EUROOPA PARLAMENT

2004 *2009*

Kodanikuvabaduste, justiits- ja siseasjade komisjon

ESIALGNE
2003/0198(COD)

8.3.2005

***II
TEISE LUGEMISE SOOVITUSE PROJEKT

Nõukogu ühine seisukoht Euroopa Parlamendi ja nõukogu määruse vastuvõtmise kohta, millega muudetakse konventsiooni, millega rakendatakse 14. juuni 1985. aasta Schengeni lepingut ühispiiridel kontrolli järkjärgulise kaotamise kohta seoses sõidukite registreerimistunnistuste väljastamise eest vastutavate liikmesriikide teenistuste juurdepääsuga Schengeni infosüsteemile.
(14238/1/2004 – C6-0007/2005 – 2003/0198(COD))

Kodanikuvabaduste, justiits- ja siseasjade komisjon

Raportöör: Carlos Coelho

Kasutatud tähised

*	nõuandemenetlus *häälteenamus*
**I	koostöömenetlus (esimene lugemine) *häälteenamus*
**II	koostöömenetlus (teine lugemine) *häälteenamus ühise seisukoha heakskiitmiseks, parlamendi koosseisu enamus ühise seisukoha tagasilükkamiseks või muutmiseks*
***	nõusolekumenetlus *parlamendi koosseisu enamus v.a EÜ asutamislepingu artiklites 105, 107, 161 ja 300 ja ELi lepingu artiklis 7 toodud juhtudel*
***I	kaasotsustamismenetlus (esimene lugemine) *häälteenamus*
***II	kaasotsustamismenetlus (teine lugemine) *häälteenamus ühise seisukoha heakskiitmiseks, parlamendi koosseisu enamus ühise seisukoha tagasilükkamiseks või muutmiseks*
***III	kaasotsustamismenetlus (kolmas lugemine) *häälteenamus ühise seisukoha heakskiitmiseks*

(Antud menetlus põhineb Euroopa Komisjoni poolt ette pandud õiguslikul alusel.)

Õigusloomega seotud tekstide kohta esitatud muudatusettepanekud

Parlamendi muudatusettepanekutes tõstetakse muudetud tekst esile ***paksus kaldkirjas***. *Tavalises kaldkirjas* märgistus on mõeldud tehnilistele osakondadele ja tähistab neid õigusakti osi, mille kohta on tehtud parandusettepanek lõpliku teksti vormistamiseks (nt ilmselgelt valed või puuduvad lõigud mõnes tõlkeversioonis). Selliste parandusettepanekute puhul tuleb saada vastavate tehniliste osakondade nõusolek.

SISUKORD

lehekülg

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EUROOPA PARLAMENDI ÕIGUSLOOMEGA SEOTUD RESOLUTSIOONI PROJEKT

Nõukogu ühine seisukoht Euroopa Parlamendi ja nõukogu määruse vastuvõtmise kohta, millega muudetakse konventsiooni, millega rakendatakse 14. juuni 1985. aasta Schengeni lepingut ühispiiridel kontrolli järkjärgulise kaotamise kohta seoses sõidukite registreerimistunnistuste väljastamise eest vastutavate liikmesriikide teenistuste juurdepääsuga Schengeni infosüsteemile.
(14238/1/2004 – C6-0007/2005 – 2003/0198(COD))

(Kaasotsustamismenetlus: teine lugemine)

Euroopa Parlament,

– võttes arvesse nõukogu ühist seisukohta (14238/1/2004 – C6-0007/2005);

– võttes arvesse esimese lugemise seisukohta[1] Euroopa Parlamendile ja nõukogule esitatud Euroopa Komisjoni ettepaneku (KOM(2003)0510)[2] küsimuses;

– võttes arvesse komisjoni hinnangut (KOM2005/0003)[3];

– võttes arvesse EÜ asutamislepingu artikli 251 lõiget 2;

– võttes arvesse kodukorra artiklit 62;

– võttes arvesse kodanikuvabaduste, justiits- ja siseasjade komisjoni teise lugemise soovitust (A6-0000/2005);

1. kiidab ühise seisukoha muudetud kujul heaks;

2. teeb presidendile ülesandeks edastada parlamendi seisukoht nõukogule ja Euroopa Komisjonile.

Nõukogu ühine seisukoht	Parlamendi muudatusettepanekud
	Muudatusettepanek 1 Lõige 3
3) ***Madalmaade Kuningriigi algatus eesmärgiga*** võtta vastu nõukogu otsus mootorsõidukitega seotud piiriülese toimega kuritegevuse tõkestamise kohta[1],	3) Nõukogu ***2004/919/EÜ 22. detsembri 2004*** otsus mootorsõidukitega seotud piiriülese toimega kuritegevuse tõkestamise kohta[1], sisaldab SISi

[1] 1.4.2004 vastu võetud tekst, P5_TA(2004)0266.
[2] ELTs seni avaldamata.
[3] ELTs seni avaldamata.

sisaldab SISi kasutamist mootorsõidukitega seotud kuritegude vastaste seaduste rakendamisstrateegia lahutamatu osana.	kasutamist mootorsõidukitega seotud kuritegude vastaste seaduste rakendamisstrateegia lahutamatu osana.
ELT C 34, 7.2.2004, lk 18.	***ELT L 389, 30.12.2004, lk 28.***

Justification

Since the initiative now been adopted, the text of the recital needs to be adjusted.

