



Brussels, 30 January 2017
(OR. en)

5521/17

Interinstitutional Files:

2016/0407 (COD)

2016/0408 (COD)

2016/0409 (COD)

**SCHENGEN 1
SIRIS 11
COMIX 50**

OUTCOME OF PROCEEDINGS

From: Working Party for Schengen Matters (Acquis) - Mixed Committee (EU-Iceland, Norway and Switzerland, Liechtenstein)

On: 16 January 2017

Subject: Summary of discussions

1. Adoption of the Agenda

The agenda was adopted as set out in CM 1038/17 without modifications.

2. Proposal for a Regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals

15812/16 SIRIS 176 MIGR 224 SCHENGEN 20 COMIX 861 CODEC 1943

Proposal for a Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006

15813/16 SIRIS 177 FRONT 502 SCHENGEN 21 COMIX 862 CODEC 1944

Proposal for a Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU

15814/16 SIRIS 178 ENFOPOL 501 COPEN 404 SCHENGEN 22 COMIX 863
CODEC 1945

- Presentation of the proposals by the Commission

Representatives of the Commission (COM) made an overall presentation of the legislative package composed of the three abovementioned proposals.

It was explained that the main reason for having three separate parallel instruments was the need to reflect the different degrees of participation in the Schengen Information System by several groups of States (the 'variable geometry' of Schengen).

The Regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals (15812/16) is intended to be applicable in all the Member States and associated countries, with the exception of UK and IE. However, UK would be able to request to opt in to this Regulation under certain conditions.

The Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 (15813/16), would be applicable to all the Member States (except BG, CY, HR, IE, RO and UK) and the associated countries.

The Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU (15814/16) would be applicable to all the Member States having the SIS operational and associated countries.

It was recalled that for the time being CY, HR and IE are not yet participating in the SIS, so for the time being none of these instruments would be applicable to them.

COM said the aim of this package was to improve the efficiency of the system – which is already the most used and effective of the IT systems in the area of freedom, justice and security in the EU. COM emphasised some of the most important changes regarding the SIS in this package, for instance: the focus would be put on the end users; more authorities, both at national and EU level, would have access to the system; the SIS would be related to other IT systems, e.g. EES and ETIAS; more category of data, including biometrics, would be inserted, including for searching purposes; new types of alerts would be created; return decisions would be inserted; all the Member States would have a national copy.

COM said that the modifications proposed to the SIS took into account the conclusions of the comprehensive evaluation of SIS II three years after its entry into operation, carried out in accordance with Articles 24(5), 43(3) and 50(5) of Regulation (EC) No 1987/2006¹ and Articles 59(3) and 66(5) of Decision 2007/533/JHA², the outcome of the Schengen evaluations, and the feed-back from the Member States given in the context of the SISVIS Committee.

COM also reported that in the light of the findings of the High Level Expert Group on Information Systems and Interoperability, the Commission would submit a second set of proposals, expected by 28 June 2017, to further improve the interoperability of SIS with other IT systems. This second set of proposals would not interfere with the current one and should not cause any delay to it. In fact, the second set would complement the first one, and is not intended to replace its provisions.

¹ OJ L 381, 28.12.2006, p. 4.

² OJ L 205, 7.8.2007, p. 63.

During an overall exchange of views regarding the whole package, one of the main concerns expressed by Member States concerned preventing the system from becoming cumbersome and overburdening the SIRENE Bureaux, in view of the new tasks and additional information that it would become necessary to process. Enough resources should then be made available. The obligation for all the Member States have a national copy available was also pointed out.

AT, BG, CZ, DE, FI, HU, IT, LT, NL, PL and PT entered a general scrutiny reservation on the three proposals. DE entered also a parliamentary reservation. CH also reserved its position.

3. Proposal for a Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006

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- Examination, article by article, of the provisions common to both instruments (Articles 1 to 19)

The Working Party started a first-round discussion of Articles 1 to 12 of both proposals (see also WK 311/2017).

The outcome of the discussions is reflected in document 5522/17 SCHENGEN 2 SIRIS 12 COMIX 51 (to be issued), with a view to the continuation of the debates at the next meeting of the Working Party on 8 February 2017.

The Presidency asked the delegations to send in their comments in writing, by 27 January 2017 to schengenacquis@consilium.europa.eu and schengenacquis.mhas@gov.mt.

4. AOB

None.

5. Confirmation by the Working Party for Schengen Matters (Acquis) of the decisions prepared in the Mixed Committee

The Working Party confirmed the outcome of the discussions in the Mixed Committee.
