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**REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE
EUROPEAN COURT OF AUDITORS**

**"LESSONS FROM THE EUROPEAN COMMISSION'S DEVELOPMENT OF THE
SECOND GENERATION SCHENGEN INFORMATION SYSTEM (SIS II) "**

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EXECUTIVE SUMMARY

II. The development of SIS II was started under a very particular legal and institutional framework applying at the time to this policy area. The Council took the decision to develop the SIS II on its own initiative and without a Commission proposal.

Many requirements were not foreseen from the start but were added only later. They were therefore not adequately estimated by the Council in fixing the target date or the budget.

III. The fact that SIS II was not delivered in line with the target date and budget estimate set in 2001 is in no doubt and has been known for some time. However the system that was delivered was very different from the one foreseen. The Commission considers that SIS II is performing adequately and fulfils the needs of the users.

IV. The Commission has fully reported on many occasions that the system would be delivered later and at a greater cost than initially planned and projected. It has also explained that the primary cause for this was the substantially changing system requirements.

(a) The initial project deadline was set by the Council on the basis of its own analysis and without input from the Commission.

The Commission drew the attention of the Member States, in Communications in 2001 and 2003, to the risks entailed with that deadline and the assumptions that would need to be met (and eventually were not) if the deadline was to be maintained.

(b) The Commission presented a realistic project budget in 2010 once it had complete information, notably on the system requirements.

(c) The fact that the system requirements were constantly evolving (mostly following MS requests) was a cause of the delays and the increase in costs. It also had a huge impact on the contract management aspect of the project, since this implied several revisions of the contract, which in turn did not facilitate the relationship with the contractor who was constantly faced with changing requirements.

(d) The lack of staff was experienced in the whole policy area which was growing very rapidly.

(f) The working relations between the Commission and some Member States was strained at times during the initial phase of the SIS II project. However DG Home Affairs, on the basis of the same contract and with the same contractors, delivered another large scale IT system (VIS) in a constructive and harmonious working atmosphere with Member States, and with no ambiguities/challenges towards the decision-making process. The same can be said of the development of EURODAC.

The relationship with the SIS Community was less easy for a number of reasons such as a legacy system, a complex governance structure, policy considerations related to the overall approach of some member countries towards the enlargement of the Schengen area.

The governance structure was complex, reflecting both legislative requirements and evolving stakeholder's needs.

(g) Throughout the SIS II project, the Commission fully followed the Financial Regulation rules and negotiated in the best interest of the Union budget.

V. The initial business case had been analysed in the Council without a formal role of the Commission. During the life of the project, the project became subject to co-decision and the co-legislators confirmed that SIS II continued to be an absolute priority, notwithstanding the problems encountered.

The Commission systematically reassessed cost estimates at key milestones of the project when justified by new elements and always transparently communicated on budgetary matters, as spelled out under paragraph (70)(b).

There was no requirement on the Commission to estimate or track national expenditures for SIS II.

VI. The Commission confirms that it indeed has drawn and applied several key lessons from the development of this system. Nevertheless, it has to be recognised that the development of SIS II and its implementation are a very specific undertaking difficult to replicate to other IT systems.

VII. Most of the Court's recommendations reflect the Commission IT governance arrangements in place since 2010.

(h) The Commission can accept this recommendation. The lessons learnt from the Court's audit will be shared with the other Directorates General at both technical and management levels, as well as disseminated to the relevant agencies, including eu-LISA, through the appropriate networks.

The impact of SIS II will be assessed in 2016 (three years after SIS II entered operation) , as required by the legal base (Article 50 paragraphs 4 and 5 of Regulation (EC) No. 1987/2006 and Article 66 paragraphs 4 and 5 of Decision 2007/533/JHA).

INTRODUCTION

1. The initial Schengen Information System (SIS I) was developed as an inter-governmental project led by France and became operational in 1995 (also significantly later than initially planned). It remained in operation, managed by France, until May 2013, when it was replaced by SISII. Although both the architecture and functionalities of the systems differ substantially.

