

Summary: Intervention & Options

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|------------------------------|---|---|
| Department /Agency: | Title: Impact Assessment of Schengen ammendments to Extradition Act 2003 | |
| Stage: | Version: Final | Date: 16 th December 2008 |
| Related Publications: | | |

Available to view or download at:

<http://www>.

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What is the problem under consideration? Why is government intervention necessary?

The UK will begin to operate the Schengen Information System II (SISII) in April 2010. The database will include alerts for wanted persons within the European Union and will therefore be the means by which European Arrest Warrants (EAWs) are transmitted and received. In order to connect to and operate SIS II, a number of legislative ammednements are required.

What are the policy objectives and the intended effects?

For the UK to operate the database for the means intended, legislative changes to the Extradition Act are required to achieve two principal policy objectives

1. Provide for the UK to receive, process and action alerts for wanted persons via SIS II
2. Provide for the UK to transfer all "live" alerts to SIS II from current systems.

The policy objective of these provisions is to allow the UK greater access to EAWs issued by participating member states and therefore improve the operation of the EAW in the UK. This, we believe, will have a positive impact in improving public safety.

What policy options have been considered? Please justify any preferred option.

1. Do nothing - do not use SIS II for EAW purposes
2. Utilise facility of SIS II to share information for wanted persons with participating member states. It is envisaged that this will result in greater access to alerts for wanted persons and therefore improve public safety in the UK.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? This will be reviewed continually both pre and post implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

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| Policy Option: | Description: |
|-----------------------|---------------------|

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|--|---|--|----------------|--|--|
| COSTS | ANNUAL COSTS | Description and scale of key monetised costs by 'main affected groups' Costs fall to SOCA and CJS agencies and Organisations (as detailed in section 4 of the Impact Assessment) as a result of acting on additional EAW and carrying out the extradition process. Total present value costs are estimated over 5 years assuming implementation in 2010 discounted at 3.5% per annum. | | | |
| | One-off (Transition) Yrs | | | | |
| | £ | | | | |
| | Average Annual Cost (excluding one-off) | | | | |
| | £ 16.95m | Total Cost (PV) | £ 73.9m | | |
| Other key non-monetised costs by 'main affected groups' some costs to the courts, police and OJ have not yet been determined. Work with the relevant organisations to identify these costs is ongoing | | | | | |

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|--|--|--|----------|--|--|
| BENEFITS | ANNUAL BENEFITS | Description and scale of key monetised benefits by 'main affected groups' | | | |
| | One-off Yrs | | | | |
| | £ | | | | |
| | Average Annual Benefit (excluding one-off) | | | | |
| | £ | Total Benefit (PV) | £ | | |
| Other key non-monetised benefits by 'main affected groups' Benefits result from the avoidance of offending by individuals who will now be extradited from the UK. It will also act as a deterrent to individuals that may have previously chosen to reside in the UK because it was not linked electronically to European Arrest Warrants | | | | | |

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|-------------------------------------|
| Key Assumptions/Sensitivities/Risks |
|-------------------------------------|

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|-----------------|-------------------|-------------------------------------|---|
| Price Base Year | Time Period Years | Net Benefit Range (NPV) £ | NET BENEFIT (NPV Best estimate) £ |
|-----------------|-------------------|-------------------------------------|---|

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|---|--|--------|--------|--------|-------|
| What is the geographic coverage of the policy/option? | UK | | | | |
| On what date will the policy be implemented? | November 2009 | | | | |
| Which organisation(s) will enforce the policy? | Home Office | | | | |
| What is the total annual cost of enforcement for these organisations? | £ | | | | |
| Does enforcement comply with Hampton principles? | Yes/No | | | | |
| Will implementation go beyond minimum EU requirements? | No | | | | |
| What is the value of the proposed offsetting measure per year? | £ | | | | |
| What is the value of changes in greenhouse gas emissions? | £ | | | | |
| Will the proposal have a significant impact on competition? | No | | | | |
| Annual cost (£-£) per organisation (excluding one-off) | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> </table> | Micro | Small | Medium | Large |
| Micro | Small | Medium | Large | | |
| Are any of these organisations exempt? | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Yes/No</td> <td style="width: 25%; text-align: center;">Yes/No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table> | Yes/No | Yes/No | N/A | N/A |
| Yes/No | Yes/No | N/A | N/A | | |

| | | |
|---|---------------|-----------------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | (Increase - Decrease) |
| Increase of £ | Decrease of £ | Net Impact £ |

