PARLAMENT EWROPEW

2004 *2009*

Kumitat għal-Libertajiet Ċivili, il-Ġustizzja u l-Intern

2008/0077(CNS)

28.7.2008

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ABBOZZ TA' RAPPORT

dwar il-proposta għal Deċiżjoni tal-Kunsill dwar il-migrazzjoni mis-Sistema ta' Informazzjoni ta' Schengen (SIS 1+) għas-Sistema ta' Informazzjoni ta' Schengen tat-tieni ġenerazzjoni (SIS II)
(COM(2008)0196 – C6-0188/2008 – 2008/0077(CNS))

Kumitat għal-Libertajiet Ċivili, il-Ġustizzja u l-Intern

Rapporteur: Carlos Coelho

Tifsira tas-simboli użati

*	Proċedura ta' konsultazzjoni *maġġoranza tal-voti mitfugħa*
**I	Proċedura ta' koperazzjoni (l-ewwel qari) *maġġoranza tal-voti mitfugħa*
**II	Proċedura ta' koperazzjoni (it-tieni qari) *maġġoranza tal-voti mitfugħa, sabiex tiġi approvata l-pożizzjoni komuni* *maġġoranza tal-Membri kollha tal-Parlament, sabiex tiġi miċħuda jew emendata l-pożizzjoni komuni*
***	Proċedura ta' kunsens *maġġoranza tal-Membri kollha tal-Parlament, apparti fil-każi msemmija fl-Artikoli 105, 107, 161 u 300 tat-Trattat KE u fl-Artikolu 7 tat-Trattat UE*
***I	Proċedura ta' kodeċiżjoni (l-ewwel qari) *maġġoranza tal-voti mitfugħa*
***II	Proċedura ta' kodeċiżjoni (it-tieni qari) *maġġoranza tal-voti mitfugħa, sabiex tiġi approvata l-pożizzjoni komuni* *maġġoranza tal-Membri kollha tal-Parlament, sabiex tiġi miċħuda jew emendata l-pożizzjoni komuni*
***III	Proċedura ta' kodeċiżjoni (it-tielet qari) *maġġoranza tal-voti mitfugħa, sabiex jiġi approvat it-test konġunt*

(It-tip ta' proċedura jiddependi mill-bażi legali proposta mill-Kummissjoni.)

Emendi għal test leġiżlattiv

Fl-emendi li jsiru mill-Parlament, it-test emendat huwa indikat b' tipa ***qawwija u korsiva.*** Fil-każ ta' atti li jemendaw, il-partijiet li jittieħdu kif inhuma minn dispożizzjoni eżistenti li l-Parlament jixtieq jemenda, imma li l-Kummissjoni ma tkunx emendat, huma indikati b'tipa **qawwija**. It-tħassir eventwali li jikkonċerna dawn il-partijiet jiġi indikat kif ġej: [...]. Test *korsiv normali* huwa indikazzjoni għas-servizzi tekniċi li turi partijiet tat-test leġiżlattiv li għalihom qed tkun proposta korrezzjoni bl-iskop li tgħin fil-preparazzjoni tat-test finali (pereżempju, żbalji ovvji jew nuqqasijiet f'verżjoni lingwistika minnhom). Il-korrezzjonijiet proposti huma suġġetti għall-qbil tas-servizzi tekniċi involuti.

WERREJ

Paġna

ABBOZZ TA' RIŻOLUZZJONI LEĠIŻLATTIVA TAL-PARLAMENT EWROPEW .**Error! Bookmark not defined.**

EXPLANATORY STATEMENT.....**Error! Bookmark not defined.**

ABBOZZ TA' RIŻOLUZZJONI LEĠIŻLATTIVA TAL-PARLAMENT EWROPEW

dwar il-proposta għal Deċiżjoni tal-Kunsill dwar il-migrazzjoni mis-Sistema ta' Informazzjoni ta' Schengen (SIS 1+) għas-Sistema ta' Informazzjoni ta' Schengen tat-tieni ġenerazzjoni (SIS II)
(COM(2008)0196 – C6-0188/2008 – 2008/0077(CNS))

(Proċedura ta' konsultazzjoni)

Il-Parlament Ewropew,

– wara li kkunsidra l-proposta tal-Kummissjoni (COM(2008)0196),

– wara li kkunsidra l-Artikoli 30(1)(a)(b), 31(1)(a)(b) u 34(2)(c) tat-Trattat UE,

– wara li kkunsidra l-Artikolu 39(1) tat-Trattat UE, skond liema artikolu ġie kkonsultat mill-Kunsill (C6–0188/2008),

