



2016/0409(COD)

27.6.2017

*****I**

DRAFT REPORT

on the 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
(COM(2016)0883 – C8-0530/2016 – 2016/0409(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Carlos Coelho

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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 (COM(2016)0883 – C8-0530/2016 – 2016/0409(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0883),
 - having regard to Article 294(2) and Articles 82(1) second subparagraph, point (d), 85(1), 87(2)(a) and 88(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0530/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) SIS includes a central system (Central SIS) and national systems **with** a full or partial copy of the SIS database. Considering that SIS is the most important information exchange instrument in Europe, it is necessary to ensure its

Amendment

(7) SIS includes a central system (Central SIS) and national systems **which may contain** a full or partial copy of the SIS database. Considering that SIS is the most important information exchange instrument in Europe, it is necessary to

uninterrupted operation at central as well as at national level. ***Therefore each Member State should establish a partial or full copy of the SIS database and should set up its backup system.***

ensure its uninterrupted operation at central as well as at national level.

Or. en

Justification

Member States should not be obligated to have a national copy for the purpose of ensuring the availability of the system given the risk to data security this might imply. To achieve full availability, other solutions at central level should be favoured.

Amendment 2

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) Without prejudice to the responsibility of Member States for the accuracy of data entered into SIS, the Agency should become responsible for reinforcing data quality by introducing a central data quality monitoring tool, and for providing reports at regular intervals to Member States.

Amendment

(11) Without prejudice to the responsibility of Member States for the accuracy of data entered into SIS, the Agency should become responsible for reinforcing data quality by introducing a central data quality monitoring tool, and for providing reports at regular intervals to Member States. ***To further increase the quality of data in SIS the Agency should also offer training on measures to improve the quality of SIS data.***

Or. en

Amendment 3

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) In order to allow better monitoring of the use of SIS to analyse trends concerning criminal offences, the Agency should be able to develop a state-of-the-art

Amendment

(12) In order to allow better monitoring of the use of SIS to analyse trends concerning criminal offences, the Agency should be able to develop a state-of-the-art

capability for statistical reporting to the **Member States**, the Commission, Europol and the European Border and Coast Guard Agency without jeopardising data integrity. Therefore, a central statistical repository should be established. Any *statistic* produced should not contain personal data.

capability for statistical reporting to the **European Parliament, the Council**, the Commission, Europol and the European Border and Coast Guard Agency without jeopardising data integrity. Therefore, a central statistical repository should be established. Any *statistics* produced should not contain personal data.

Or. en

Amendment 4

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) SIS should contain further data categories to allow end-users to take informed decisions based upon an alert without losing time. Therefore, in order to facilitate the identification of persons and to detect multiple identities, data categories relating to persons should include a reference to the personal identification document or number and a copy of such document where available.

Amendment

(13) SIS should contain further data categories to allow end-users to take informed decisions based upon an alert without losing time. Therefore, in order to facilitate the identification of persons and to detect multiple identities, data categories relating to persons should include a reference to the personal identification document or number and a **colour** copy of such document where available.

Or. en

Amendment 5

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) SIS should permit the processing of biometric data in order to assist in the reliable identification of the individuals concerned. In the same perspective, SIS should also allow for the processing of data concerning individuals whose identity has been misused (in order to avoid

Amendment

(15) SIS should permit the processing of biometric data in order to assist in the reliable identification of the individuals concerned. In the same perspective, SIS should also allow for the processing of data concerning individuals whose identity has been misused (in order to avoid

inconveniences caused by their misidentification), subject to suitable safeguards; in particular with the consent of the individual concerned and a strict limitation of the purposes for which such data can be lawfully processed.

inconveniences caused by their misidentification), subject to suitable safeguards; in particular with the consent of the individual concerned and a strict limitation of the purposes for which such **personal** data can be lawfully processed.

Or. en

Amendment 6

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Member States should make the necessary technical arrangement so that each time the end-users are entitled to carry out a search in a national police or immigration database they also search SIS in parallel in **accordance with** Article 4 of Directive (EU) 2016/680 of the European Parliament and of the Council⁴⁵. This should ensure that SIS functions as the main compensatory measure in the area without internal border controls and better address the cross-border dimension of criminality and the mobility of criminals.

⁴⁵ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016 (OJ L 119, 4.5.2016, p. 89).

Amendment

(16) Member States should make the necessary technical arrangement so that each time the end-users are entitled to carry out a search in a national police or immigration database they also search SIS in parallel in **full respect of** Article 4 of Directive (EU) 2016/680 of the European Parliament and of the Council⁴⁵ **and Article 5 of Regulation (EU) 2016/679 of the European Parliament and of the Council^{45a}**. This should ensure that SIS functions as the main compensatory measure in the area without internal border controls and better address the cross-border dimension of criminality and the mobility of criminals.

