



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 April 2002

7939/02

LIMITE

**SIS 27
COMIX 265**

**DOCUMENT PARTIALLY
ACCESSIBLE TO THE PUBLIC**

OUTCOME OF PROCEEDINGS

of : WORKING PARTY ON SIS (MIXED COMMITTEE EU/NORWAY AND ICELAND)
on : 3-4 April 2002

Subject : Summary of discussions

1. Adoption of the agenda

The agenda as set out in telex No 1368 of 15 March 2002 was adopted with the following modifications:

- addition of point 3c: JDC costs for second quarter 2002
- addition of point 7: overall responsibility for SIS II project management

2. Report of the Presidency

The Chairman informed the meeting of the issues concerning SIS discussed or decided at the Article 36 Committee of 14 March.

The Chairman of the SIS-TECH WP reported on the results of the SIS-TECH WP held on 20 March 2002.

3. Financial aspects

3. a C.SIS budget 2003

The meeting approved document 7582/02 SIS 25 COMIX 215, which sets out the provisional C.SIS installation and operating budget for 2003.

3. b Quarterly report of approved C.SIS installation expenditure – 1st quarter 2002

The meeting approved document 7542/02 SIS 24 COMIX 212, which sets out the quarterly report of approved C.SIS installation expenditure for the first quarter of 2002.

3. c JDC expertise costs for the second quarter of 2002

The meeting approved document 7137/02 SIS-TECH 51 COMIX 173 concerning the JDC expertise costs for the second quarter of 2002.

4. SIS requirements

New categories of objects

During the discussion about documents 6402/02 SIS 14 COMIX 120 and 7367/02 SIS 23 COMIX 204, the following comments were made:

- alerts on containers should be limited to the container itself and not include data on the content of the container;
- the category "counterfeit documents" should be extended to "counterfeit and falsified" documents; it would have to be studied later how to distinguish counterfeit documents from the valid original document to avoid questions of misused identity;
- invalid documents should be introduced for the purposes of seizing the document; it was a matter for domestic law as to what would be done with the person using such a document;
- objects, and notably works of art, should be indelibly numbered in order to be eligible for introduction in the SIS; no minimum value should be set for objects, and notably works of art, to be introduced in the SIS;
- it was suggested that objects belonging to wanted persons would be better included in alerts pursuant to Article 99, which are introduced for the purpose of checks, rather than pursuant to Article 100, which are alerts introduced for the purpose of seizure or use as evidence; this would have to be further detailed;
- it was agreed to include credit cards in the list of "credit documents".

Simplifying procedures for introducing alerts pursuant to Article 99(3) (cf. doc. 5969/1/02 REV 1 SIS 7 COMIX 79)

Several delegations explained that the proposal made and examined at the Sirene WG to introduce alerts pursuant to Article 99(2) rather than pursuant to Article 99(3) was not acceptable for reasons of domestic law. While not opposing that certain States use this solution, they stressed the fact that studies should continue on how to simplify procedures for introducing alerts pursuant to Article 99(3).

Access for security and intelligence services (cf. doc. 5969/1/02 REV 1 SIS 7 COMIX 79)

NOT ACCESSIBLE TO THE PUBLIC repeated that it still had a reservation concerning access to the SIS for non-police organisations and explained that this also related to security and intelligence services not belonging to a police service.

Extended access for authorities issuing residence permits

NOT ACCESSIBLE TO THE PUBLIC asked that it be clarified which Member States' authorities have the responsibility to issue residence permits and whether any of these also deal with asylum and immigration matters.

Access for Eurojust

NOT ACCESSIBLE TO THE PUBLIC proposed that it also be examined whether to give Eurojust access to alerts pursuant to Article 99.2.

Most delegations, however, agreed with the Chairman that it would be more appropriate to wait for more input from Eurojust itself before taking a decision on which alerts Eurojust should get access to and whether this access should be direct or indirect.

Interlinking of alerts

It was agreed that from a technical point of view it should be possible to link any category of alerts with any other category. It would have to be determined later for which links an operational use exists.

