EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

PROVISIONAL
2006/0126(CNS)

8.11.2006

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DRAFT REPORT

on the proposal for a Council decision amending Decision 2001/886/JHA on the development of the second generation Schengen Information System (SIS II)
(COM(2006)0383 – C6-0297/2006 – 2006/0126(CNS))

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.

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION 5

EXPLANATORY STATEMENT.....6

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision amending Decision 2001/886/JHA on the development of the second generation Schengen Information System (SIS II) (COM(2006)0383 – C6-0297/2006 – 2006/0126(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal (COM(2006)0383)[1],

– having regard to Article 30(1)(a) and (b), Article 31(1)(a) and (b) and Article 34(2)(c) of the EU Treaty,

– having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0297/2006),

– having regard to Rules 93 and 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;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

4. Instructs its President to forward its position to the Council and Commission.

[1] Not yet published in OJ.

EXPLANATORY STATEMENT

Introduction

By letter of 11 September 2006, the European Parliament was consulted on two proposals on the Schengen Information System II (SIS II). The first *saisine* concerns the proposal for a Council regulation amending Regulation (EC) No 2424/2001 on the development of the second generation Schengen Information System (SIS II), which is based on Article 66 of the EC Treaty. The second *saisine* concerns the proposal for a Council decision amending Decision 2001/886/JHA on the development of the second generation Schengen Information System (SIS II), based on Articles 30(1)(a) and (b), 31(1)(a) and (b) and 34(2)(c) of the Treaty on European Union.

Aim of the proposals

The aim of these proposals is to extend the mandate given by the Council to the Commission, which ends on 31 December 2006, with a view to developing the SIS II. The Commission thus proposes to extend the deadline until December 2007. Furthermore the Commission wants to make sure that the budget necessary to its development can be provided. The current Schengen Information System will be replaced by the future SIS II, the legal basis of which was approved in the Committee on Civil Liberties, Justice and Home Affairs on 5 October 2006 and in plenary on 25 October 2006.[1]

The Schengen Information System

The SIS is a large-scale database that works as a common information system allowing the competent authorities in the Member States to cooperate and exchange the necessary information in order to establish an area without internal border controls. It allows these authorities to obtain information related to alerts on persons and objects entered in the system. The information obtained is used, in particular, for police and judicial cooperation in criminal matters, as well as in the field of controls on persons at external borders or on national territory and for the issuance of visas and residence permits.

Observations by the Rapporteur

The creation of the new SIS II merits the rapporteur's full support, because the current system only has the capacity to serve a maximum of 18 Member States. Therefore it became indispensable to develop a new system to allow the new Member States to fully apply the Schengen acquis and thus to abolish controls at their internal borders with other Schengen States. At the same time, the SIS II will make it possible to boost security, allow for a more efficient use of the data and introduce new functionalities, taking advantage of the latest technological developments. It should be a robust and flexible tool, able to cope with rapidly changing requirements.

[1] The so-called 'Schengen package' consists of A6-0353/2006, establishment, operation and use of SIS II (decision), A6-0354/2006, access to SIS II by the services responsible for issuing vehicle registration certificates, and A6-0355/2006, establishment, operation and use of SIS II (regulation), which were adopted by a large majority on 25 October 2006.

In 1998, a preliminary study was carried out to assess possible developments and improvements which might be made regarding the SIS. Meanwhile a more up-to-date version of the SIS was developed (SIS 1+) when the Nordic countries joined Schengen, which included the possibility of linking two or three additional countries to the system. The upgrade was also meant to improve the performance of the SIS and make it easier to manage and maintain.

On 6 December 2001 the Council gave a mandate to the Commission to develop the SIS II which - contrary to the current SIS - will be funded by the EU budget. The Commission launched the technical implementation in October 2004 by signing a contract with a budget of up to 40 million EUR for the development of the SIS II and the VIS (Visa Information System), which shares the same technical platform. The target date set for the delivery of the SIS II was March 2007.

