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NOTE

from : Presidency
to : SIS/SIRENE Working Group (EU/Iceland and Norway Mixed Committee)
Subject : Council conclusions on SIS II

Preliminary remarks

The Presidency presents in Annex a revised draft for the Council conclusions to be discussed and/or adopted in June concerning SIS II, following the discussion at the Article 36 Committee of 14 April 2003, the discussion at the SIS/SIRENE working group on 28 March and 12 May 2003 and the Art. 36 Committee meeting on 15 and 16 May in Kastoria.

Regarding the comments made at the Article 36 Committee, the Presidency wishes to provide the following explanations.

On chapter II:

- the general introduction of chapter II does not include information on the chapters II.2(a) and II.2(b) to avoid confusion or contradiction with the introduction of these chapters, which have been adapted anyway
- it is considered necessary to maintain point II.1(a) as discussions in both the SIS/SIRENE WG and the Article 36 Committee have shown that proposals for modifying the purpose of the SIS lead to questions about the nature of the SIS; the Presidency therefore thinks it is useful to confirm that the SIS should remain a hit/no hit system

- it is also thought useful to phrase point II.1(a) more generally than the current wording of Article 93 to take account of developments in the JHA area since 1990; the suggestion to include a specific mention about the fight against terrorism is not taken up in order to have a wording that is as general as possible
- the introduction of chapter II.2(b) has been modified to express more clearly that no decision (neither approval nor rejection) is requested or taken concerning the requirements set out in this chapter: they are proposals submitted by various delegations but which do not find general consensus at the moment; delegations advocating these proposals have the right to try and gather support for them but other delegations cannot be obliged to accept them (by a certain date or even at all); the conclusions in point II.1 are in any case sufficient to ensure that the SIS II will be technically able to implement any of the proposals set out chapter II.2(b)
- it is considered useful to maintain "biometric data" in the last indent of point II.1(b): from a technical point of view it is not a big issue to include other biometric data into a system that is set up to include fingerprints anyway; from a political and legal point of view, including other biometric data will, however, require an important debate and study, it is therefore included in point II.2(b); nevertheless, the description of the technical conditions should not preclude the outcome of this political and legal debate
- it is not considered necessary to include the need for transliteration rules and the possibility of executing queries on the basis of incomplete data, as these are features of the existing systems, which have, moreover, been confirmed by the Council in previous conclusions, to which reference is now made in the introductory phrase of chapter II.1
- it is preferred not to add the "objects used/owned by offenders" in chapter II.1(a) as this issue is covered by the third indent of chapter II.1(b) and the discussions on the Spanish initiatives have shown that there is no consensus for the moment to extend any further the list of objects to be included pursuant to Article 99
- as there are still widely diverging views (and hence not a "full to wide-ranging agreement" as stated in chapter II.2(a)) on which authorities should acquire (an extended) access to the SIS, it is considered more correct to leave this proposal in chapter II.2(b)
- the proposal of the Netherlands to use the SIS as a technical support for exchanging data on missing and unidentified persons between the national co-ordination points for missing and unidentified persons is not included as it is not an additional category of persons to be included in the SIS.

On chapter III:

- the first paragraph is adapted to clarify that the conclusions are based on the report of the Commission concerning the result of the feasibility study and the outcome of the SIS II committee discussions but also on the discussion to be held in the Council Working Groups
- the elements of substance that were in the first paragraph have been included in the conclusions itself

On chapter IV:

- As there is no real need to arrive at conclusions concerning location, management and financing immediately, the Presidency makes reference to the time limit of May 2004 and the work which must be carried out in the Working groups of the Council.

Proposal for the document to be submitted to the Council**I. Introduction and summary**

With a view to ensuring that the second generation of the SIS is operational by 2006, to allow for additional Member States to participate to the SIS as well as to enhance the use, functionalities and the technical capacities of this system, the call for tenders for developing SIS II needs to be started in autumn 2003.

The current timetable according to the Commission and the results of the feasibility study is the following

- June 2003 – Definite list of functionalities and decision on the architecture,
- August 2003 - Launch of the call for tender of SIS II,
- June 2004 – Signature of the contract for the detailed design and the development of SIS II and subsequent draft of the detailed design,
- January 2005 – Start of SIS II development,
- Spring 2005 – Start of Schengen States/Member States national system adaptation,
- Autumn 2006 – Start migrating current Contracting Parties,
- End 2006 – Ready for integration of new Contracting Parties (the issue of whether acceding countries could integrate in parallel with present Parties is still under discussion).

This timetable will be permanently updated according to the evolution of the project, with a view to respect the deadline of end 2006. A special meeting of the SIS II Committee on 21 May 2003 will discuss and check the feasibility of this timetable.

It is therefore necessary that the Council discusses and adopts the conclusions set out in chapter II and III concerning the functional requirements and the architecture: as they will determine the technical conditions for the SIS II, they need to be included in the technical specifications of the call for tender.

II. Functional requirements

It has been clear from the earliest conception of SIS II that this system should be a flexible tool, that will be able to adapt to changed circumstances and fulfil, within a reasonable time and without major additional costs and efforts, user requests made during its lifecycle.

The conclusions set out in point II.1 concern the technical implications of the functional requirements and will be included in the call for tender for SIS II. However, this does not affect the need for political and legislative decisions in order to implement these new requirements.