The Commission considers that the comparison between the original deadline and the actual delivery date should take account of the large difference between the nature of the system initially planned and the one that was delivered.

2. A year after SIS I began operations, the Schengen countries decided in December 1996 to start work on defining the elements and requirements of a SIS II. The Council took its decision to build SIS II on the basis of a feasibility study conducted in 1998 and a series of consultations among Member States culminating with the Swedish/Belgian initiative that was the basis for the first SIS II legal basis.

The Member States worked within an intergovernmental framework and the Commission was not involved.

Once the Commission was entrusted with the development of SIS II, it launched a feasibility study to assess the business needs to be served by the new system, the technical choices and their impact, the timeline of the project and its budget, as well as the risks and constraints associated with the development. This feasibility study was carried out by a consultancy company in 2003. On this basis, the Council opted for one of the proposed implementation options (but not the one recommended by the feasibility study) in order to go ahead with the project.

3. While it is true that the primary reasons for developing SISII were the need to connect the new Schengen member countries and benefit from latest technological developments, important political events like the September 2001 attacks, changed the scope of the projects and the final system is largely different than the one envisaged initially.

AUDIT SCOPE AND APPROACH

5. The reasons for delays and spending more than initially planned as well as the difficulties encountered with the project have been reported by the Commission including in each Annual Activity Report of DG Justice, Freedom and Security and subsequently Home Affairs since 2001.

OBSERVATIONS

9. The Council took its decision to build SIS II on the basis of a feasibility study conducted in 1998 and a series of consultations among Member States culminating with the Swedish/Belgian initiative that was the basis for the first SIS II legal basis. The Council's decision fixed the launch date of end 2006. The Commission had no formal role in the legislative process.

Apart from reporting in each AAR since 2001 on the advancement and the main difficulties of the project, the Commission drew the attention of the Member States, in Communications in 2001 and in 2003, to the risks entailed with that deadline and the assumptions that would need to be met (and eventually were not) if the deadline was to be maintained.

Both the 2001 Communication (COM 2001/720) and then, in full detail, the subsequent feasibility study carried out by an external contractor carefully assessed the business needs to be served by the new system, the technical choices and their impact, the timeline of the project and its budget, as well as the risks and constraints associated with its development.

On this basis, the Council opted for one of the proposed implementation options (but not the one recommended by the feasibility study) in order to go ahead with the project in 2003.

The SIS II legal framework was not finalised until late 2006.

10. The initial deadline set by the Council was indeed not realistic given that it was established primarily on the basis of political considerations, rather than on a stable set of system requirements and a sound technical analysis of the workload.

11. Each SIS II schedule was based on the best available information at the time and was previously discussed with the Member States.

Following the adoption of the legal basis, the only parameter of the specifications that was subject to evolutions was the system's sizing, which is linked to the Member States' use of the system. This risk, which has been assessed throughout the project in the light of SIS1+ usage by the new Member States, indeed materialised due to a more intensive use than initially expected. However, even if the SIS II had been delivered according to the initial schedule adopted by the Council in 2001, the system would have required an upgrade of its sizing of the same magnitude as the one implemented in the framework of the project's extension carried out in 2010 (see figure 7) (final delta).

14. As of 16 December 2002, a new unit "Large-scale information system" was created within DG Justice, Freedom and Security to exploit synergies between the major IT projects in the Justice and Home Affairs policy areas: SIS II, EURODAC and VIS (Visa Information System).

15. The Commission agrees that insufficient staffing was provided to the project in the early years and that SIS II project staff were committed and competent, though constantly overloaded. Successive annual activity reports from DG JLS pointed to the general lack of staff faced in general by the DG and in particular on SISII.

However the Commission does not consider that the turnover level differed from that in comparable Commission services. In fact, key actors such as the Programme Officer remained in place from the beginning to the end.