⁴⁵ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016 (OJ L 119, 4.5.2016, p. 89).

^{45a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 7

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) The introduction of an automated fingerprint identification service within SIS complements the existing Prüm mechanism on mutual cross-border online access to designated national DNA databases and automated fingerprint identification systems⁴⁶. The Prüm mechanism enables interconnectivity of national fingerprint identification systems whereby a Member State can launch a request to ascertain if the perpetrator of a crime whose fingerprints have been found, is known in any other Member State. The Prüm mechanism verifies if the owner of the fingerprints **are** known in one point in time therefore if the perpetrator becomes known in any of the Member States later on he or she will not necessarily be captured. The SIS fingerprint search allows an active search of the perpetrator. Therefore, it should be possible to upload the fingerprints of an unknown **perpetrator** into SIS, provided that the owner of the fingerprints can be identified to a high degree of probability as **the** perpetrator of a serious crime or act of terrorism. This is in particular the case if fingerprints are found on the weapon or on any object used for

Amendment

(18) The introduction of an automated fingerprint identification service within SIS complements the existing Prüm mechanism on mutual cross-border online access to designated national DNA databases and automated fingerprint identification systems⁴⁶. The Prüm mechanism enables interconnectivity of national fingerprint identification systems whereby a Member State can launch a request to ascertain if the perpetrator of a crime whose fingerprints have been found, is known in any other Member State. The Prüm mechanism verifies if the owner of the fingerprints **is** known in one point in time therefore if the perpetrator becomes known in any of the Member States later on he or she will not necessarily be captured. The SIS fingerprint search allows an active search of the perpetrator. Therefore, it should be possible to upload the fingerprints of an unknown **person** into SIS, provided that the owner of the fingerprints can be identified to a high degree of probability as **a** perpetrator of a serious crime or act of terrorism. This is in particular the case if fingerprints are found on the weapon or on any object used for

the offence. The mere presence of the fingerprints at the crime scene should not be considered as indicating a high degree of probability that the fingerprints are those of the perpetrator. A further precondition for the creation of such alert should be that the identity of the perpetrator cannot be established via any other national, European or international databases. Should such fingerprint search lead to a potential match the Member State *should* should carry out further checks with their fingerprints, possibly with the involvement of fingerprint experts to establish whether he or she is the owner of the prints stored in SIS, and should establish the identity of the person. The procedures should be subject of national law. An identification as the owner of an "unknown wanted person" in SIS may substantially contribute to the investigation and it may lead to an arrest provided that all conditions for an arrest are met.

⁴⁶ Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p.1); and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

the offence. The mere presence of the fingerprints at the crime scene should not be considered as indicating a high degree of probability that the fingerprints are those of the perpetrator. A further precondition for the creation of such alert should be that the identity of the perpetrator cannot be established via any other national, European or international databases. Should such fingerprint search lead to a potential match the Member State should carry out further checks with their fingerprints, possibly with the involvement of fingerprint experts to establish whether he or she is the owner of the prints stored in SIS, and should establish the identity of the person. The procedures should be subject of national law. An identification as the owner of an "unknown wanted person" in SIS may substantially contribute to the investigation and it may lead to an arrest provided that all conditions for an arrest are met.

⁴⁶ Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p.1); and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

Or. en

Amendment 8

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Fingerprints found at a crime scene

Amendment

(19) Fingerprints found at a crime scene

should be allowed to be checked against the fingerprints stored in SIS if it can be established to a high degree of probability that they belong to the perpetrator of the serious crime or terrorist offence. Serious crime should be the offences listed in Council Framework Decision 2002/584/JHA⁴⁷ and ‘terrorist offence’ should be offences under national law referred to in *Council Framework Decision 2002/475/JHA*⁴⁸.

⁴⁷ Council Framework Decision (2002/584/JHA) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.07.2002, p. 1).

⁴⁸ *Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).*

should be allowed to be checked against the fingerprints stored in SIS if it can be established to a high degree of probability that they belong to the perpetrator of the serious crime or terrorist offence. Serious crime should be the offences listed in Council Framework Decision 2002/584/JHA⁴⁷ and ‘terrorist offence’ should be offences under national law referred to in *Directive (EU) 2017/541 of the European Parliament and of the Council*⁴⁸.

⁴⁷ Council Framework Decision (2002/584/JHA) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.07.2002, p. 1).