– wara li kkunsidra l-Artikoli 93 u 51 tar-Regoli ta' Proċedura tiegħu,

– wara li kkunsidra r-rapport tal-Kumitat għal-Libertajiet Ċivili, il-Ġustizzja u l-Intern u l-opinjoni tal-Kumitat għall-Baġits (A6–0000/2008),

1. Japprova l-proposta tal-Kummissjoni kif emendata;

2. Jitlob lill-Kummissjoni sabiex konsegwentement tbiddel il-proposta tagħha, skond l-Artikolu 250(2) tat-Trattat KE;

3. Jistieden lill-Kunsill biex jinfurmah jekk ikollu l-ħsieb li jitbiegħed mit-test approvat mill-Parlament;

4. Jitlob lill-Kunsill biex jerġa' jikkonsultah jekk ikollu l-ħsieb li jemenda l-proposta tal-Kummissjoni b'mod sustanzjali;

5. Jagħti istruzzjonijiet lill-President tiegħu sabiex jgħaddi l-pożizzjoni tal-Parlament lill-Kunsill u lill-Kummissjoni.

Emenda 1

Proposta għal deċiżjoni
Titolu

Test propost mill-Kummissjoni	*Emenda*
DEĊIŻJONI TAL-KUNSILL	DEĊIŻJONI TAL-KUNSILL
dwar il-migrazzjoni mis-Sistema ta' Informazzjoni ta' Schengen (SIS 1+) għas-	dwar il-migrazzjoni mis-Sistema ta' Informazzjoni ta' Schengen (SIS 1+) għas-

Sistema ta' Informazzjoni ta' Schengen tat-tieni ġenerazzjoni (SIS II)	Sistema ta' Informazzjoni ta' Schengen tat-tieni ġenerazzjoni (SIS II) ***u li temenda d-Deċiżjoni tal-Kunsill 2001/886/JHA***

Or. en

Ġustifikazzjoni

Hemm bżonn ta' mandat għall-iżvilupp għas-SIS II sat-tnedija operazzjonali ta' din is-sistema. Dan il-mandat irid jippermetti t-twettiq tad-dmirijiet kollha ddefiniti bħala prekundizzjonijiet fl-Istrumenti Legali SIS II, inkluża t-tħejjija tat-tnedija operazzjonali.

Emenda 2

Proposta għal deċiżjoni
Artikolu 1 – subparagrafu 1

Test propost mill-Kummissjoni	*Emenda*
Din id-Deċiżjoni tistabbilixxi l-ħidmiet u r-responsabbiltajiet għall-migrazzjoni mis-SIS 1+ għas-SIS II, inklużi l-provi ***finali tas-SIS II.***	***1.*** Din id-Deċiżjoni tistabbilixxi l-ħidmiet u r-responsabbiltajiet għall-migrazzjoni mis-SIS 1+ għas-SIS II, inklużi l-provi ***kollha meħtieġa, b'identifikazzjoni preċiża tas-sekwenzi tar-rekwiżiti u l-proċeduri.***

Or. en

Emenda 3

Proposta għal deċiżjoni
Artikolu 1 – subparagrafu 1 a (ġdid)

Test propost mill-Kummissjoni	*Emenda*
	1a. Din id-Deċiżjoni testendi wkoll il-validità tad-Deċiżjoni tal-Kunsill Nru 2001/886/ĠAI[1] tas-6 ta' Diċembru 2001 dwar l-iżvilupp tat-tieni ġenerazzjoni tas-sistema ta' informazzjoni ta' Schengen (SIS II)
	[1] ĠU L 328, 13.12.2001, p.1.

Or. en

Ġustifikazzjoni

Hemm bżonn ta' mandat għall-iżvilupp għas-SIS II sat-tnedija operazzjonali tas-SIS II. Dan il-mandat irid jippermetti t-twettiq tad-dmirijiet kollha ddefiniti bħala prekundizzjonijiet fl-Istrumenti Legali SIS II, inkluża t-tħejjija tat-tnedija operazzjonali.

Emenda 4

Proposta għal deċiżjoni
Artikolu 1 - subparagrafu 1 b (ġdid)

Test propost mill-Kummissjoni	*Emenda*
	1b. Is-SIS II hija sistema integrata unika, li sabiex titħejja biex tibda l-operazzjonijiet teħtieġ definizzjoni ċara tal-kompetenzi u l-ħidmiet li għandhom jitwettqu jew mill-Kummissjoni jew mill-Istati Membri tagħhom, bi qbil mar-responsabilitajiet rispettivi tagħhom għall-ittestjar u l-migrazzjoni.

