



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 October 2004

12888/04

LIMITE

**JAI 355
SIRIS 98
VISA 176
COMIX 582**



NOTE

from :	Presidency
to :	Article 36 Committee (Mixed Committee EU/Iceland and Norway)
Subject :	Parameters, procedures and time schedule for decisions on the strategic management of SIS II

I. Introduction

History

The current SIS has an intergovernmental legacy as it was developed within the institutional framework of the Schengen Convention. The current SIS consists of a central system and national systems. Data are being transported via a connecting network. France has assumed responsibility for the operations of the central system thus far (located in Strasbourg)¹. With the accession of ten new Member States and the adoption of some new functionalities for the SIS (the so-called Spanish Initiatives)², and to be able to make optimal use of latest development in information technology³, it became necessary to build the SIS II.

¹ Article 92 of the Schengen Convention.

² Council Regulation (EC) No 871/2004 of 29 April 2004 (published in OJ L 162 of 30.4.2004, p. 29) and doc. 10667/04 SIRIS 74 SCHENGEN 5 COMIX 351.

³ Doc. 14161/01 SIS 102 SCHENGEN 17 COMIX 744.

At the moment the Commission is developing SIS II, together with the Member States in the SIS II Committee¹, in a comitology procedure. The SIS II should be up-and-running in the first semester of 2007.

Operational and strategic management of SIS II

In previous discussions a distinction was made between operational and strategic management of SIS II^{2 3}. Alongside the development of SIS II by the Commission, decisions should be made on the operational as well as the strategic management of the SIS II.

Operational management involves matters such as a helpdesk, maintenance of the system, security-management etc. Operational management requires continuous on-site presence, and can therefore not be separated from the question of the location of the system.

Strategic management, on the other hand, is not an executive task. This task is the responsibility of the Council. It involves such matters as decisions on how to integrate new functionalities, migration strategy, procurement, contract management etc. Strategic management could be organisationally and physically separated from operational management.

Decisions on operational and strategic management should both be reached within the Council. A decision concerning the operational management of the central system during the development phase has been reached: France will continue this task for the site in Strasbourg and Austria for the business continuity site in Salzburg⁴. A final decision on strategic and operational management of SIS II should be reached by June 2005⁵.

¹ Council Decision 2001/886/JHA of 6 December 2001 (published in OJ L 328 of 13.12.2001, p. 1 and Council Regulation (EC) No 2424/2001 of 6 December 2001 (published in OJ L 328 of 13.12.2001, p. 4)

² Doc. 16106/03 SIRIS 111 VISA 205 COMIX 765, p. 21.

³ Conceptually, three levels of management may be distinguished: strategic, tactical and operational management. However, in past discussions the only distinction made was that between strategic and operational management. In order not to complicate discussions at this point, tactical management will be regarded as part of strategic management.

⁴ Doc. 8605/04 SIRIS 58 COMIX 278.

⁵ Doc. 8273/04 SIRIS 55 CATS 11 COMIX 253.

II. Strategic management of SIS II

In this document, the Presidency proposes conditions, parameters and procedure for the discussions about the strategic management of SIS II and the decisions to be reached. The Presidency would like to reach an agreement within the Council on these conditions, parameters and procedure, before actually discussing to whom the strategic management should be entrusted.

1. General task description and priorities

First of all, the Presidency is of the opinion that it is important to reach an agreement on the general tasks and priorities for the organisation which will be made responsible for the strategic management of SIS II¹. The Presidency is of the opinion it would not be useful or necessary to begin discussions about organisational set-up before it has been decided what it is this organisation should do.

The Presidency proposes the following general task description:

- Oversight of operational management and technical operations of the SIS;
- Contract and service level management with parties concerned²;
- Service level management for the central and business continuity site³;
- Managing SIS II finances and account for them;
- Installing any technical and expert committees to be of advise to the organisation which deals with strategic management of SIS II;
- Maintain relationships with other relevant bodies, such as the Joint Supervisory Authority;
- Report to Council, Commission and European Parliament on its operations.