16. As regards the expertise in the team, the Commission would recall that the SIS II team's expertise was mainly composed of staff either originating from Member States' former SIS1

projects or persons who had worked for IT companies prior to joining the Commission. The same expertise was available in the VIS project. DGs' Informatics, Information Society, and Enterprise and Industry also provided DG Home Affairs with some support, notably during the first years of the project. In addition a dedicated contract with Unisys had been signed since a very early stage of the project (April 2002) to compensate for the lack of internal resources in the field of quality management.

The Commission maintains that the contract was managed effectively. As an example, from the beginning, the Commission used the weekly contractor's meeting to voice its disappointment with the quality of deliverables and require corrective actions. Already in October 2005, the Commission did require (and obtained) a change of the contractor's Project Manager. However, as noted in the evidence to the House of Lords referred to in footnote 22 the staffing level meant that it could not anticipate and prevent the underperformance of the contractor. As noted in footnote 21, the IAS found there were insufficient staff to manage the increasing level of outsourcing

17. The contract suspension of a few months was the consequence of a tenderer making use of his right to challenge the award decision in the Court of Justice. The evaluation of the tenders was done according to the published criteria and method, which were known and accepted by all tenderers choosing to apply.

The conclusions of the President of the Court of Justice were done in an injunction procedure in which the Court of Justice, by definition, does not take a definite position until after a full adversarial procedure, but has to take a preliminary position in order to issue an injunction and must do so without a full hearing on the substance. Conclusions are thus only of relevance to the injunction procedure but do not allow one to deduce a final position of the Court of Justice; and in no way prejudge a final ruling. The evaluation method was thus never tested in the Court of Justice as the applicant withdrew his application.

The evaluation of the tenders was done according to the published criteria and method.

There is no evidence that the computation of a weighted average (or not) for the scores of the fixed-price items would have given a different result. From a methodological point of view, there is no perfect solution for taking decisions on the basis of multi-criteria choices.

The Commission would like to firmly state the fact that it received two good offers which were very close; a decision was taken respecting the rules. Other rules might have led to another decision, but the Commission was bound to the chosen rules.

19. The operational system tests in 2008 (which failed) was only one phase of SIS II system testing. The structure of the SIS II system tests was conceived to allow for the progressive increase of their level of complexity. With such a testing approach it is inherently possible to identify at a given phase issues that had not been discovered before (because of the mere nature of the tests performed so far) . The whole purpose is to make use of the different phases to identify (ideally all) potential problems before the system goes into production. This was the case in 2008, as well as during the final phase of the project after 2009 (as the testing approach remained unchanged throughout the project).

The additional posts received as from 2007 enabled the project team to recruit more staff with relevant experience.

22. The Commission notes that the SISVIS Committee also dealt with the VIS which reduced the time available to discuss SIS II. This was frustrating for SIS II experts. In fact, most of the issues that should normally have been discussed in the SISVIS committee were in fact discussed in the Council's SIS-TECH working party which had responsibility for SIS I issues. Many technical issues linked to SIS II could possibly impact on SIS 1, which is why many Member States insisted that they would also be discussed in SIS-TECH.

23. The environment in which the SIS II project was developed was less easy than the environment which DG Taxation and Customs Union experienced. This was for a number of reasons, such as the fact that SIS II was based on a legacy system, had a complex governance structure and because of policy considerations related to the overall approach of some member countries towards the enlargement of the Schengen zone and ever-changing system requirements.

Box 2 - Key success factors in developing IT systems in DG Taxation and Customs Union

The prevailing contexts for the development of NCTS and SIS II substantially differed in terms of political and institutional challenges. Furthermore, the development of NCTS took place in an environment based on a long tradition of cooperation with Member States (which started in the early 90's). Trust among all partners involved was supported by long established networks.

24.

(a) The Commission accepts that it did not allocate sufficient staff to the project in the early stage. This was disclosed very clearly in the Annual Activity Report of the Directorate General.