⁴⁸ *Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).*

Or. en

Amendment 9

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) It should be possible to add a DNA profile in cases where dactylographic data are not available, and which should only be accessible to authorised users. DNA profiles should facilitate the identification of missing persons in need of protection and particularly missing children, including by allowing the use of DNA profiles of parents or siblings to enable identification. DNA data should not contain reference to

Amendment

(20) It should be possible to add a DNA profile in cases where dactylographic data are not available, and which should only be accessible to authorised users. DNA profiles should facilitate the identification of missing persons in need of protection and particularly missing children, including by allowing the use of DNA profiles of parents or siblings to enable identification. DNA data should not contain reference to racial origin, *nor should it include or*

racial origin.

allow for identification of racial origin, health condition or reveal other sensitive data.

Or. en

Amendment 10

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) It should be possible for a Member State to add an indication, called a flag, to an alert, to the effect that the action to be taken on the basis of the alert will not be taken on its territory. When alerts are issued for arrest for surrender purposes, nothing in this **Decision** should be construed so as to derogate from or prevent the application of the provisions contained in the Framework Decision 2002/584/JHA. The decision to add a flag to an alert should be based only on the grounds for refusal contained in that Framework Decision.

Amendment

(26) It should be possible for a Member State to add an indication, called a flag, to an alert, to the effect that the action to be taken on the basis of the alert will not be taken on its territory. When alerts are issued for arrest for surrender purposes, nothing in this **Regulation** should be construed so as to derogate from or prevent the application of the provisions contained in the Framework Decision 2002/584/JHA. The decision to add a flag to an alert should be based only on the grounds for refusal contained in that Framework Decision.

Or. en

Amendment 11

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Alerts should not be kept in SIS longer than the time required to fulfil the purposes for which they were issued. In order to reduce the administrative burden on the different authorities involved in processing data on individuals for different purposes, it is appropriate to align the retention period of alerts on persons with

Amendment

(29) Alerts should not be kept in SIS longer than the time required to fulfil the **specific** purposes for which they were issued. In order to reduce the administrative burden on the different authorities involved in processing data on individuals for different purposes, it is appropriate to align the retention period of

the retention periods envisaged for return and illegal stay purposes. Moreover, Member States regularly extend the expiry date of alerts on persons if the required action could not be taken within the original time period. Therefore, the retention period for alerts on persons should be a maximum of five years. As a general principle, alerts on persons should be automatically deleted from SIS after a period of five years, except for alerts issued for the purposes of discreet, specific and inquiry checks. These should be deleted after one year. Alerts on objects entered for discreet checks, inquiry checks or specific checks should be automatically deleted from the SIS after a period of one year, as they are always related to persons. Alerts on objects for seizure or use as evidence in criminal proceedings should be automatically deleted from SIS after a period of five years, as after such a period the likelihood of finding them is very low and their economic value is significantly diminished. Alerts on issued and blank identification documents should be *kept for* 10 years, as the validity period of documents is 10 years at the time of issuance. Decisions to keep alerts on persons should be based on a comprehensive individual assessment. Member States should review alerts on persons within the defined period and keep statistics about the number of alerts on persons for which the retention period has been extended.

alerts on persons with the retention periods envisaged for return and illegal stay purposes. Moreover, Member States regularly extend the expiry date of alerts on persons if the required action could not be taken within the original time period. Therefore, the retention period for alerts on persons should be a maximum of five years. As a general principle, alerts on persons should be automatically deleted from SIS after a period of five years, except for alerts issued for the purposes of discreet, specific and inquiry checks. These should be deleted after one year. Alerts on objects entered for discreet checks, inquiry checks or specific checks should be automatically deleted from the SIS after a period of one year, as they are always related to persons. Alerts on objects for seizure or use as evidence in criminal proceedings should be automatically deleted from SIS after a period of five years, as after such a period the likelihood of finding them is very low and their economic value is significantly diminished. Alerts on issued and blank identification documents should be *automatically deleted after* 10 years, as the validity period of documents is 10 years at the time of issuance. Decisions to keep alerts on persons should be based on a comprehensive individual assessment. Member States should review alerts on persons within the defined period and keep statistics about the number of alerts on persons for which the retention period has been extended.

Or. en

Amendment 12

Proposal for a regulation Recital 30

(30) Entering and extending the expiry date of a SIS alert should be subject to the necessary proportionality requirement, examining whether a concrete case is adequate, relevant and important enough to insert an alert in SIS. Offences pursuant to **Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism**⁵⁰ constitute a very serious threat to public security and integrity of life of individuals and to society, and these offences are extremely difficult to prevent, detect and investigate in an area without internal border controls where potential offenders circulate freely. Where a person or object is sought in relation to these offences, it is always necessary to create the corresponding alert in SIS on persons sought for a criminal judicial procedure, on persons or objects subject to a discreet, inquiry and specific check as well as on objects for seizure, as no other means would be as effective in relation to that purpose.

