EVROPSKI PARLAMENT

2004 *2009*

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

ZAČASNO
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8.3.2005

***II
OSNUTEK PRIPOROČILA ZA DRUGO OBRAVNAVO

o skupnem stališču Sveta glede sprejetja Uredbe Evropskega parlamenta in Sveta o spremembi Konvencije o izvajanju Schengenskega sporazuma z dne14. junija 1985 o postopni odpravi kontrol na skupnih mejah glede dostopa služb držav članic, odgovornih za izdajanje potrdil o registraciji vozil, do Schengenskega informacijskega sistema
(14238/1/2004 – C6-0007/2005 – 2003/0198(COD))

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

Poročevalec: Carlos Coelho

Oznake postopkov

*	Postopek posvetovanja *večina oddanih glasov*
**I	Postopek sodelovanja (prva obravnava) *večina oddanih glasov*
**II	Postopek sodelovanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***	Postopek privolitve *absolutna večina poslancev Parlamenta, razen v primerih, navedenih v členih 105, 107, 161 in 300 Pogodbe ES in členu 7 Pogodbe EU*
***I	Postopek soodločanja (prva obravnava) *večina oddanih glasov*
***II	Postopek soodločanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***III	Postopek soodločanja (tretja obravnava) *večina oddanih glasov za odobritev skupnega besedila*

(Vrsta postopka je odvisna od pravne podlage, ki jo predlaga Komisija.)

Spremembe zakonodajnega besedila

Pri spremembah, ki jih predlaga Parlament, je spremenjeno besedilo označeno s krepkim poševnim tiskom. Besedilo, zapisano v navadnem poševnem tisku, označuje tehničnim službam namenjeni del zakonodajnega besedila s predlaganimi popravki, ki se upoštevajo pri pripravi končnega besedila (na primer, očitne napake ali izpustitve v zadevni jezikovni različici). O teh popravkih odločajo pristojne tehnične službe.

VSEBINA

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OSNUTEK ZAKONODAJNE RESOLUCIJE EVROPSKEGA PARLAMENTA

o skupnem stališču Sveta glede sprejetja Uredbe Evropskega parlamenta in Sveta o spremembi Konvencije o izvajanju Schengenskega sporazuma z dne14. junija 1985 o postopni odpravi kontrol na skupnih mejah glede dostopa služb držav članic, odgovornih za izdajanje potrdil o registraciji vozil, do Schengenskega informacijskega sistema
(14238/1/2004 – C6-0007/2005 – 2003/0198(COD))

(Postopek soodločanja: druga obravnava)

Evropski parlament,

– ob upoštevanju skupnega stališča Sveta (14238/1/2004 – C6-0007/2005),

– ob upoštevanju svojega stališča iz prve obravnave[1] o predlogu Komisije Parlamentu in Svetu (KOM(2003)0510)[2],

– ob upoštevanju člena 251(2) Pogodbe ES,

– ob upoštevanju člena 62 svojega Poslovnika,

– ob upoštevanju priporočila za drugo obravnavo Odbora za državljanske svoboščine, pravosodje in notranje zadeve (A6-0000/2005)

1. odobri skupno stališče, kakor je bilo spremenjeno;

2. naroči svojemu predsedniku, naj stališče Parlamenta posreduje Svetu in Komisiji.

Skupno stališče Sveta	Predlogi sprememb Parlamenta
Predlog spremembe 1 Uvodna izjava 3	
(3) ***Pobuda Kraljevine Nizozemske za sprejetje*** Sklepa Sveta o boju proti kriminaliteti, povezani z motornimi vozili, s čezmejnimi posledicami[1] vključuje uporabo SIS kot sestavnega dela strategije organov pregona proti kriminaliteti, povezani z motornimi vozili.	(3) Sklep Sveta ***2004/919/ES z dne 22. decembra 2004*** o boju proti kriminaliteti, povezani z motornimi vozili, s čezmejnimi posledicami[1] vključuje uporabo SIS kot sestavnega dela strategije organov pregona proti kriminaliteti, povezani z motornimi vozili.
[1] UL C 34, 7.2.2004, str. 18.	***[1] UL L 389, 30.12.2004, str. 28.***

[1] Besedila, sprejeta 1.4.2004, P6_TA(2004)0266.
[2] Še neobjavljeno v UL.

Obrazložitev

Ker je bila pobuda medtem sprejeta, se mora besedilo uvodne izjave temu prilagoditi.

Predlog spremembe 2
Uvodna izjava 13 a (novo)

(13a) Ta uredba v zvezi s Švico pripravlja določbe schengenskega pravnega reda po Pogodbi, sklenjeni med Evropsko unijo, Evropsko skupnostjo in Švicarsko konfederacijo v zvezi s pridružitvijo švicarske konfederacije k uvedbi, uporabi in razvoju schengenskega pravnega reda[1], ki spada na področje člena 1(G) Sklepa Sveta 1999/437/ES[2], branega skupaj s členom 4(1) Sklepov Sveta z dne 25. oktobra 2004, o podpisu v imenu Evropske unije in o podpisu v imenu Evropske skupnosti, in o začasni uporabi nekaterih določb te Pogodbe[3].

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[1] Dokument Sveta 13054/04 je dosegljiv na http://register.consilium.eu.int.

[2] UL L 176, 10.7.1999, str. 31.

[3] Ul L 368, 15.12.2004, str. 26 in UL L 370, 17.12.2004, str. 78.

Obrazložitev

Ker je bil Sporazum s Švico podpisan 26. oktobra, mora biti kateri koli zakonodajni akt, ki pripravlja schengenski pravni red v namene tega Sporazuma, kot tak označen z uvodno izjavo. Ta uredba pripravlja schengenski pravni red in zato zahteva uvodno izjavo v zvezi s Švico.

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.

Predlog spremembe 3
ČLEN 1

Člen 102 a, odstavek 3 a (novo) (Schengenske konvencije iz leta 1990)

3a. Vsako leto po pridobitvi mnenja skupnega nadzornega sveta, ustanovljenega v skladu s členom 115 o pravilih zaščite podatkov, Svet Evropskemu parlamentu predloži poročilo o izvajanju tega člena. To poročilo vključuje podatke in statistiko o uporabi in rezultatih izvajanja tega člena ter navaja, kako so bila uporabljena pravila zaščite podatkov.

Obrazložitev

Za Parlament je zelo pomembno, da prejme poročilo o izvajanju tega člena. Zato je izvirni predlog spremembe 10, ki ga Svet ni vključil v svoje skupno stališče, ponovno vložen. Vendar je spremenjen z dveh vidikov: Prvič, ker Komisija ni odgovorna za upravljanje SIS 1+, se predlaga, da Svet to sporočilo pošlje sam. Drugič, zato da državam članicam ni treba narediti tehničnih sprememb, se število iskanj in število ukradenih vozil nadomestita z bolj splošnim izrazom „podatki in statistika o uporabi in rezultatih izvajanja tega člena“.

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.