The Commission confirms that it was not an end-user of the system, nor was it an end-user of VIS and Eurodac. Accordingly it had to rely on Member States' input to be provided by Member States' delegates in the National Project Managers' meetings and the *ad-hoc* working groups as well as by states experts who were national experts seconded by Member States to the Commission.

(c) The Commission encouraged and organised direct contact between the main development contractor and Member States but, as is recommended by IT project methodology and best practice, such contact/interaction had to be placed in a framework. The contractors were present in the Committee and the National Project Managers' meetings, which were held at least once a month. There was also a formal cycle of revision for documents, allowing national experts to assess the technical specifications that were then formally submitted to the SISVIS Committee for endorsement.

As regards the disclosure of the contract, one member of the HP/S consortium opposed the disclosure of the contract.

(d) The Council decided that SIS II was necessary in 2001 and maintained this position in successive Council conclusions, describing the implementation of SIS II consistently as "absolute priority".

25.

(a) Following the suspension of the Operational Systems Test in 2008 because of a series of issues with the central system, the Commission put in place a global SIS II programme management approach from January 2009. This was done in order to ensure the necessary consistency between the development of the central system and the national systems. (COM(2009)133). It included an informal body consisting of a limited number (eight) of Member States experts designated as the 'Global Programme Management Board' which was established to enhance cooperation and to provide direct Member States support to the central SIS II project. The global approach was welcomed by the Council conclusions on SIS II of 26-27 February 2009.

(b) The increased staffing which the Commission allocated to the project after 2007 enabled it to improve the management of the project and its communication.

26. The Commission fully supports the Centre for European Policy Studies (CEPS) findings concerning the complex governance structure for the SIS II. Indeed CEPS states that '*....Even after endowing the European Commission with the competence to manage the SIS II project, and following the expansion of the co-decision procedure which further strengthened the legislative roles of the Commission and European Parliament, (certain) member states were not ready to*

relinquish control of a tool so central to security and migration management. Strategies to retain ownership of the project emerged, including the proliferation of expert groups, and the SIS I+RE proposal for an 'intergovernmental' alternative to SIS II.'

28. The Commission can only regret that a large share of respondents to the survey were ignorant of the decision making structure which the Member States had agreed.

29. The Commission considers that the fact that system requirements were constantly evolving (mostly following Member States requests) was the primary cause of the delays and the increase in costs. It also had a major impact on contract management aspects of the project, since this implied several revisions of the contract, which in turn did not facilitate the relationship with the contractor who was constantly faced with changing requirements. It also increased the workload for the Commission in managing the contracts.

30. The Commission agrees that subsequent changes to the system requirements necessitated amendments to the development contract, which contributed to delays. The time taken to agree on the system requirements and to adopt the corresponding legal instruments was outside its control.

32. The resizing of the system's capacity was not due to the delays but, on the contrary, it actually contributed to them. It arose mainly because of the higher number of transactions submitted by Member States than initially forecast by them (thereby indirectly demonstrating the added value of the SIS). This 7-fold capacity increase (*i.e.* the current system's capacity can be expanded to 100 million records) necessarily also had an impact on the deadline and the costs. Again, it demonstrates that the instability of the system requirements was the primary cause of the delays and increased costs.

34. The Commission considers that the cost evolution should be placed in context. Each estimate was based on a changed set of requirements: The requirements and size of SIS II significantly changed in the course of the project, mostly following Member States/end users' requests :

- SIS II was originally assumed to go live with a maximum of 15 million records and was extended to have a capacity of 70 (with a further possibility of extension to 100 million records, as needed);
- the test approach was revisited and included a compliance test for each Member State system;
- The additional "Milestone 1" and "Milestone 2" tests imposed by the Council had to be added to the existing test plan, leading to a longer duration and additional tasks resulting in more expenses;
- The new migration approach after 2010 requested by the Council included a fall-back solution that required a converter able to, not only to convert SIS I data to SIS II, but also do so in the reverse direction – again leading to additional costs.