(30) Entering and extending the expiry date of a SIS alert should be subject to the necessary proportionality requirement, examining whether a concrete case is adequate, relevant and important enough to insert an alert in SIS. Offences pursuant to **Directive (EU) 2017/541** constitute a very serious threat to public security and integrity of life of individuals and to society, and these offences are extremely difficult to prevent, detect and investigate in an area without internal border controls where potential offenders circulate freely. Where a person or object is sought in relation to these offences, it is always necessary to create the corresponding alert in SIS on persons sought for a criminal judicial procedure, on persons or objects subject to a discreet, inquiry and specific check as well as on objects for seizure, as no other means would be as effective in relation to that purpose.

⁵⁰ **Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).**

Or. en

Amendment 13

Proposal for a regulation Recital 35

(35) **For** processing of data by competent **national authorities** for the purposes of the prevention, investigation, **detection of serious crime or terrorist**

(35) **National provisions transposing Directive (EU) 2016/680 should apply to the** processing of **personal** data by **the** competent **authorities of the Member**

*offences, or prosecution of criminal offences **and** the execution of criminal penalties **including the** safeguarding against **the prevention of threat** to public security, **national** provisions **transposing** Directive (EU) 2016/680 **should** apply. **The provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council⁵² and Directive (EU) 2016/680 should be further specified in this Regulation where necessary.***

***States** for the purposes of the prevention, **detection**, investigation or prosecution of criminal offences, the execution of criminal penalties **or** safeguarding against **threats** to public security. **Only designated authorities which are responsible for the prevention, detection or investigation of terrorist offences or other serious criminal offences and which Member States can guarantee apply all** provisions of this Regulation and those of Directive (EU) 2016/680 as transposed into national law in a manner subject to verification by the competent authorities, including the supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680 and whose application of this Regulation is subject to evaluation through the mechanism established by Council Regulation (EU) No 1053/2013^{52a} should be entitled to consult the data stored in the SIS.*

⁵² *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

^{52a} *Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 259, 6.11.2013, p. 27).*

Or. en

Amendment 14

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) Regulation (EU) 2016/679 should apply to the processing of personal data under this Regulation by national authorities *when Directive (EU) 2016/680 does not apply. Regulation (EC) No 45/2001 of the European Parliament and of the Council⁵³ should apply to the processing of personal data by the institutions and bodies of the Union when carrying out their responsibilities under this Regulation.*

⁵³ *Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1).*

Amendment

(36) Regulation (EU) 2016/679 should apply to the processing of personal data under this Regulation by national authorities, *unless such processing is carried out by the competent authorities of the Member States for the purposes of the prevention, investigation, detection or prosecution of criminal offences, the execution of criminal penalties or safeguarding against threats to public security.*

Or. en

Amendment 15

Proposal for a regulation Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) Regulation (EC) No 45/2001 of the European Parliament and of the Council^{1a} should apply to the processing of personal data by the institutions and bodies of the Union when carrying out their responsibilities under this Regulation.

^{1a} Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1).

Or. en

Amendment 16

Proposal for a regulation Recital 36 b (new)

Text proposed by the Commission

Amendment

(36b) Regulation (EU) 2016/794 of the European Parliament and of the Council^{1a} should apply to the processing of personal data by Europol.

^{1a} Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 25.5.2016, p. 53).

Or. en

Amendment 17

Proposal for a regulation Recital 37

Text proposed by the Commission

Amendment

(37) The provisions of Directive (EU)

(37) The provisions of Directive (EU)

2016/680, Regulation (EU) 2016/679 and Regulation (EC) No 45/2001 should be further specified in this Regulation where necessary. ***With regard to processing of personal data by Europol, Regulation (EU) 2016/794 on the European Union Agency for Law Enforcement cooperation (Europol Regulation)***⁵⁴ applies.

2016/680, Regulation (EU) 2016/679, ***Regulation (EU) 2016/794*** and Regulation (EC) No 45/2001 should be further specified in this Regulation where necessary.

⁵⁴ ***Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 25.5.2016, p. 53).***

Or. en

Amendment 18

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) ***The provisions of*** Decision 2002/187/JHA ***of 28 February 2002***⁵⁵ setting up Eurojust with a view to reinforcing the fight against serious crime ***concerning data protection*** apply to the processing of ***SIS data*** by Eurojust, including the powers of the Joint Supervisory Body, set up under that Decision, to monitor the activities of Eurojust and liability for any unlawful processing of personal data by Eurojust. In cases when searches carried out by Eurojust in SIS reveal the existence of an alert issued by a Member State, Eurojust ***cannot*** take the required action. Therefore it should inform the Member State concerned allowing it to follow up the

Amendment

(38) ***Council*** Decision 2002/187/JHA⁵⁵ ***should*** apply to the processing of ***personal data in SIS*** by Eurojust, including the powers of the Joint Supervisory Body, set up under that Decision, to monitor the activities of Eurojust and liability for any unlawful processing of personal data by Eurojust. In cases when searches carried out by Eurojust in SIS reveal the existence of an alert issued by a Member State, Eurojust ***should not be able to*** take the required action. Therefore it should inform the Member State concerned allowing it to follow up the case.

case.