In parallel to the technical implementation, discussions on new requirements of the SIS have been on the agenda of the Council, which adopted a number of conclusions on the functionalities of the SIS II in 2003 and 2004. The European Parliament contributed also to the debate and expressed its views at the end of 2003.[1]

The SIS II needed an appropriate legal framework describing in detail its operation and use. Given the different policy areas involved, the Commission tabled three legislative proposals on 1 June 2005. The first proposal was based on Title IV of the EC Treaty (visas, asylum, immigration and other policies related to the free movement of persons) and the second one was based on Title VI of the EU Treaty (police and judicial cooperation in criminal matters) due to the cross-pillar nature of the SIS. A third proposal, complementing the two other proposals, based on Title V (Transport), aims at providing the authorities responsible for issuing vehicle registration certificates access to the SIS II. Despite having three legal texts following different procedures (codecision and consultation), they form an inseparable package as the SIS II operates as a single information system.

Whilst regretting the delay with which these proposals were sent to the European Parliament and the fact that several elements were missing, i.e. an explanatory statement on the proposals, which were highly technical and complex, the rapporteur nevertheless decided to deal with this package as a whole and to speed up the negotiations with a view to reaching a compromise on the three texts in the first reading, so as not to act as a blocking factor for effectively enlarging the Schengen Area.

The negotiations were fairly complex and were made more difficult by the Council's failure to honour the commitment obtained at the high-level informal trialogue of 17 May 2006 in Strasbourg, but a final compromise text was reached between the European Parliament, the Commission and the Council on 27 September 2006. This compromise package was adopted almost unanimously in the Committee on Civil Liberties, Justice and Home Affairs on 5 October. The vote was confirmed, with a large majority, at the plenary sitting of 25 October.

Even though the European Parliament was quite successful in speeding up the procedure for

[1] See the report by Mr Coelho, A5-0436/2002.

the adoption of the legal instruments on SIS II, the rapporteur regrets the delays suffered by this ambitious project up to now:

- Court cases brought by contractors who lost out in the call for tender proceedings to set up the new SIS,
- The Commission also had problems with the contractors it hired to create this database and get it up and running,
- It was announced for the first time, in June 2006, that there would be delays to the project schedule owing to delays in preparatory work relating to the main site in Strasbourg, where the database is to be housed. The Commission recognised that it was not possible to have the proposed site in Strasbourg ready in time to have the necessary SIS II equipment delivered in accordance with the schedule.

Having no further room for more delays in the project given that the margins for delay built into the Commission's project planning have all been used up, the March 2007 target to have the SIS II operational simply cannot be met. A delay of at least 15 weeks was announced for having the central system installed and operating in Strasbourg.

Consequently, it was necessary to revise the global project schedule so as to take account of this delay and try to minimise the extent to which it will affect the lifting of internal border controls with the new EU Member States, which meet the conditions required in order to enter the Schengen Area.

On the basis of the so-called 'Global SIS II rescheduling document', it is envisaged that the tests necessary for the SIS II to come into operation could take place in April 2008, followed by the Council decision fixing the date on which the SIS II will become operational for Members fully participating in the SIS 1+. Following this and the consequent migration of the Member States currently connected to SIS 1+ to SIS II, the new Member States will be integrated, whereby the time period needed for the technical integration of the 'new' SIS II users has been estimated at 12 weeks.

Rapporteur's conclusions

The rapporteur has no doubts regarding the need to prolong the Commission's mandate, owing to all the delays that have occurred. He stresses with some surprise, however, that the request for the mandate to be prolonged until the end of 2007 is not consistent with the planning set out above, which indicates that the technical development of the SIS II will not be finalised in the course of 2007. Information circulating in various Member States, which has been passed on to the rapporteur, suggests that the delay may well be longer than is currently acknowledged by the Commission and Council.

On the other hand, it should also be taken into account that the extension of the Commission mandate should make it possible to expand its scope at the same time, so that preparations for the technical integration of the new Member States into the SIS II can be included.