36. The Commission always sought to present a clear picture of the costs on the basis of the information available. This was notably done in the context of the Annual Budgetary Procedure as well as in each SIS II progress report. The Court gives the example of the network: moving, at the request of Member States, to a dedicated network infrastructure based on a virtual private network (VPN) on s-TESTA rather than using the already existing infrastructure on s-TESTA (euro domain) as initially envisaged indeed had a very significant impact on the budget. Using the euro domain as initially foreseen by the Commission and as it is done for Eurodac would have cost much less. It was only in 2005, once the final design of the network was known that the Commission was in a position to reevaluate the network costs, which it duly did in COM(2005)236. Nevertheless, the network costs were disclosed every year in the draft budget proposed to the budgetary authority.

40. The amount of liquidated damages imposed on the contractor was calculated following a thorough evaluation of the contractual situation by both the legal service of the Commission and an external law firm: At that point in time, this amount was the maximum legally possible.

41. Before 2009, the programme and project management structure from the main development contractor had, on several occasions, failed to meet contractual commitments. The Commission did not hesitate to request several changes to the main contractor's project management composition.

42. The Commission agrees that changes to the system requirements resulted in increased costs. It also resulted in delays.

43. The Court's example illustrates the impact of the instability of the system requirements.

44. The bulk of the cost increases entailed by these (amendments 12, 13, 15) corresponded to the major changes in the project's requirements, namely: the size and capacity of the SIS II, performance, migration approach, testing approach and supporting services to Member States during testing, or the support to be given for the operational management of the system. The Commission considers that the work package approach proposed can only work when all requirements are known from the beginning. Because of the instability of the system requirements, this was not the case here. A work package approach would not have prevented an increase of the costs linked to a different network design or to new capacity requirements.

Common reply to paragraphs 45 and 46:

Already at the time of the first contract amendment the Commission had identified the technical reasons (i.e. a technical lock-in situation with the winner of the initial contract) as a ground for the amendment of the contract by means of a negotiated procedure. However, for the first amendment, the two options provided for in the Financial Regulation, (the "additional services max 50% option" and the "technical lock-in option") were equally justified and relevant. In that context, the Commission chose to apply the first option for the first amendments. It is only when the second option remained the only one possible that the Commission opted for it.

47. The Commission considers that while a "building blocks" approach is preferable where it can be applied and notably where the system requirements are stable, this was not the case for SIS II. In addition, SIS II is a highly complex, bespoke system that includes the migration of a legacy system. A "building block" approach would have led to significant problems for handovers and ultimately a liability problem when a contractor for one building block could have avoided liability by blaming technical problems on the presumed shortcomings of other building blocks. The choice was therefore deliberately made (and in full transparency since the call for tender was also reviewed by Member State experts) to not use a building block approach. In addition, one must note that at the time the project started the RUP methodology was not in place at the Commission.

48. The contractor underperformed for certain phases of the contract, for which it paid penalties according to the contract.

49. The Commission considers that the negotiations of amendment 15 were conducted in line with best practice for negotiated procedures.

Whether prices initially proposed by the contractor were twice as high or not, is not relevant. What is relevant is the final price level obtained after negotiations, and the legal guarantee of best customer prices in case any divergences would have appeared during implementation/delivery. The fact that the Commission verified the prices of a sample of items against those used by DG Informatics in their framework contracts is a further guarantee that the best possible price was obtained in the procedure.

The Commission reiterates that it believes that the solution used was indeed financially sound.

53. As the Court notes, given that SIS II was an IT project developed for the Member States and not for the Commission, it did not fall within the remit of the Commission IT governance scheme put in place after 2004. Notwithstanding this, DG Informatics participated systematically in the monthly meetings of the Project Management Board (PMB) until the end of 2008 with only one interruption between May and October 2008. Furthermore, information was provided annually to DG Informatics about the development of SIS II in the framework of the 'Schema Directeur' exercise.