⁵⁵ Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 63, 6.3.2002, p. 1).

⁵⁵ Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 63, 6.3.2002, p. 1).

Or. en

Amendment 19

Proposal for a regulation Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) The correct application of this Regulation is in the interest of all Member States and necessary to maintain the Schengen area as an area without internal border controls. In order to ensure the correct application of this Regulation by Member States, evaluations conducted through the mechanism established by Regulation (EU) No 1053/2013 are of particular importance. Member States should therefore swiftly address any recommendations made to them. The Commission should, where recommendations are not followed, make use of its powers under the Treaties.

Or. en

Amendment 20

Proposal for a regulation Recital 41

Text proposed by the Commission

Amendment

(41) The national independent supervisory authorities should monitor the lawfulness of the processing of personal

(41) The national independent supervisory authorities ***established in accordance with Regulation (EU)***

data by the Member States in relation to this Regulation. The rights of data subjects for access, rectification and erasure of their personal data stored in SIS, and subsequent remedies before national courts as well as the mutual recognition of judgments should be set out. Therefore, it is appropriate to require annual statistics from Member States.

2016/679 and Directive (EU) 2016/680 (supervisory authorities) should monitor the lawfulness of the processing of personal data by the Member States in relation to this Regulation. The rights of data subjects for access, rectification, ***restriction of processing*** and erasure of their personal data stored in SIS, and subsequent remedies before national courts as well as the mutual recognition of judgments should be set out ***in this Regulation***. Therefore, it is appropriate to require annual statistics from Member States.

Or. en

Amendment 21

Proposal for a regulation Recital 42 a (new)

Text proposed by the Commission

Amendment

(42 a) The European Data Protection Supervisor should monitor the activities of the Union institutions and bodies in relation to the processing of personal data under this Regulation. The European Data Protection Supervisor and the supervisory authorities should cooperate with each other in the monitoring of SIS.

Or. en

Amendment 22

Proposal for a regulation Recital 43

Text proposed by the Commission

Amendment

(43) Regulation (EU) 2016/794 (Europol Regulation) provides that Europol supports and strengthens actions carried out by the

(43) Regulation (EU) 2016/794 (Europol Regulation) provides that Europol supports and strengthens actions carried out by the

competent authorities of Member States and their cooperation in combating terrorism and serious crime and provides analysis and threat assessments. The extension of Europol's access rights to the SIS alerts on missing persons should further improve Europol's capacity to provide national law enforcement authorities with comprehensive operational and analytical products concerning trafficking in human beings and child sexual exploitation, including online. This would contribute to better prevention of these criminal offences, the protection of potential victims and to the investigation of perpetrators. Europol's European Cybercrime Centre would also benefit from *new* Europol access to SIS alerts on missing persons, including in cases of travelling sex offenders and child sexual abuse online, where perpetrators often claim that they have access to children or can get access to children who might have been registered as missing. Furthermore, since Europol's European Migrant Smuggling Centre plays a major strategic role in *countering the* facilitation of irregular migration, it should obtain access to alerts on persons who are refused entry or stay within the territory of a Member State either on criminal grounds or because of non-compliance with visa and stay conditions.

competent authorities of Member States and their cooperation in combating terrorism and serious crime and provides analysis and threat assessments. The extension of Europol's access rights to the SIS alerts on missing persons should further improve Europol's capacity to provide national law enforcement authorities with comprehensive operational and analytical products concerning trafficking in human beings and child sexual exploitation, including online. This would contribute to better prevention of these criminal offences, the protection of potential victims and to the investigation of perpetrators. Europol's European Cybercrime Centre would also benefit from *the* Europol access to SIS alerts on missing persons *introduced by this Regulation*, including in cases of travelling sex offenders and child sexual abuse online, where perpetrators often claim that they have access to children or can get access to children who might have been registered as missing. Furthermore, since Europol's European Migrant Smuggling Centre plays a major strategic role in *combatting* facilitation of irregular migration, it should obtain access to alerts on persons who are refused entry or stay within the territory of a Member State either on criminal grounds or because of non-compliance with visa and stay conditions.