Incorporation of identification material in alerts on persons

Opposite opinions exist on whether to include fingerprints in the SIS or only the indication that fingerprints are available:

- **NOT ACCESSIBLE TO THE PUBLIC** stated that including fingerprints in the SIS would create legal problems at national level and found that this was in any case not very useful as end users would not be able to benefit from having fingerprints available on the spot;
- several other delegations were of the opinion that certain end users do have the need, expertise and competence to have the fingerprints available on the spot and pleaded that this possibility not be excluded at this stage; when, in the future, end users would have the technical and legal possibilities to use fingerprints, the SIS II should be able to provide this feature.

Access for public prosecutors and possibly other judicial authorities such as magistrates

NOT ACCESSIBLE TO THE PUBLIC insisted that in its opinion it is necessary, for reasons of legal clarity, to specify that public prosecutors can access the SIS. This delegation would submit a text proposal.

Possibility of introducing multiple alerts on the same person by the same State

All delegations agreed that it should be possible for a State to introduce multiple alerts pursuant to Article 95 concerning the same person, except for **NOT ACCESSIBLE TO THE PUBLIC**, who filed a reservation on this point. The SIRENE Working Group would be asked to take this proposal into account when revising the SIRENE Manual.

Extending the duration of alerts in the SIS and replacing maximum deadlines by review deadlines

NOT ACCESSIBLE TO THE PUBLIC were still of the opinion that it would be useful to extend the duration of certain categories of alerts in the SIS. However, in view of the majority opinion against this proposal, these delegations accepted that this proposal would not be pursued. It was recommended to find national arrangements to reduce the workload of renewing alerts.

Access for Europol (cf. document 5970/02 SIS 8 COMIX 80)

As further written information from Europol concerning their access to the SIS did not provide more clarity on this proposal, it was agreed to invite a member of the Europol staff to the SIS meeting. The Presidency would make the necessary arrangements.

Report to the Article 36 Committee

Delegations agreed on the text of the draft report to the Article 36 Committee with certain modifications and comments which would be included in the final version of the document¹:

- **NOT ACCESSIBLE TO THE PUBLIC** is of the opinion that for data protection reasons, a specific provision is necessary to allow for searches to be done on the basis of incomplete data; other delegations stated that this is a matter of national consultation procedures and is not forbidden by the Schengen Convention;
- no references would be included to the Articles of the Schengen Convention that might be affected by the different proposals;
- the Commission informed the meeting that it was examining the legal conditions for allowing vehicle registration authorities access to the SIS.

5. Security policy

A long discussion was held about whether the proposal for security policy set out in document 6124/1/02 REV 1 SIS 10 COMIX 98 RESTREINT should become binding rules for the States or a kind of best practices that should be considered as recommendations to be followed, without prejudice to domestic legislation.

It appeared that the Spanish proposal as such would be too detailed to constitute binding rules as the States must retain a certain freedom to implement these measures and adapt them to national rules and structures.

However, it was clear that there should be some general minimum binding rules for the States to comply with and it was suggested that the measures set out in Article 118 of the Schengen Convention make up these minimum binding rules.

The Presidency concluded that the majority of the delegations was in favour of having minimum binding rules but found that they should be separated from more detailed guidelines, such as those set out in document 6124/1/02. These should then be considered as recommendations or best practices.

The document was then discussed chapter by chapter and while **NOT ACCESSIBLE TO THE PUBLIC** would include detailed comments in a revision of the document, the following general remarks should be noted:

¹ Note from the Secretariat: this report is set out in document 7630/02 SIS 26 COMIX 238.

- delegations would incorporate the guidelines set out for SIS in the general national security policy and adapt them to existing national structures, organisations and procedures;
- where possible, delegations should try to adapt this general policy to comply with the present guidelines but these guidelines should always be compatible with the guidelines existing for other national systems;
- it was requested to define more clearly whether external contractors were contractors external to the department or only contractors from private companies;
- this security policy would explicitly have to foresee rules for C.SIS and not be limited to the national systems.

Delegations were invited to send in written comments to help improve the proposed security policy.

6. Data quality

This issue was not discussed.

7. Other business

NOT ACCESSIBLE TO THE PUBLIC asked that it be discussed which entity should have the overall responsibility for the project management of the SIS II.

The meeting agreed to the Commission proposal to discuss this in the next meeting of the SIS II committee.

8. Confirmation of decisions, prepared in the Mixed Committee, by the Council Working Party on the SIS

Agenda point	3a	approved document 7582/02 SIS 25
	3b	approved document 7542/01 SIS 24
	3c	approved document 7137/02 SIS-TECH 51