54. After being made responsible for the project, the Commission had to start the development of SIS II on the basis of a business case prepared by the Council, which did not include a thorough assessment of all costs, expected benefits and alternatives.

(a) The SIS II legal instruments state that the Member States are responsible for the development of the national systems. Two groups were created by the Council in the course of the project in order to monitor and report on national developments (which also include costs): the SIS II Task Force and Friends of SIS II. The Commission was a member of these two groups and consistently sought to obtain information about national projects, but without success.

The 2003 Communication spelled out the basis for the distribution of costs for developing the SIS II were distributed between the Union and the Member States. It also spelled out the budget for developing the central systems but did not estimate the costs of developing national systems since such developments were outside its mandate. The Commission had no control over, or information about these costs (except where they were co-financed from the External Borders Fund).

(b) The Commission does not agree that it should have presented new analysis of the benefits of the project once the Council had taken its decision. At the time, the Council, had exclusive competence in the adoption of the initial legal basis for SIS II.

(c) The Council itself had ruled out the possibility of an extension of SIS 1 in its decision of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) (2001/886/JHA). The Commission had no formal role in this legislative process.

56. As regards the funding of national developments, the Commission made significant efforts in 2011 to mitigate the risk of delay due to lack of financial resources for Member States by inviting national authorities to give higher priority to SIS II under their existing External Borders Fund (EBF) national allocations and via the organisation of a call for proposals for emergency actions under the Community actions of the EBF under which an extra €7.5 million is being provided to the 8 Member States most in need of additional resources (countries with very low EBF allocations and/or whose EBF resources were absorbed by other key priorities in the area of external borders). These projects started at the end of 2011.

57. Member States reported that SIS II has brought significant benefits in terms of performance and capacity.

The Commission confirms that the risk of reputational damage in case of a failure of the development became more important towards the end of the project, as indicated by the reservations issued in DG Home Affairs Annual Activity Reports from 2008 to 2012. This reflects sound financial management considerations (not wasting investments already made).

58. Like the large majority of respondents, the Commission also considers that SIS II had significant additional functions which provided end users with immediate visible practical advantages over SIS 1.

59. The Commission deems that, compared to the previous system, SIS II has brought significant functional and non-functional benefits to the users.

For instance, due to a much richer content (such as photographs, copies of European Arrest Warrants ...), the size of a SIS II alert is significantly higher on average than that under SIS1. Such

alerts are however broadcasted without any loss of performance. SIS 1 was not built to handle such alerts.

Finally, SIS II provides the possibility to handle a high volume of direct queries on the central database (240 queries per second) while SIS 1 had no such functionality. There are five Member States that exclusively rely on this functionality for all of their SIS II transactions.

60. The magnitude of the issues faced by the SIS II project became clear only at the stage of the failed OST test (end 2008), when the Central system started interacting with a subset of National Systems. The Commission made a reservation on SIS II in the DG Home Affairs 2008 Annual Activity Report and announced an action plan.

In an approach jointly agreed by all stakeholders, the Commission, together with the Member States and assisted by the GPMB, revisited the sizing specifications, implemented technical changes aimed at improving the robustness and reliability of the system as well as implemented changes in the way that the SIS II would be tested and the migration itself conducted.

At the end of this process which indeed required time but was done as quickly as possible, the Commission adopted a new, realistic schedule endorsed by all stakeholders and finalised the development of the SIS II project according to this schedule.

61. The Council reaffirmed in February 2009 that the rapid entry into force of SIS II remained an absolute priority. (*cf.* footnote 63)

In June 2009, on the basis of a detailed Report of the Presidency and the Commission on the future direction of SIS II containing an analysis of the impact of two scenarios on, among other things, expenditure for the EU budget, technical feasibility and risks, Council decided to continue development of SIS II.

62. As the Commission explained in SEC(2010) 436 final, developing SIS II on the basis of SIS I + RE solution was likely to have a significant impact on the national projects. These costs could only be estimated by Member States for each individual project and were therefore not part of the comparison report.