¹ Which (sort of) organisation will be made responsible for the strategic management of SIS II should be decided at a later stage. So 'the organisation' referred to in this document may be any kind of organisation or part of any organisation.

² These may include Member States, organisations such as Europol and Eurojust and the company which is hired to maintain the system.

³ Service level agreements will, in particular, specify the conditions governing the relationships between the different parties, access to the sites for relevant bodies and personnel and the local support to be provided by the hosting Member States (Doc. 8273/04 SIRIS 55 CATS 11 COMIX 253).

2. Legal framework

The current legal basis of the SIS consists of Title IV of the EC Treaty on the free movement of persons and Title VI of the EU Treaty on criminal matters and police cooperation. Thus, the SIS is currently a cross-pillar instrument. For the implementation of SIS II and the new functionalities that were agreed upon by the Council on 14 June 2004, the current legal basis needs to be redrafted. The Commission will assume this task, which is linked closely to the technical development of the SIS II, and will lay down proposals concerning the SIS II legal basis by the end of 2004¹.

3. Conditions for the strategic management of SIS II

Whichever way or form will be chosen for the strategic management of SIS II, the organisation responsible for the strategic management of SIS II, should adhere to a number of conditions:

- Ownership of data and legal responsibility of data stored in the SIS II should remain with the Member States.
- The interested parties, i.e. the users of the system, should have sufficient and adequate authority within the strategic management structure, in accordance with their interests.
- The organisation responsible for the strategic management of the SIS II should subsequently be accountable to Council, Commission and European Parliament;
- The organisation should be able to perform its tasks in the most efficient way possible;
- The organisation should have a logical connection to the operational management;
- The organisation should be an official EU body, which may be expected to guard interests of all relevant parties.
- The organisation should be subject to, and should comply with, the relevant privacy regulations.

¹ June 2004 Progress Report by the European Commission: 12210/04 SIRIS 87 COMIX 529.

4. Parameters for the structure of the organisation

The structure of the organisation responsible for the strategic management of SIS II should be laid down in appropriate legal texts. The broad outlines of these texts could be:

- The organisation should have a management board, which is responsible for setting working programmes on the basis of the general task description, allocated budgets and political priorities (MS and CION).
- The organisation should also have an executive director, who is responsible for the every day operations of the organisation for the strategic management and for overseeing operational management of SIS II.
- Technical or expert committees may be appointed by the management board (such as programme board and project boards), consisting of representatives from Member States, Commission and other interested parties.
- Member States, Commission and other interested parties may exert their influence through the composition of the management board and (technical or expert) committees.

III. Financing

Along with the decisions on the strategic management of SIS II, decisions should be made about the financing of SIS II, including:

- Development costs and maintenance costs of SIS II
- Maintenance costs for the Central System
- Costs for the connecting network
- Operational management costs of SIS II
- Strategic management costs of SIS II
- National interfaces and/or national copy

All development costs for the central system and national interfaces currently bear on Community budget. A similar line of thought might go for operational management costs and strategic management costs in the future, which would then both bear on Community budget, as they are related to the common system. However, the connecting network is currently funded by the Member States and managed by the Council Secretariat on behalf of the Member States. Also, maintenance costs for national interfaces and all costs for national copies are funded by the Member States.

IV. Procedure for further decisions

Once a decision has been taken on the general task description, the conditions and the parameters for the strategic management of SIS II, the discussion about the actual organisations for the strategic and the operational management of SIS II needs to be continued. To facilitate further discussion, a proposal should be drafted, measuring the different options against the conditions and parameters which have been previously decided upon.

The Presidency invites the Article 36 Committee delegates to consider approving the procedure for the decision making process about the strategic management of SIS II. If delegates have any comments or proposals on the subject of this procedure, the Presidency invites them to send them to the Presidency as a text proposal. This matter will be discussed again at the next meeting of the Article 36 Committee.