Or. en

Amendment 23

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) In order to bridge the gap in information sharing on terrorism, in particular on foreign terrorist fighters – where monitoring of their movement is

Amendment

(44) In order to bridge the gap in information sharing on terrorism, in particular on foreign terrorist fighters – where monitoring of their movement is

crucial – Member States should share information on terrorism-related activity with Europol in parallel to introducing an alert in SIS, as well as hits and related information. This should allow Europol's European Counter Terrorism Centre to verify if there is any additional contextual information available in Europol's databases and to deliver high quality analysis contributing to disrupting terrorism networks and, where possible, preventing their attacks.

crucial – Member States should share information on terrorism-related activity with Europol in parallel to introducing an alert in SIS, as well as hits and related information. This should allow Europol's European Counter Terrorism Centre to verify if there is any additional contextual information available in Europol's databases and to deliver high quality analysis contributing to disrupting terrorism networks and, where possible, preventing their attacks. ***Such sharing of information should take place in accordance with the applicable data protection provisions laid down in Regulation (EU) 2016/679, Directive (EU) 2016/680 and Regulation (EU) 2016/794.***

Or. en

Amendment 24

Proposal for a regulation

Recital 45

Text proposed by the Commission

(45) It is also necessary to set out clear rules for Europol on the processing and downloading of SIS data to allow the most comprehensive use of SIS provided that data protection standards are respected as provided in this Regulation and Regulation (EU) 2016/794. In cases where searches carried out by Europol in SIS reveal the existence of an alert issued by a Member State, Europol ***cannot*** take the required action. Therefore it should inform the Member State concerned allowing it to follow up the case.

Amendment

(45) It is also necessary to set out clear rules for Europol on the processing and downloading of SIS data to allow the most comprehensive use of SIS provided that data protection standards are respected as provided in this Regulation and Regulation (EU) 2016/794. In cases where searches carried out by Europol in SIS reveal the existence of an alert issued by a Member State, Europol ***should not be able to*** take the required action. Therefore it should inform the Member State concerned allowing it to follow up the case.

Or. en

Amendment 25

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) Regulation (EU) 2016/1624 of the European Parliament and of the Council⁵⁶ provides for the purpose of this Regulation, that the host Member State is to authorise the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks, deployed by the European Border and Coast Guard Agency, to consult European databases, where this consultation is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. Other relevant Union agencies, in particular the European Asylum Support Office and Europol, may also deploy experts as part of migration management support teams, who are not members of the staff of those Union agencies. The objective of the deployment of the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support team is to provide for technical and operational reinforcement to the requesting Member States, especially to those facing disproportionate migratory challenges. Fulfilling the tasks assigned to the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support team necessitates access to SIS via a technical interface of the European Border and Coast Guard Agency connecting to Central SIS. In cases where searches carried out by the team or the teams of staff in SIS reveal the existence of an alert issued by a Member State, the member of the team or the staff **cannot** take the required action unless authorised to do so by the host Member State. Therefore it should inform the Member States concerned allowing for

Amendment

(46) Regulation (EU) 2016/1624 of the European Parliament and of the Council⁵⁶ provides for the purpose of this Regulation, that the host Member State is to authorise the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks, deployed by the European Border and Coast Guard Agency, to consult European databases, where this consultation is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. Other relevant Union agencies, in particular the European Asylum Support Office and Europol, may also deploy experts as part of migration management support teams, who are not members of the staff of those Union agencies. The objective of the deployment of the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support team is to provide for technical and operational reinforcement to the requesting Member States, especially to those facing disproportionate migratory challenges. Fulfilling the tasks assigned to the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support team necessitates access to SIS via a technical interface of the European Border and Coast Guard Agency connecting to Central SIS. In cases where searches carried out by the team or the teams of staff in SIS reveal the existence of an alert issued by a Member State, the member of the team or the staff **should not be able to** take the required action unless authorised to do so by the host Member State. Therefore it should inform the Member States concerned

follow up of the case.

⁵⁶ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251 of 16.9.2016, p. 1).

allowing for follow up of the case.

⁵⁶ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251 of 16.9.2016, p. 1).

Or. en

Amendment 26

Proposal for a regulation Recital 47

Text proposed by the Commission

(47) In accordance with ***Commission proposal for a Regulation*** of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS)⁵⁷ the ETIAS Central Unit ***of*** the European Border and Coast Guard Agency will perform verifications in SIS via ETIAS in order to perform the assessment of the applications for travel authorisation which require, inter alia, to ascertain if the third country national applying for a travel authorisation is subject of a SIS alert. To this end the ETIAS Central Unit within the European Border and Coast Guard Agency should also have access to SIS to the extent necessary to carry out its mandate, namely to all alert categories on persons and alerts on blank and issued personal identification documents.