63. The Commission would like to point out that the inclusion of two milestone tests, as requested by the Council in its June 2009 Conclusions, increased both the duration and the costs of the project.

66. The Commission has drawn the lessons from the SIS II project in its 2010 Communication (COM(2010)385 page 27) and in the proposal to establish an agency dedicated to the management and development of large scale IT systems in the policy area (COM(2010)93).

67. The Commission would stress that when SIS II project was launched the PM² or similar methodology did not exist.

68.

(a) The Treaty revision means that any new legislation on the development of large-scale IT projects would be decided between the Council and the Parliament on the basis of a Commission proposal. This was not the case in 2001.

69.

(a) The Commission's 2011 proposals for the Multiannual Framework 2014-2020 (COM(2011) 749 p. 8) provides for the financing of the development and operation of the central and national systems.

CONCLUSIONS AND RECOMMENDATIONS

70.

(a) The Commission drew the attention of the Member States, in both Communications from 2001 and 2003, to the risks entailed with that deadline and the assumptions that would need to be met (and eventually were not) if the deadline was to be maintained.

(b) The Commission systematically reassessed cost estimates at key milestones of the project when justified by new elements and it communicated transparently on budgetary matters:

- in 2005 when network costs were re-evaluated (COM(2005)236)
- in May 2009 in the Commission / Presidency joint Report on the further direction of SIS II (Council document 10005/09)
- in April 2010 in the Report on the global schedule and budget for the entry into operation of the second generation Schengen Information System (SIS II) (SEC(2010) 436)
- in September 2010 in the Report on the global schedule and budget for the entry into operation of the second generation Schengen Information System (SIS II) (SEC(2010)1138)

Furthermore, each progress report since 2003 contained a section on budget execution.

(c) The fact that the system requirements were constantly evolving (mostly following MS requests) was a cause of the delays and the increase in costs. It also had a huge impact on the contract management aspect of the project, since this implied several revisions of the contract, which in turn did not facilitate the relationship with the contractor who was constantly faced with changing requirements.

(d) The lack of staff was generalised to the whole policy area which was growing very rapidly.

(f) The same DG Home Affairs unit that worked on the SIS II project, on the basis of the same contract and with the same contractors, delivered another large scale IT system (VIS) in a constructive and harmonious working atmosphere with Member States, and with no ambiguities/challenges towards the decision-making process. The same can be said of the development of EURODAC.

There were underlying reasons for the poor relationship with the SIS Community (e.g. a legacy system, a complex governance structure, unrealistic political steering of the project, etc.).

(g) The Commission can only regret the overall poor recognition by many stakeholders of the decision-making arrangement surrounding the SIS II project.

The complex governance structure generated difficulties for the management of the project.

(h) Throughout the SIS II project, the Commission fully followed the Financial Regulation rules and negotiated in the best interest of the Union budget.

71. The Commission recalls that the Member States built up the business case and carried out the necessary preparatory assessments within an intergovernmental framework. The Council took its decision to build SIS II on the basis of a feasibility study conducted in 1998 and a series of consultations among Member States culminating with the Swedish/Belgian initiative that was the basis for the first SIS II legal basis.

The Commission had no competence to legally challenge or review such legislation emanating from the Council. The sole Commission obligation was to implement the Council's decision. It should also be recalled that the Council reaffirmed on multiple occasions that the entry into operation of SIS II was an absolute priority.

Once the Commission was entrusted with the development of SIS II, it launched a feasibility study to assess the business needs to be served by the new system, the technical choices and their impact, the timeline of the project and its budget, as well as the risks and constraints associated with the development.

The Commission is not able to confirm the €500 million figure quoted by the Court. National costs being outside the development's perimeter funded centrally by the EU budget, there was no reason to include them in the financial statements attached to the legislative proposal. There was no requirement on the Commission to estimate or track national expenditures for SIS II.

The Commission systematically reassessed cost estimates at key milestones of the project when justified by new elements and always transparently communicated on budgetary matters, as spelled out under paragraph (70)(b).

