



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 19 June 2001
(OR. en)**

9845/01

LIMITE

**SIS 57
SCHENGEN 2
COMIX 439**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject : Initiative of the Kingdom of Belgium and of the Kingdom of Sweden with a view to the adoption of a Council Decision on the development of the second generation Schengen Information System (SIS II)

COUNCIL DECISION

of

on the development of the second generation Schengen Information System (SIS II)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1), Article 31 and Article 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium and the Kingdom of Sweden ¹,

Having regard to the Opinion of the European Parliament ²,

¹ OJ C

² OJ C

Whereas:

- (1) The Schengen Information System, set up pursuant to the provisions of Title IV of the Convention of 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, hereinafter referred to as "the 1990 Schengen Convention", constitutes an essential tool for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union.
- (2) The Schengen Information System in its current form has the capacity to service no more than 18 participating States. It is at present operational for 13 Member States and 2 other States (Iceland and Norway) and is intended to become operational for the United Kingdom and Ireland in the foreseeable future. It has, however, not been constructed so as to service the increased number of Member States of the European Union after its enlargement.
- (3) For this reason, and in order to benefit from the latest developments in the field of information technology and to allow for the introduction of new functions, it is necessary to develop a new, second generation Schengen Information System (SIS II).
- (4) The expenditure involved in the development of SIS II is to be charged to the budget of the European Union in accordance with the Council conclusions to that effect of 29 May 2001. This Decision constitutes, together with Council Regulation (EC) No/2001 of on the development of the second generation Schengen Information System (SIS II) ¹, the required legislative basis to allow for the inclusion in the budget of the Union of the necessary appropriations for the development of SIS II and the execution of that part of the budget.

¹ See page of this Official Journal.

- (5) The legislative basis consists of two parts: this Decision based on Articles 30(1), 31 and 34 of the Treaty on European Union and a Council Regulation based on Articles 66 and 67 of the Treaty establishing the European Community. The reason for this is that the Schengen Information System serves several objectives, one of which falls within the scope of Title IV of Part Three of the Treaty establishing the European Community and others which fall within the scope of Title VI of the Treaty on European Union.
- (6) The fact that the legislative basis required for allowing the development of SIS II to be financed by the Union budget consists of two separate instruments should not affect the principle that the Schengen Information System constitutes, and should continue to constitute, one single, integrated, information system and that SIS II should be developed as such.
- (7) This Decision is without prejudice to the adoption in future of the necessary legislation describing in detail the operation and use of SIS II. It is necessary for such legislation to be in place before the system becomes operational, but it can only be adequately prepared once the technical development of SIS II has advanced sufficiently.
- (8) The necessary rules describing the categories of data to be entered in SIS II in order to serve the objectives set out in this Decision and the specific purposes of each category of entry, the nature of the data to be entered and the entitlement to access to these data should be adopted in accordance with the provisions of Article 34 of the Treaty on European Union.
- (9) As to the procedures for the taking of measures necessary for the implementation of this Decision, the Decision refers to the relevant provisions of Regulation (EC) No/2001, which is to apply to the development of SIS II as a whole.

(10) This Decision constitutes a development of the Schengen acquis and is covered by the terms of Article 1 of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis¹,

HAS DECIDED AS FOLLOWS:

Article 1

In order to maintain public policy and public security, including national security, in the territories of the Member States, it is necessary for the Member States to have in place a joint information system, enabling the authorities designated by them to have access, by means of an automated search procedure, to alerts on persons and property for the purposes of police and customs checks to be carried out at external borders and elsewhere within their territory.

Article 2

The current information system serving, among other matters, the purpose referred to in Article 1, the Schengen Information System set up pursuant to the provisions of Title IV of the 1990 Schengen Convention, shall be replaced by a new system, the Schengen Information System II (SIS II), which shall allow for new Member States to be integrated into the system and for certain new functions to be carried out and which shall take account of developments in information technology.

¹ OJ L 176, 10.7.1999, p. 31.

Article 3

The SIS II, which shall be a single integrated system, serving both the objectives set out in Article 1 of this Decision and those set out in Article 1 of Council Regulation (EC) No/2001, shall be developed by the Commission, in accordance with the procedures set out in Article 6(2) and (3) of that Regulation.

Article 4

This Decision shall take effect on the day following that of its publication in the Official Journal of the European Communities.

It shall expire on 31 December 2006.

Done at

For the Council
The President

=====