Or. en

Ġustifikazzjoni

L-implimentazzjoni sħiħa tas-SIS II hi fir-responsabilitajiet tal-Kummissjoni Ewropea u l-Istati Membri. Qabel it-tnedija operazzjonali tas-SIS II, il-Kummissjoni Ewropea għandha tiddikjara "it-tlestija b'suċċess ta' test komprensiv tas-SIS II, li għandu jitmexxa mill-Kummissjoni flimkien ma' l-Istati Membri" kif mistqarr fl-Artikolu 71(3)(c) tad-Deċiżjoni tal-Kunsill Nru 2007/533/ĠAI tat-12 ta' Ġunju 2007.

Emenda 5

Proposta għal deċiżjoni
Artikolu 1 – subparagrafu 1 c (ġdid)

Test propost mill-Kummissjoni	*Emenda*
	1c. Ir-responsabilitajiet tal-Kummissjoni bħala maniġer tal-proġett, u l-ħidma mwettqa mill-kuntrattur mhumiex se jitlestew sakemm is-Sistema ma tkunx fornita u lesta għat-tnedija operazzjonali, skont it-termini eżatti stipulati fil-kuntratt.

Or. en

Ġustifikazzjoni

S'issa l-immaniġġjar tal-proġett sar mill-Kummissjoni, apparti l-immaniġġjar tar-relazzjoni mal-kuntrattur, li tħallas biex jipprovdi sistema li taħdem perfettament.

Emenda 6

Proposta għal deċiżjoni
Artiklu 2 – punt e a (ġdid)

Test propost mill-Kummissjoni	*Emenda*
	(ea) 'test komprensiv' tfisser it-test imsemmi fl-Artikolu 71(3)(c) tad-Deċiżjoni tal-Kunsill 2007/533/ĠAI tat-12 ta' Ġunju 2007 dwar l-istabbiliment, it-tħaddim u l-użu tas-sistema ta' informazzjoni ta' Schengen Tat-Tieni Ġenerazzjoni (SIS II)[1].
	[1] ĠU L 205, 7.8.2007, p.63.

Or. en

Ġustifikazzjoni

L-għan tal-proposta tal-Kummissjoni mhuwiex biss li jiġi stabbilit il-qafas legali li jirregola l-migrazzjoni, imma anke t-test komprensiv, bl-intenzjoni li jintwera, b'mod partikolari, li l-livell ta' prestazzjoni tas-SIS II huwa mill-inqas ekwivalenti għal dak tas-SIS 1+. Barra minn dan, għandha wkoll l-għan li tirregola l-prova dwar l-iskambju ta' informazzjoni supplimentari.

Emenda 7

Proposta għal deċiżjoni
Artikolu 2 – paragrafu e b (ġdid)

Test propost mill-Kummissjoni	*Emenda*
	(eb) "test dwar informazzjoni supplimentari" tfisser testijiet biex jiġi evalwat l-iffunzjonar ta' l-Uffiċċji SIRENE, biex jiġi ttestjat l-iskambju ta'

informazzjoni supplimentari bejnithom.

Or. en

Ġustifikazzjoni

L-għan tal-proposta tal-Kummissjoni mhuwiex biss li jiġi stabbilit il-qafas legali li jirregola l-migrazzjoni, imma anke t-test komprensiv, bl-intenzjoni li jintwera, b'mod partikolari, li l-livell ta' prestazzjoni tas-SIS II huwa mill-inqas ekwivalenti għal dak tas-SIS 1+. Barra minn dan, għandha wkoll l-għan li tirregola l-prova dwar l-iskambju ta' informazzjoni supplimentari.

Emenda 8

Proposta għal deċiżjoni
Artikolu 6 – subparagrafu 2

Test propost mill-Kummissjoni	*Emenda*
2. Il-migrazzjoni għandha ssir skond ***skeda*** mfassla mill-Istati Membri, li jaġixxu fi ħdan il-Kunsill.	2. Il-migrazzjoni għandha ssir skond ***l-iskeda diġà*** mfassla mill-Istati Membri, li jaġixxu fi ħdan il-Kunsill ***u għandha titlesta sabiex tippermetti t-tnedija teknika tal-operazzjonijiet tas-SIS II sat-30 ta' Settembru 2009.***

Or. en

Ġustifikazzjoni

Fuq il-bażi ta' proposta tal-Kummissjoni, dan il-kalendarju ġie ppreżentat u aċċettat mill-Kunsill, waqt il-Kunsill ĠAI, nhar is-6 ta' Ġunju 2008.