72. The Commission confirms that it indeed has drawn several key lessons from the development of large-scale IT systems, and has already implemented them, notably in the design of the Smart Borders package. However, this project must be regarded as 'sui generis' for the reasons set out in earlier paragraphs.

Recommendation 1

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. More precisely, during the analysis of IT projects by the Information Systems Project Management Board (ISPMB, created in end 2010) such considerations are carefully examined. The Directorate General in charge of IT (DG Informatics) is also consulted at the level of the impact assessment phase when a new Commission initiative contains an IT component.

Recommendation 2

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. The IT rationalisation process, launched in the Commission in 2010, already includes all IT projects managed by the Commission, irrespective of the source of their funding. The Communication SEC(2011) 1500 recalls that "*in addition to the Infrastructure Consolidation project (ITIC), which will be rolled out to all services, all information systems of the Commission, including offices and executive agencies, financed under both operational and administrative budgets are subject to the rationalisation process*".

As far as large-scale IT projects belonging to the Commission are concerned, the governance mechanisms put in place since 2010 ensure their close scrutiny not only by DG Informatics but also by the "Information Systems Projects Management Board" (ISPMB), of which not only the other horizontal DGs, but also five DGs representing different types of policies, are members. More precisely, the "transeuropean systems" domain (see also answer to recommendation 6) is supervised by the *High level Committee on IT*.

Recommendation 3

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. Before the start of a project, Directorates General are obliged, under the IT governance rules put in place in 2010, to submit a Business Case or a Vision Document to the Information Systems Project Management Board (ISPMB) that spells out, amongst other things, how the governance structure of the project is set up. The Board pays particular attention to the proper representation of the users in the project governance. Moreover, all projects need to report yearly to the Board, thereby ensuring a close follow-up of the work carried out and of possible deviations from the initial scope, timetable, and budgets.

Recommendation 4

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. The Commission follows the PM2 project management methodology and project artefacts already provide entries for alternatives, cost estimations, resources, etc. All projects with a Total Cost of Ownership above 500K (over 5 years) needs to submit a Business Case/Vision Document to the ISPMB and to report on an annual basis.

Recommendation 5

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. Indeed, the PM² project artefacts already include four types of logs that can be used by project managers: risk log, issue log, decision log and change log. Moreover, the documents of each project (business case, vision document, progress reports...) are accessible through a central system, called GOVIS.

Recommendation 6

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. This is reflected in the "domain" approach that has been followed in the IT rationalization exercise since 2010. Systems have been grouped according to business domains (e.g. "grant management", "financial management", "procurement", etc.). There are currently 19 domains, each led by a domain leader, who is responsible for the convergence and the rationalization in his/her domain. New systems need to have the green light of the domain leader before being developed, thereby ensuring their compliance with the domain strategy and their coherence with the existing systems.

Recommendation 7

The Commission can accept this recommendation which reflects its IT governance arrangements in place since 2010. The Commission services are now working on the definition of a Corporate Enterprise Architecture, based on a coherent set of reusable building blocks. Several such building blocks have already been identified and, once available, their use is compulsory for new systems or systems undergoing major revisions. Missing but necessary building blocks are currently being identified. DG Informatics has recently set up an Architecture Office. The ISA programme and, more recently, the *Connecting Europe Facility* (CEF) initiative are also recommending an increased use of cross-cutting common services to cover generic needs (e.g. secure transmissions, e-signatures, semantics tools)

Recommendation 8

The Commission can accept this recommendation. The lessons learnt from the Court's audit will be shared with the other DGs at both technical and management levels, as well as disseminated to the relevant agencies through the appropriate networks.

The impact of SIS II will be assessed in 2016 (three years after SIS II entered operation) , as required by the legal base (Article 50 paragraphs 4 and 5 of Regulation (EC) No. 1987/2006 and Article 66 paragraphs 4 and 5 of Decision 2007/533/JHA).