II.1: General functional requirements for SIS II:

Following up on its conclusions of 20 June 2002¹, the Council concludes the following: (a) The SIS is a hit/no hit system allowing for information exchange with a view to policing the free movement of persons as well as maintaining public security, and in particular assisting national authorities in the fight against trans-national crime, in the context of the EU objective to maintain and develop the Union as an area of freedom, security and justice.

(b) In order for the SIS to maintain and enhance its efficiency, SIS II must allow, in addition to the functionalities set out in existing provisions, for:

- the addition of new categories of alerts, both on persons and on objects (including where necessary the possibility that certain alerts be automatically deleted after a certain event/date);
- the inter-linking of any alerts, ensuring that this does not change the existing access rights to the different categories of alerts²;
- the addition of new fields in the alerts and the modification of existing fields (including changing the optional character of a field to mandatory or vice versa);
- the modification of the duration of the alerts;
- new authorities to get access to the SIS (including where necessary the possibility to give partial access or access with a purpose different from the original one set in the alerts);
- the storage, transfer and possible querying of biometric data, especially photographs and fingerprints.

¹ See doc. 9773/02 SIS 43 CATS 34 COMIX 390.

² As agreed by the Council on 20 June 2002 (cf. doc. 9773/02 SIS 43 CATS 34 COMIX 390).

II.2: Detailed requirements

(a) In view of the fact that full to wide-ranging agreement exists on the following requirements, the Council requests the relevant working groups to establish in a timely manner so that they are implemented in the first release of SIS II, where necessary in the form of legislative texts,

- the list of what links can exist between which types of alerts;
- which fields will be included and/or modified in alerts on issued documents;
- which additional information and/or fields, if any, will be included in (certain) alerts;
- the (practical) conditions for storing photographs and fingerprints on wanted persons;

(b) The Council takes note of the fact that at the moment a certain interest exists on the following proposals, but also the need for more study on their feasibility, usefulness and practical implementation. The Council therefore invites the relevant working groups to discuss these requirements and, where and when they find sufficient support, to submit them to the Council.

- how, in view of the conclusions of Tampere and of the EU action plan to combat terrorism , should the purpose of the system be changed or extended, and notably
 - which authorities should acquire (an extended) access to the SIS and what purpose they can use this access for: the study should include the possibility for some authorities to use the SIS data for purposes other than those for which they were originally introduced in the SIS
 - the legislative implications this might have, most importantly concerning data protection
 - the technical impact this might have (including that at the national level)
 - the need for ensuring that the efficiency of the current system is maintained and improved;
- which new categories of persons should be introduced in the SIS, and notably:
 - minors precluded from leaving the Schengen area
 - violent troublemakers;
- which new categories of objects should be introduced in the SIS under Articles 99 and/or 100, and notably
 - other vehicles
 - works of art
 - animals
 - luxury items
 - any easily identifiable objects;

- which, if any, of the SIRENE forms must be included in the SIS database;
- what other biometric data can be stored in the SIS and what use, if any, can be made of the biometric data stored in the SIS;
- what intelligence use, if any, can be made of the records made according to Article 103;
- what modifications, if any, are necessary regarding the period an alert can be kept in the SIS;
- what data should be recorded under Article 103.

It is understood and follows from the conclusions under point II.1 that the SIS II should have, from the beginning, the technical capacity to implement the requirements set out in this chapter.

III. Architecture

Based on the recommendations of the SIS II feasibility study, the opinion of the SIS II Committee thereon, as well as the opinion of the relevant Council Working Groups after having examined the different possible architectures,

the Council concludes that:

- the call for tender for SIS II shall consist of a core system and a uniform national interface in each Member State;
- the national interfaces will be delivered as a Ready-made Turnkey Solution (RTS) and will not contain the SIS data¹;
- it shall be possible for the Member States which do not wish to maintain a national copy of the SIS database, to query in an automated manner the SIS database kept in the core system. The national copy of the SIS database is maintained by the countries for their own account and at their own risk;
- the core system shall ensure the availability, integrity and continuous update of the SIS data, both for updating the national copies of the SIS database and for the purposes of allowing queries on the database
 - a contingency system shall therefore be set up at a different location
 - the communication infrastructure shall therefore have the necessary availability guarantees;

¹ The contractor may, however, suggest that SIS data will be included in the national interfaces, if it considers that this solution provides greater flexibility, availability and performance.

- the core system shall contain the alerts introduced pursuant to Articles 95 to 100 of the Schengen Convention, as adapted where applicable, and in accordance with the provisions of Article 94,
- automated queries on the SIS database shall be done, where necessary, on the national copies of the SIS database or on the core system via the national interfaces;
- SIS data shall be inserted in the core system via the national interfaces;
- the core system and the national interface will have a sufficiently high standard of security applying where possible an internationally recognized standard of security;
- the technical specifications of the call for tender for SIS II shall respect the above conclusions.

The Council requests that in due time, the necessary legislative provisions reflecting the principles underlying the current conclusions be prepared for adoption.

IV. Location / management / financing

The respective Council working groups must:

* prepare Council conclusions on the location, management and financing of the SIS II as soon as possible and in due time for adoption by the Council at the latest by May 2004;

* study the organisational implications of the chosen architecture within the national systems of the Member States, together with the financial impact of that architecture.

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