



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Budgets*

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**2009/0136(NLE)**

17.3.2010

## **OPINION**

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation amending Regulation (EC) N° 1104/2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (COM(2009)0508 – C7-0244/2009 – 2009/0136(NLE))

Rapporteur: Alexander Alvaro



## SHORT JUSTIFICATION

Parliament has repeatedly deplored the delays in the development of the SIS II project. It did so, for example, on 22 October 2009, when it adopted a resolution on the progress of the Schengen Information System II and the Visa Information System.

The progress report on the development of SIS II, published by the Commission in October 2009, states that the two SIS II 'milestone' tests are to be carried out in the fourth quarter of 2009 and in summer 2010. As called for in the Council conclusions of 4/5 June 2009, the current SIS II project is being continued as a matter of priority, but a contingency plan (SIS 1+RE) is being held in reserve: If either of the milestone tests were to fail, the Council calls upon the COM to stop the project (guillotine-clause) and to switch to the technical alternative solution SIS 1+RE unless the Council decides with a qualified majority against this course of action. At this Council meeting, the technical feasibility of the alternative SIS 1+RE system is confirmed. That is why the Commission has submitted the new package of proposals (COM(2009)0508 and COM(2010)15) amending the two legal instruments relating to the migration from SIS I + to the second-generation SIS.

The preconditions for migration will not be met by 30 June 2010, nor will the migration be completed by the 4th quarter of 2011. In order for SIS II to become operational as required by Regulation (EC) 1987/2006 and Decision 2007/533/JHA and in case of its failure after testing, an alternative scenario should be envisaged and full financial implications made available to all parties concerned as soon as possible.

Costs for the development of the second generation Schengen Information System as well as costs of setting up, testing, migrating, operating and maintaining Central SIS II and the communication infrastructure are to be borne by the general budget of the European Union. The costs of developing, setting up, testing, migrating, operating and maintaining for the national systems are borne by the Member State concerned. The costs for the Global Programme Management Board (GPMB) shall be covered by the funds already allocated until 2013.

Since 2002 EUR 48.5 Mio have been spent on the development of the migration instrument alone, whereas operational costs amount to a further EUR 33 Mio. During this period, the contractor has repeatedly violated contractual obligations and tests have not proven the platform to function properly, putting the general technical feasibility of the SIS II into question. Furthermore, the contractor has received EUR 1.93 Mio for system tests in 2009 while the fines to the consortium amounting to 390 000 Euro at the end of the contractual phase of the operation tests in September 2009 have been offset against invoices. A further EUR 1.26 Mio has been paid for the first milestone test in January 2010. These additional expenses as well as a probable further investment necessary, should a migration to SIS II fail and an alternative solution be recommended, call for much tighter budgetary scrutiny.

Furthermore, in view of extreme budgetary constraints because of the economic crisis, both for Member States and for the Union itself, and so as not to continue to throw good money after bad, particular rigour is called for in using appropriations for a system which has so far failed to reach the required standard. Your rapporteur recommends Parliament uses its right to hold funds allocated to the migration to the SIS II in reserve pending successful testing and a comprehensive audit so as to ensure and maintain a high level of security within the area of justice, freedom and security. Hence the proposed amendments.

## AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Draft Legislative Resolution Paragraph 1a (new)

*Draft Legislative Resolution*

*Amendment*

***1a. Notwithstanding the fact that Council is treating SIS I+ RE as a contingency plan in the event of a failure of SIS II, the European Parliament, as co-legislator for the establishment of the second generation Schengen Information System (SIS II) (Regulation (EC) No 1987/2006<sup>1</sup>) and budgetary authority, reserves its right to hold in reserve the funds to be allocated for the development of the SIS II in the 2011 annual budget, in order to ensure full parliamentary scrutiny and oversight of the process.***

### Amendment 2

#### Proposal for a regulation – amending act Recital 3

*Text proposed by the Commission*

*Amendment*

(3) The preconditions for migration will not be met by 30 June 2010. In order for SIS II to become operational as required by Regulation (EC) 1987/2006 and Decision 2007/533/JHA, Regulation (EC) No 1104/2008 and Decision 2008/839/JHA should therefore continue to apply until migration has been completed.

(3) The preconditions for migration will not be met by 30 June 2010. In order for SIS II to become operational as required by Regulation (EC) 1987/2006 and Decision 2007/533/JHA, Regulation (EC) No 1104/2008 and Decision 2008/839/JHA should therefore continue to apply until migration has been completed. ***In the event of a failure of the current SIS II project, after testing, an alternative technical solution should be devised and its full financial implications should be disclosed***

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<sup>1</sup> OJ L 381, 28.12.2006, p. 4.