Amendment

[(47) In accordance with ***[Regulation .../... of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS)]***, the ETIAS Central Unit ***established within*** the European Border and Coast Guard Agency will perform verifications in SIS via ETIAS in order to perform the assessment of the applications for travel authorisation which require, inter alia, to ascertain if the third country national applying for a travel authorisation is subject of a SIS alert. To this end the ETIAS Central Unit within the European Border and Coast Guard Agency should also have access to SIS to the extent ***which is strictly*** necessary to carry out its mandate, namely to all alert categories on persons and alerts on blank and issued personal identification documents.]

Amendment 27

Proposal for a regulation Recital 48

Text proposed by the Commission

(48) Owing to their technical nature, level of detail and need for regular updating, certain aspects of SIS cannot be covered exhaustively by the provisions of this Regulation. These include, for example, technical rules on entering data, updating, deleting and searching data, data quality and search rules related to biometric identifiers, rules on compatibility and priority of alerts, the adding of flags, links between alerts, specifying new object categories within the technical and electronic equipment category, ***setting the expiry date of alerts within the maximum time limit*** and the exchange of supplementary information. Implementing powers in respect of those aspects should therefore be conferred to the Commission. Technical rules on searching alerts should take into account the smooth operation of national applications.

Amendment

(48) Owing to their technical nature, level of detail and need for regular updating, certain aspects of SIS cannot be covered exhaustively by the provisions of this Regulation. These include, for example, technical rules on entering data, updating, deleting and searching data, data quality and search rules related to biometric identifiers, rules on compatibility and priority of alerts, the adding of flags, links between alerts, specifying new object categories within the technical and electronic equipment category and the exchange of supplementary information. Implementing powers in respect of those aspects should therefore be conferred to the Commission. Technical rules on searching alerts should take into account the smooth operation of national applications.

Amendment 28

Proposal for a regulation Recital 50 a (new)

Text proposed by the Commission

Amendment

(50a) In order to ensure the smooth functioning of SIS, the power to adopt acts in accordance with Article 290 of the

Treaty on the Functioning of the European Union should be delegated to the Commission in respect of:

- adoption of a manual containing detailed rules on the exchange of supplementary information (the SIRENE Manual);*
- establishing the content of the log of automated scanned searches of motor vehicles number plates;*
- establishing rules on the use of photographs and facial images for the purpose of identifying persons;*
- establishing rules on the categorisation of the types of cases of missing persons and the entering of relevant data;*
- establishing rules setting the expiry date of alerts within the maximum time limit; and*
- amendments to the date of application of this Regulation.*

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

^{1a} OJ L 123, 12.5.2016, p. 1.

Or. en

Amendment 29

Proposal for a regulation Recital 64

Text proposed by the Commission

(64) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on ...

Amendment

(64) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on **3 May 2017**.

Or. en

Amendment 30

Proposal for a regulation Article 2 – title

Text proposed by the Commission

Scope

Amendment

Subject matter

Or. en

Amendment 31

Proposal for a regulation Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) ‘alert’ means a set of data, ***including biometric identifiers as referred to in Article 22 and in Article 40***, entered in SIS allowing the competent authorities to identify a person or an object with a view to taking specific action;

Amendment

(a) ‘alert’ means a set of data entered in SIS allowing the competent authorities to identify a person or an object with a view to taking specific action;

Or. en

Justification

There is no need to indicate in the definition of “alert” one type of data which could be

entered for an alert. The matter which data is to be inserted in an alert is dealt with in Article 20 on the categories of data.

Amendment 32

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) ‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’);

Amendment

(d) ‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); ***for the purposes of this definition an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;***

Or. en

Amendment 33

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) ***‘an identifiable natural person’ is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;***

Amendment

deleted

Or. en

Amendment 34

Proposal for a regulation

Article 3 – paragraph 1 – point g – point 2

Text proposed by the Commission

(2) the search reveals an alert entered by **another** Member State in SIS;

Amendment

(2) the search reveals **that** an alert **is** entered by **a** Member State in SIS;

Or. en

Justification

A “hit” can also occur if the alert was inserted by the Member State of the user.