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. Rationale

In 1985 Belgium, The Netherlands, Luxembourg, France and Germany signed the Schengen Agreement with the aim of abolishing checks at their internal borders and facilitating the free movement of goods. Whilst the UK has not signed the Schengen Convention, the EU Council approved the UK's application to participate in certain aspects of the Schengen Acquis in 2000. One such measure is the Schengen Information System (SIS)

SIS is a computer database of information concerning specific individuals, vehicles and lost and stolen objects that can be searched by participating member states. Whilst the UK has been able to participate in Schengen measures since 2000, for a variety of reasons the UK has never been part of the SIS network. We are however committed to operating an enhanced version of SIS (SIS II) in the near future and will begin sending and receiving data from April 2010. This will not only necessitate the UK being in a position to process and action SIS II alerts received after this date but will also require the UK to undertake work to process and transfer all SIS II alerts linked to wanted persons. To be in a position to do this, legislative amendments are required to the Extradition Act 2003.

2. Objectives

There were 504 EAW arrests made in the UK in 2007 pursuant to European Arrest Warrants. The UK is currently alerted to EAWs via Interpol channels or directly to the Serious Organised Crime Agency (SOCA). It is estimated that the UK currently only receives around half of all EAW alerts. Additionally it is also envisaged that all alerts on the SIS system will increase by over 250% between 2006 and 2010.

Based on a range of data, including the above, it is estimated that the likely number of EAW arrests in the UK following connection to SIS II will rise to between 1050 and 1700. The basis for this forecast of increased arrests in the UK arising from the implementation of SIS II in 2010 is based on the following three inputs:

- i. EU paper on SIS Growth Predictions (European Council, 2007)
- ii. Actual hits for the FIGS countries for year 2006 (European Commission)
- iii. Paper on SIS II link to e-Borders (SISII Programme, 2006)

It is hoped that access to the database for these purposes will result in a significant rise in arrests for wanted persons who are fugitives in the UK and a subsequent improvement in public safety.

To be in a position to realise these objectives, the legislative amendments to the Extradition Act 2003 we have proposed will be required.

3. Appraisal

The policy choice was whether to use the SIS II for EAW related purposes or whether the UK should continue to receive data as described above. However, the decision was informed by several factors:

- a. **Compliance with international obligations of SIS II.** SIS II provides for the sharing of data amongst participating states on specific individuals, vehicles and lost and stolen objects. Any decision therefore not to comply with one aspect of the database (in this case wanted persons) could risk the UK's overall participation in the data sharing mechanism.
- b. **Potential benefits of using SIS II data for EAW purposes.** Please note paragraph 2 above. Such potential benefits were discussed at length across Whitehall with stakeholders involved in the operation of the European Arrest Warrant. These include SOCA, Her Majesty's Court Service (HMCS) and the Police.
- c. **Costs** – Consideration of the costs of implementing SIS II or EAW purposes has also informed our policy decision. Please note breakdown of costs for government departments and agencies.

4. Analysis

a. **Expected benefits**

The EU predicts that the number of **all types of alerts** held in the Schengen Information System will increase from 16 million in 2006, rising to 29 million by the end of 2008 and will reach 42 million in 2010. The aggregate number of EAW alerts should increase from the 504 Interpol diffusions detected by SOCA in 2007 to between 1050 (lower estimate) and 1700 (higher estimate) EAW hits detected by SOCA, UKBA at the primary line and UK Police forces when SIS II has been implemented. The principal benefit therefore of using SIS II for the receipt of EAW alerts is access to a greater number of EAW alerts issued by participating states of SIS II and therefore greater knowledge of fugitives in the UK with obvious envisaged benefits for public safety in the UK.