Emenda 9

Proposta għal regolament
Artikolu 7 – subparagrafu 2

Test propost mill-Kummissjoni	*Emenda*
2. L-Istati Membri għandhom jieħdu ħsieb u, fejn ikun meħtieġ, jiżviluppaw aktar in-N-SIS II tagħhom.	2. L-Istati Membri għandhom jieħdu ħsieb u, fejn ikun meħtieġ, jiżviluppaw aktar in-N-SIS II tagħhom, ***sa mhux iktar mill-punt fejn hi kkonċernata l-korrezzjoni ta'***

'bugs' possibbli fl-implimentazzjoni tan-N-SIS II rispettiva.

Or. en

Ġustifikazzjoni

Is-SIS II tippreżenta aktar funzjonalitajiet u tipi ġodda ta' twissijiet meta mqabbla mas-SIS I. Għalhekk, xi data ġdida maħżuna minn Stat Membru fis-SIS II tista' ma tkunx maħżuna fis-SIS I. Il-konvertitur, li jippermetti li s-C-SIS jikkomunika mas-C-SIS II, għandu jiżgura l-kompatibilità tad-data fis-SIS I u s-SIS II. Hu għalhekk importanti li jiġi ċċarat li l-'bugs' kollha possibbli relatati mal-kompatibilità tad-data bejn is-SIS I u s-SIS II iridu jiġu koretti permezz tal-konvertitur, taħt ir-responsabilità tal-Kummissjoni Ewropea.

EXPLANATORY STATEMENT

Background:

The Schengen Information System (SIS) is the central tool for the application of the Schengen principles, in fact is rightly considered as the backbone of a "borderless" Europe and the Area of Freedom, Security and Justice.

Since this System was established its task has gradually changed. In fact, when the SIS was first created, its only purpose was to be a compensatory measure for the opening of the borders. Ever since, especially because the SIS has proved to be a useful and efficient tool, has been decided to maximise its potential, mainly within the frame of police cooperation.

The Schengen Information System is a large-scale database (in fact, the largest common European data base, with a total data volume - in December 2007 - of 22 450 781, from which 1 142 988 is related to persons) which operates as a joint information system enabling the relevant authorities in the Member States to cooperate and exchange the necessary information, something which is essential in order to establish an area without controls at its internal borders.

The system contains information on individuals and objects, which can be used by the relevant authorities, especially within the context of police and judicial cooperation on criminal matters, as well as in the field of checking individuals at external frontiers or on national territory, and for issuing visas and residence permits.

The decision to create a Second Generation of the SIS took account of the need to integrate new data (namely the introduction of biometric data), new types of alerts (ex. introduction of the European Arrest Warrant) and new functionalities needed to be implemented within the system (in order to reinforce security and to make a more efficient use of data, for instance through the interlinking of alerts) and to extend access to alerts by authorities at national or EU level, as well as to give answer to the need to integrate the new Member States, since the central system (C-SIS) could not connect more than 18 countries.

The Commission received the mandate to develop the new system, on 6 December 2001, which was scheduled to begin operating in March 2007. Due to several delays, a new timetable was announced, providing for SIS II to become operational by 17 December 2008 (exactly the same time as the Commission existing mandate ends).

In the meanwhile, a more updated version of the SIS (SIS I+R) was developed in 2006, replacing the C-SIS Machines and implementing a solution more up-to-date in communication terms and including the possibility of connecting new countries to the system.

Given the enormous disappointment for the new Member States that, according to what was promised, wanted to be connected to the SIS still in 2007, the Portuguese Government decided to move forward with a proposal which could serve as a technical transitional solution - the so-called SISone4ALL.

This system is now fully operational and has allowed to connect nine of the new Member States to the SIS. Nevertheless, in this enlarged Schengen area, the reinforcement of security requirements has become even more important and urgent.

This can only be achieved if the next generation of the system, known as SIS II, starts operating.

Establishment of the SIS II

Provisions on the establishment, operation and use of the SIS II were agreed in 2006, between the Council and the European Parliament, under co-decision, on a first reading in order to avoid any more delays. It is foreseen that these instruments will start applying to the Member States participating in the SIS I + only as of the date to be fixed by the Council, acting by the unanimity of its Members representing the governments of the Member States participating in SIS1+ (according to artº 55(2) of Regulation 1987/2006).

Before this can happen and the system starts operating, the system must be closely tested, with a view to assessing whether SIS II meets all the technical and functional requirements as defined in the SIS II legal instruments, as well as the other necessary requirements such as robustness, response capacity and performance.

