicles presented to them for registration have been stolen, misappropriated or lost:

Justification

Article 35(a), (b) and (f) provides for more data than vehicle registration authorities are given access to by Regulation 1160/2005 (for example boats, aircraft, industrial equipment). Since the objective should not be to give vehicle registration authorities access to more data the precise data they should be able to access is explicitly mentioned in the following amendments.

Amendment 7
Article 1, paragraph 1, point (a) (new)

(a) data concerning motor vehicles with a cylinder capacity exceeding 50cc which have been stolen, misappropriated or lost;

Justification

See justification for amendment to Article 1(1).

Amendment 8
Article 1, paragraph 1, point (b) (new)

(b) data concerning trailers with an unladen weight exceeding 750 kg and caravans which have been stolen, misappropriated or lost;

Justification

See justification for amendment to Article 1(1).

Amendment 9

Article 1, paragraph 1, point (c) (new)

***(c) data concerning registration
certificates for vehicles and vehicle
number plates which have been stolen,
misappropriated, lost or invalidated.***

Justification

See justification for amendment to Article 1(1).

EXPLANATORY STATEMENT

I. Background

Parliament and Council adopted in 2005 a Regulation¹ giving access to the Schengen Information System for vehicle registration authorities. The objective of this modification of the Schengen Implementing Convention was to fight against fraud and illegal trade in stolen vehicles. The access should allow vehicle registration authorities to better check whether vehicles presented to them for registration have not been stolen, misappropriated or lost.

According to this regulation they have access only to certain specific data in the SIS.² Where vehicle registration services are provided by a private entity, that entity (unlike in the case of public authorities) may access the system only via an authority with access to the SIS (indirect access).

II. The present proposal

The present proposal has the objective to give vehicle registration authorities also access to the second generation Schengen Information System (SIS II). SIS II, while being one IT-system, is created by two different legal acts in the first (proposal for a Regulation COM(2005)236) and third pillar (proposal for a Decision COM(2005)230). A separate legal instrument for vehicle registration authorities is necessary because of the legal basis (Article 71 TEC; transport policy).

The legal link between these texts is achieved by the recitals 2 to 5.³

The legal consequence (for example the case of a person trying to register a stolen car) is regulated in different texts: The present legal act would give the vehicle registration authority the possibility to check whether a vehicle presented to them has been stolen. If this is the case national law would apply (for example to inform the police of such a situation). This is laid down in Article 1(4): *The communication to the police or judicial authorities by services referred to in paragraph 1 of any information brought to light by access to the SIS II which gives rise to suspicion of a criminal offence shall be governed by national law.* Once the police, by national law, learnt about the situation, Article 36 of the third pillar Decision (see recital 10 of the present legal instrument) becomes applicable (the police will via the Sirene authority contact the authority which entered the stolen car.)

III. Position of the rapporteur

¹ Regulation (EC) No 1160/2005 of the European Parliament and of the Council of 6 July 2005 amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles

² data concerning motor vehicles with a cylinder capacity exceeding 50 cc, data concerning trailers and caravans with an unladen weight exceeding 750 kg and data concerning registration certificates for vehicles and vehicle number plates which have been stolen, misappropriated, lost or invalidated

³ In the current Schengen Implementing Convention this was not an issue because the Convention still existed as one text although based on different legal acts and basis.

The rapporteur supports the proposal of the Commission and would like to refer to his report which led to the adoption of the regulation cited above for an in-depth examination about the justification for an access for vehicle registration authorities.¹ The amendments tabled aim only at clarification and are explained in the respective justifications given.

The rapporteur would like to conclude by expressing his disappointment with the government of France: France de facto blocked the effective entry into force of regulation 1160/05 for several months because its technical preparation had not yet been finalised compared to the other Member States. For this reason the adoption of the legal act ensuring the entering of vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated into the SIS was delayed.² However, data which has not been entered yet, can also not be accessed. The rapporteur would like to recall that during the second reading of the legislative procedure leading towards the adoption of regulation 1160/05 he had withdrawn his amendment which would have ensured the entering of this data. At the time he was assured that Council would adopt the necessary acts. The rapporteur would like to underline that the institutions have to cooperate loyally and that also the Member States are obliged to loyal cooperation with the Community.

¹ A5-0205/2004

² Proposal for a Council Decision fixing the date of application of certain provisions of Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism; Council doc. 12576/05