Muudatusettepanek 2
Lõige 13 a (uus)

13 a) Seoses Šveitsiga kehtestatakse käesoleva määrusega Schengeni acquis' sätete edasiarendamine Euroopa Liidu, Euroopa Ühenduse ja Šveitsi Konföderatsiooni vahel allakirjutatud lepingu tähenduses, mis käsitleb Šveitsi Konföderatsiooni ühinemist Schengeni acquis' sätete rakendamise, kohaldamise ja edasiarendamisega[1] vastavalt otsuse 1999/437/EÜ[2] artikli 1 punktile G, käsitledes seda ühiselt nõukogu 25. oktoobri 2004 otsuste, mis käsitlevad Euroopa Liidu nimel allakirjutamist ja Euroopa Ühenduse nimel allakirjutamist ning selle lepingu[3] teatud sätete ajutist kohaldamist, artikli 4 lõikega 1.
[1] Nõukogu dokument 13054/04 on kättesaadav aadressil http://register.consilium.eu.int.
[2] EÜT C 176, 10.07.1999, lk 31.
[3] ELT 368, 15.12.2004, lk 26 ja ELT L 370, 17.12.2004, lk 78.

Justification

Since the Agreement with Switzerland was signed on 26 October, any legislative act that constitutes a development of the Schengen Acquis as regards the purposes served by the Agreement should be identified as such in a separate recital. Since this Regulation is a development of the Schengen Acquis, it requires a recital concerning Switzerland.

Muudatusettepanek 3
ARTIKKEL 1
Artikli 102 a lõige 3 a (uus) (1990. aasta Schengeni konventsiooni)

3 a) Nõukogu esitab igal aastal pärast ühiselt järelvalveasutuselt, mis on moodustatud lähtudes andmekaitse eeskirjade artiklist 11, arvamuse küsimist Euroopa Parlamendile aruande mainitud artikli rakendamisest. See raport sisaldab informatsiooni ja statistikat artikli ja kasutamise ja rakendamise kohta, samuti kajastab andmekaitse eeskirjade kohaldamist.

Justification

To receive a report about the implementation of this Article is very important for Parliament. The original amendment 10, which was not included by Council in its common position, is therefore tabled again. It is, however, modified in two aspects: first, because the Commission has no responsibility for the management of SIS 1+, it is proposed that the Council itself sends this report. Second, to save the Member States the job of making technical changes, the number of searches and the number of stolen vehicles is replaced by the more general words "information and statistics relating to the use and results of the implementation of this Article".

EXPLANATORY STATEMENT

I. Background

In view of increase in the number of vehicles which are being stolen and illegally traded[1], further action to combat crime of this nature must be taken as a matter of urgency. In a Europe within which checks at internal borders have been abolished, a response must be found which involves clear action at Community level. One course of action discussed in this context is the access to the Schengen Information System (SIS) for vehicle registration authorities.

Following the request of Council and intensive debates the Commission in 2003 made such a proposal to give public vehicle registration authorities direct access to some data in the SIS (COM(2003)510). This should allow them to better check whether vehicles presented to them for registration have been stolen. Should a vehicle registration authority be a private entity then the access should be indirect, i.e. an access via a public authority.

On 1st April 2004 the European Parliament adopted its first reading (T5-0266/2004)[2] based on the rapporteur's previous report (A5-0205/2004). At its first reading, Parliament on the one hand limited the data to which vehicle registration authorities should have access by withdrawing access to data relating to blank official documents and to data concerning issued identity papers. On the other hand, Parliament suggested including in the SIS (and subsequently giving vehicle registration authorities access to) data concerning vehicle registration certificates and vehicle number plates which have been stolen, misappropriated or lost. In addition, it emphasised that clearer information should be given as to which bodies are entitled to have access, and for what purpose. Furthermore, Parliament requested a yearly report on the implementation of this measure. Finally, to underline that increased access should only be possible with strengthened data protection rules it introduced the requirement to record every transmission.

II. Council's common position

On 22 December 2004 Council adopted its common position (14238/1/04) accompanied by the statement of the Council's reasons (14238/1/04 REV 1 ADD 1). Pursuant to Article 251.2 TEC the European Commission informed that it supports the common position (COM(2005)3).

The Council essentially followed Parliament's first reading. It agreed to modify the data to which vehicle registration authorities should have access, as outlined above. Overall, Council accepted 7 out of 10 amendments from Parliament.

[1] Statistics provided by Europol reveal that in 2002 1.149.114 vehicles were stolen of which only 388.779 could be recovered.
[2] Not yet published in OJ.