Only after the successful completion of all SIS II tests we can go for the next step: the migration of the SIS I + users to the SIS II environment, where the switch-over should take place on the same date for all Member States - one-shoot migration.

Current proposals: Migration

The European Parliament has been asked to give its opinion regarding the two instruments aiming to establish the legal framework governing that migration.

This proposal for a Council Regulation aims to regulate the migration from the current Schengen Information System (SIS I +) to the Second Generation Information System (SIS II).
It arises taking into account the need for a change on the migration strategy. The initial plan was to have a migration of 15 Member States (the number at that time), during a process that should take around 8 hours.

In the meanwhile, the number of Member States increased to 25[1], making this migration process much more complex, difficult and requiring more time for the process of transferring all the data to the new network. The risk became too high because if one Member State, during this common switch-over period, fails to have a successful migration, the direct consequence would be to put back immediately its borders (because it wouldn't have access anymore to the SIS). In order to avoid this contingency, it was necessary to create a sort of back-up solution so as to be able to switch back to SIS 1+ if necessary.

[1] The Member states of SIS II are the following: 15 old EU Member states -except UK and IE plus 9 new Member states (the new 10 of 2004 enlargement minus CY) plus Norway and Iceland and CH.

Sabiex jonqsu r-riskji ta' tħarbit fis-servizz matul iż-żmien tal-migrazzjoni, se jkun possibbli li s-SIS 1+ u ċerti partijiet tekniċi ta' l-arkitettura ta' SIS II joperaw b'mod parallel għal perjodu tranżitorju, permezz ta' arkitettura teknika provviżorja.

Beyond that, a technical tool will also be made available - a "converter" - allowing for the successful conversion and synchronisation of data between SIS 1+ and SIS II, to be used for a very limited period of time. The converter connects the SIS 1+ central system with the SIS II central system, enabling both to process the same information and ensuring that the Member States already successful connected to the SIS II stay on the same level as the others that are still connected to the SIS 1+. In order to allow that interim technical architecture to work, a new function that was not previewed in the first contract has been added - the reverse mode.

The current proposal intends not only to establish the legal framework governing the migration, but also the comprehensive test, with a view to demonstrating, in particular, that the level of performance of SIS II is at least equivalent to that achieved with SIS 1+. Barra minn dan, għandha wkoll l-għan li tirregola l-prova dwar l-iskambju ta' informazzjoni supplimentari.

Development and testing phase

The conditions stated in Article 71 of Council Decision 2007/533/JHA of 12 June 2007 should be fulfilled (including the fact that the European Parliament should be informed of all the results) and only after that, the migration of the data should take place, in one-shoot migration. These four conditions are:

- the adoption of the necessary implementing measures;
- the notification about necessary technical and legal arrangements by the Member States;
- the successful completion of a comprehensive test;
- the necessary technical arrangements for connecting the national systems to the central system;

The operational start of SIS II marks the end of the development phase and the beginning of the SIS II legal basis applicability. Following that logic, than the migration phase has to be the final task under the development mandate for SIS II.

Following a request of the European Parliament's Rapporteur, Vice-President Barrot responded with a letter, on 13th June 2008, stating that the testing phase is already taking place and describing the 12 different phases until the start of operations of the SIS II, that is foreseen for 30 September 2009.

Mandate

It is necessary to have a SIS II development mandate until the operational start of SIS II, the so-called "go live".

This mandate must allow to carry out all tasks defined as preconditions in the SIS II Legal Instruments, including the preparation of the operational start. This means the correction of

any bugs identified during the test phases and the provision of all necessary preconditions such as test platforms and resources. The finalisation of all tests should only be considered successful when no more blockings or major bugs are identified.

Until now the project management has been done by the Commission, as well as the management of the relation with the firm contracted for this purpose. If the Commission ends its mandate before the "go live" phase, than the relations with the contractor should also come to an end. Nevertheless, this firm has been paid to deliver a system perfectly working. This being so, how can it be acceptable for its contract to end before we know that the system is fully operational and any eventual problems and bugs (that certainly still will appear) are solved, which should still be done in the framework of that contract? How can this contract finish in December 2008, if only 15 Member States will be tested and not all of them? Can guarantees be given that the performance of the system will be the same if 10 more Member States will be added?

It is expected that for this new phase, a new contractor will have to be found and a new working environment will have to be rebuilt, inside of the Council structures, in order to proceed with the work and carry out the necessary tests until the system is in a position to become operational (which was, in principle, already required from and paid to the previous contractor). In this case, will this option make it necessary to have a new calendar in order to take into account all these new aspects that were not previously foreseen?