However, it should be noted that as the UK is not currently connected to the SIS and in the absence of either a pre-cursor system or pilot scheme it is extremely difficult to predict the overall trend in EAW alerts and arrests once SIS is implemented. This is not least because the UK's proactive usage of SIS data via SOCA and e-Borders does not replicate business processes seen on the Continent where SIS is already in use.

b. **Assumptions**

As indicated above, based on available data, the number of EAW arrests following connection to SIS II is estimated to rise between 1050 and 1700. For the purposes of the cost-analysis carried out we have assumed that EAW hits will rise to the upper estimation i.e. 1692.

c. **Costs**

The table below sets out the current estimated costs to HMG of the impact of UK connection to SIS II in relation to the European Arrest Warrant. This is on the basis of assumptions as listed above. Work is ongoing to complete and finalise costs.

The tasks performed by the departments and agencies listed below in relation to the operation of the European Arrest Warrant can be summarised as follows:

- **SOCA** – designated Central Authority in UK (The Crown Office and Procurator Fiscal Service are the designated Central Authority in Scotland)
- **CPS** – Acts as representative in UK on behalf of Member States and responsible for drafting

- EAWs on behalf of issuing UK judicial authority
- **Metropolitan Police Service (Extradition & International Unit)** – Currently responsible for arrest of those subject to EAW on incoming cases
- **Other police forces** – involved in the collection of subjects of outgoing EAW requests and from April 2009 responsible for all incoming requests depending on region where subject is living.
- **HMCS** – provision of courts for EAW related hearings
- **Home Office** – Policy lead on EAW
- **NOMS** – detention of those subject to EAWs prior to removal under EAW
- **National Policing Improvement Agency (UK SIS Team)** – Overall responsibility for implementation of SIS II in UK
- **RCPO** – Also responsible for drafting EAWs as issuing judicial authority
- COPFS – Designated Central Authority in Scotland**

Estimated costs in relation to increase in EAW arrests following SIS II implementation

The figures below map the estimated marginal cost impact, as currently estimated, in relation to the rise in EAWs following the introduction of SIS II. The figures are based on a rise of 1188 EAWs per annum (from 504 in 2007 to 1700 following introduction of SIS II). Capital costs of the SISII programme are not included here as the project supports a wider scope of activity than executing EAWs and are not dependent on this change in legislation.

It should also be noted that 2 costs are not yet available. Firstly, we are awaiting further analysis by MOJ to establish additional legal aid costs. Secondly, the Metropolitan Police Service have recently taken the decision that they will no longer be responsible for all EAW work throughout the UK. We are therefore working with police forces to establish estimated costs of additional arrests pursuant to EAWs.

Finally, MOJ are considering whether additional court space will be required to deal with the greater number of EAW related hearings resulting from a an increase in arrests pursuant to EAWs. A decision on this has not yet been made.

| Stakeholder | Capacity decisions | Cost increase (£PA) |
|--------------------------------|--|----------------------------------|
| HMCS | Increase staff numbers to support hearings | £500,000 |
| HMCS | Increase in EAW hearings (c.1200) | Extra hearings £1,500,000 |
| CPS | Increase in staff. | £1,750,000 |
| Administrative court | Increase in number of extradition appeals to High Court (5-10% of cases) | £250,000 |
| Administrative court | Increase in staff | TBD |
| UKCA - Mutual Legal Assistance | No additional resource need expected | 0 |
| Police Forces | Increase staff to deal with person arrested at airports, seaports etc | TBD |
| MET Extradition unit | Resources increased in April 2008. Possible increase required from 2011 | Resources increased in 2008 |
| Scottish Extradition | Increase in staff | £300,000 |
| NI Extradition | No decision yet to increase resources | No decision |
| MOJ | Impact on prison population and legal aid costs | Prison population: £2,400,000 |

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|---------------------------|----------------------------|------------------------|
| | | Legal Aid - £2,000,000 |
| SOCA SIRENE bureau | Increase in staff capacity | £8,250,000 |
| GRAND TOTAL | To date | £16,950,000 |

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | No | No |
| Small Firms Impact Test | No | No |
| Legal Aid | Yes | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | No | No |
| Health Impact Assessment | No | No |
| Race Equality | No | No |
| Disability Equality | No | No |
| Gender Equality | No | No |
| Human Rights | No | No |
| Rural Proofing | No | No |

Annexes

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