*to all parties concerned.*

### **Amendment 3**

#### **Proposal for a regulation – amending act Recital 6**

*Text proposed by the Commission*

**(6) A technical contingency plan for attaining SIS II functionalities should be foreseen.** The description of the technical components of the migration architecture therefore should be adapted to allow for **another** technical solution regarding the development of Central SIS II.

*Amendment*

**(6) This Regulation should allow for migration to possible alternative technical solutions in the event that the current SIS II project cannot be successfully implemented.** The description of the technical components of the migration architecture should be adapted to allow for **an alternative** technical solution regarding the development of Central SIS II. **Any such alternative technical solution should be cost-effective and implemented in accordance with a precise and reasonable timetable. The Commission should present a thorough budgetary assessment of the costs associated with such an alternative technical solution in a timely fashion.**

*Justification*

*The current revision of the migration instruments should allow for the fact that SIS II has not yet been tested successfully and that the Council is treating SIS I+ RE as a contingency plan. Should the milestone tests fail, it has to be possible to switch quickly to an alternative solution proven cost-effective, without the delays caused by another revision of the legal framework.*

### **Amendment 4**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 4**

Regulation (EC) No 114/2008

Article 17a - paragraph 2

*Text proposed by the Commission*

2. The GPMB shall be composed of a maximum of 10 experts. A maximum of eight experts and an equal number of alternates shall be designated by the

*Amendment*

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Member States acting within the Council. Two experts and two alternates shall be designated by the Director General of the responsible Directorate-General of the Commission from among Commission officials. Other Commission officials with an interest in the proceedings may attend meetings of the GPMB.

Member States acting within the Council. Two experts and two alternates shall be designated by the Director General of the responsible Directorate-General of the Commission from among Commission officials. Other Commission officials with an interest in the proceedings may attend meetings of the GPMB. ***Interested Members of the European Parliament or officials from relevant policy departments in the European Parliament may attend GPMB meetings.***

## Amendment 5

### Proposal for a regulation – amending act

#### Article 1 – point 4

Regulation (EC) No 114/2008

Article 17a - paragraph 5

#### *Text proposed by the Commission*

5. The GPMB shall draw up its own terms of reference. They shall take effect after a favourable opinion has been given by the Director General of the responsible Directorate-General of the Commission.

#### *Amendment*

5. The GPMB shall draw up its own terms of reference. They shall take effect after a favourable opinion has been given by the Director General of the responsible Directorate-General of the Commission. ***The terms of reference of the GPMB shall include a requirement to publish regular reports and that those reports be made available to the European Parliament in order to ensure full parliamentary scrutiny and oversight.***

## Amendment 6

### Proposal for a regulation – amending act

#### Article 1 – point 4

Regulation (EC) No 114/2008

Article 17a - paragraph 6

#### *Text proposed by the Commission*

6. Without prejudice to Article 15(2), the administrative costs and travel expenses arising from the activities of the GPMB shall be borne by the general budget of the

#### *Amendment*

6. Without prejudice to Article 15(2), the administrative costs and travel expenses arising from the activities of the GPMB shall be borne by the general budget of the

European Union, to the extent that they are not reimbursed from other sources. As regards travel expenses of the experts in the GPMB designated by the Member States acting within the Council and experts invited pursuant to paragraph 3 of this Article which arise in connection with the work of the GPMB, the Commission's 'Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meetings in an expert capacity' shall apply.

European Union, to the extent that they are not reimbursed from other sources. As regards travel expenses of the experts in the GPMB designated by the Member States acting within the Council and experts invited pursuant to paragraph 3 of this Article which arise in connection with the work of the GPMB, the Commission's 'Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meetings in an expert capacity' shall apply. ***The necessary appropriations to cover the cost arising from the meetings of the GPMB shall come from the appropriations currently foreseen in the Financial Programming 2010-2013 for the second generation Schengen Information System (SIS II).***

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	17.3.2010
<b>Result of final vote</b>	+: 32 -: 0 0: 0
<b>Members present for the final vote</b>	Damien Abad, Alexander Alvaro, Francesca Balzani, Reimer Böge, Andrea Cozzolino, Jean-Luc Dehaene, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Salvador Garriga Polledo, Jens Geier, Ivars Godmanis, Ingeborg Gräßle, Carl Haglund, Jutta Haug, Anne E. Jensen, Ivailo Kalfin, Alain Lamassoure, Vladimír Maňka, Barbara Matera, Nadezhda Neynsky, Miguel Portas, Vladimír Remek, Dominique Riquet, László Surján, Daniël van der Stoep, Derek Vaughan, Angelika Werthmann, Jacek Włosowicz
<b>Substitute(s) present for the final vote</b>	Paul Rübig, Georgios Stavrakakis
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Jan Kozłowski