III. Recommendation of the rapporteur

The rapporteur welcomes the common position of Council and is pleased that the Council followed Parliament's first reading to such a large extent. He is confident that the legal act can soon be finally adopted, in order to allow this useful measure to come into force.[1]

Since most of Parliament's amendments were accepted by Council there are very few outstanding issues for the second reading.

As regards Amendment 4 as contained in the report A5-0205/2004 and adopted by Parliament, which was not included by Council, the rapporteur has dropped it, since on 24 February 2005 the Council finally adopted the initiative by the Kingdom of Spain with a view to adopting a Council Decision concerning the introduction of some new functions for the Schengen Information System, in particular in the fight against terrorism. This decision provides for a change to Article 100 f) of the Schengen Implementing Convention by including data on "vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated;". This change covers the original Amendment 4.

As regards Amendment 11 as contained in the report A5-0205/2004 and adopted by Parliament, which was not included by Council, the rapporteur has dropped it too, since its paragraphs 1 and 3 are also contained in the Decision mentioned above. Paragraph 2 of the amendment 11 is, however, not included. This paragraph proposed recording the person or object on whom the search in the SIS was run, the terminal or user carrying out the search, the place, date and time of the search and the reasons for the search. It was an attempt to change the data-protection rules for the SIS in general and the rapporteur can accept that it was, for the moment, not included in the revised text of the Schengen Implementing Convention. Since the proposal for the SIS II is forthcoming, this issue can be dealt with in the context of this legal instrument.

The rapporteur does, however, insist on Amendment 10. This amendment requests an annual report about the implementation of the proposed access to vehicle registration authorities to combat vehicle crime. In this report the Commission shall also "state how many searches were made, how many stolen vehicles were detected and how the data protection rules were applied". Council did not include this amendment by arguing that "the current draft Regulation does not provide the correct and sufficient legal basis for these provisions."[2] The rapporteur does not agree with this argument because if it would be true then we would never have a report on anything.

Reporting about the SIS is of great importance for Parliament. Currently Parliament receives no report on the SIS. Only the table of hits and the report of the Joint Supervisory Authority are available. With these documents alone it is not possible for Parliament to make an assessment of the system. Only with more detailed reports which include a qualitative and quantitative assessment can Parliament exercise its legislative function. The legislator needs to know whether a law achieves its objectives or not. Reporting is also important for Parliament's role as one arm of the budgetary authority, since the SIS central unit is paid for

[1] For a general appreciation of the Commission's proposal the rapporteur refers to his report A5-0205/2004.
[2] 14238/1/04 REV 1 ADD 1, p. 2, point 4.

out of the European budget. The rapporteur therefore proposes that Amendment 10 be retained.

Nevertheless, he proposes a slightly different wording, in order to ensure that Member States do not have to change their national systems at this stage before changes will become necessary anyway under SIS II. He also proposes that the report should be sent by the Council because the Commission has no responsibility for the management of the current system (SIS 1+).

In addition to this amendment the rapporteur proposes two further amendments which are of a technical nature. One amendment is introduced to take account of Switzerland's forthcoming accession to the Schengen acquis on which this measure constitutes a development. A second amendment updates the text in order to take account of the fact that the Dutch initiative to which Parliament referred in its Amendment 1 and the Council in recital 3 has in the meantime been adopted.[1]

IV. The second generation Schengen Information System (SIS II)

Since the amendments contained in this proposal will be included in the proposal on the new SIS II, the rapporteur considers that some of Parliament's requests should be restated: first of all, the SIS II proposal should be based on a legal basis providing for the codecision procedure, as is the case with the proposal on the Visa Information System. Nothing else would be appropriate in the changed context. This forthcoming procedure would then also be the occasion to deal with the outstanding issues of this report, notably reporting and the data-protection rules in general.

In this context the rapporteur also expresses his concern about the declaration Austria and Germany made for the minutes. This declaration states that the two Member States are of the opinion that this legal act should have had its legal basis in the third pillar.

Furthermore, the rapporteur would like to point out that Parliament will look very carefully at each proposal to give access to the SIS to new authorities.[2] As already outlined in report A5-0205/2004, several proposals are being discussed which also relate to private entities. Private entities should under no circumstances be granted direct access to the SIS. It should also be borne in mind that the security risk increases as increasing numbers of people have access to what is very sensitive information.

Finally, the rapporteur also repeats his wish to receive in the future more reassurance that the data-protection rules laid down in the Schengen convention and in Directive 95/46 are effectively respected and controlled. Data-protection authorities need sufficient resources to fulfil their task and Member States have to be firmly committed to defending the fundamental right of data protection.

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[1] Council Decision (2004/920/EC) of 22 December 2004 on tackling vehicle crime with cross-border implications, in OJ L 389 of 30.12.2004, p. 28.

[2] European Parliament recommendation to the Council on the second-generation Schengen information system (SIS II) (2003/2180(INI)) adopted on 20.11.2003.