Amendment 35

Proposal for a regulation

Article 3 – paragraph 1 – point h

Text proposed by the Commission

(h) ‘flag’ means a suspension of validity of an alert at the national level that may be added to alerts for arrest, alerts for missing persons and alerts for discreet, inquiry and specific checks, **where a Member State considers that to give effect to an alert is incompatible with its national law, its international obligations or essential national interests. Where the alert is flagged, the requested action on the basis of the alert shall not be taken on the territory of this Member State.**

Amendment

(h) ‘flag’ means a suspension of validity of an alert at the national level that may be added to alerts for arrest, alerts for missing persons and alerts for discreet, inquiry and specific checks;

Or. en

Amendment 36

Proposal for a regulation

Article 3 – paragraph 1 – point k a (new)

(ka) 'biometric identifiers' means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person (facial images, dactyloscopic data and DNA profile);

Or. en

Amendment 37

Proposal for a regulation

Article 3 – paragraph 1 – point l

Text proposed by the Commission

(l) **'dactylographic data'** means data on fingerprints and palm prints which due to their unique character and the reference points contained therein enable accurate and conclusive comparisons on a person's identity;

Amendment

(l) **'dactyloscopic data'** means data on fingerprints and palm prints which due to their unique character and the reference points contained therein enable accurate and conclusive comparisons on a person's identity;

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Amendment 38

Proposal for a regulation

Article 3 – paragraph 1 – point l a (new)

Text proposed by the Commission

Amendment

(la) 'facial image' means digital images of the face with a sufficient image resolution and quality to be used in automated biometric matching;

Amendment 39

Proposal for a regulation

Article 3 – paragraph 1 – point l b (new)

Text proposed by the Commission

Amendment

(lb) 'DNA profile' means a letter or number code which represents a set of identification characteristics of the noncoding part of an analysed human DNA sample, i.e. the particular molecular structure at the various DNA locations (loci);

Or. en

Amendment 40

Proposal for a regulation

Article 3 – paragraph 1 – point n

Text proposed by the Commission

Amendment

(n) 'terrorist offences' means offences under national law referred to in **Articles 1-4 of Framework Decision 2002/475/JHA of 13 June 2002⁷²**.

(n) 'terrorist offences' means offences under national law referred to in **Titles II and III of Directive (EU) 2017/541**.

⁷² **Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).**

Or. en

Amendment 41

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) a national system (N.SIS) in each of the Member States, consisting of the national data systems which communicate with Central SIS. An N.SIS **shall** contain a data file (a ‘national copy’), containing a complete or partial copy of the SIS database as well as a backup N.SIS. The N.SIS and its backup may be used simultaneously to ensure uninterrupted availability to end-users;

(b) a national system (N.SIS) in each of the Member States, consisting of the national data systems which communicate with Central SIS. An N.SIS **may** contain a data file (a ‘national copy’), containing a complete or partial copy of the SIS database as well as a backup N.SIS. The N.SIS and its backup may be used simultaneously to ensure uninterrupted availability to end-users;

Or. en

Justification

Member States should not be obligated to have a national copy for the purpose of ensuring the availability of the system given the risk to data security this might imply. To achieve full availability, other solutions at central level should be favoured.

Amendment 42

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

A backup communication infrastructure shall be developed to further ensure the uninterrupted availability of SIS. Detailed rules for this backup communication infrastructure shall be adopted by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Or. en

Justification

To further ensure the uninterrupted availability of the SIS a second communication infrastructure should be available and be used in case of problems with the main communication infrastructure.

Amendment 43

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

2. SIS data shall be entered, updated, deleted and searched via the various N.SIS. *A partial or a full national copy shall be available for the purpose of carrying out automated searches in the territory of each of the Member States using such a copy. The partial national copy shall contain at least the data listed in Article 20 (2) concerning objects and the data listed in Article 20(3) (a) to (v) of this Regulation concerning alerts on persons. It shall not be possible to search the data files of other Member States' N.SIS.*

Amendment

2. SIS data shall be entered, updated, deleted and searched via the various N.SIS.

Or. en

Justification

Member States should not be obligated to have a national copy for the purpose of ensuring the availability of the system given the risk to data security this might imply. To achieve full availability, other solutions at central level should be favoured.

Amendment 44

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. CS-SIS shall perform technical supervision and administration functions and have a backup CS-SIS, capable of ensuring all functionalities of the principal CS-SIS in the event of failure of this system. CS-SIS and the backup CS-SIS shall be located in the two technical sites of the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011⁷³ ('the Agency'). CS-SIS or

Amendment

3. CS-SIS shall perform technical supervision and administration functions and have a backup CS-SIS, capable of ensuring all functionalities of the principal CS-SIS in the event of failure of this system. CS-SIS and the backup CS-SIS shall be located in the two technical sites of the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011⁷³ ('the Agency'). CS-SIS or

backup CS-SIS **may** contain an additional copy of the SIS database and **may** be used simultaneously in active operation provided that each of them is capable to process all transactions related to SIS alerts.

backup CS-SIS **shall** contain an additional copy of the SIS database and **shall** be used simultaneously in active operation provided that each of them is capable to process all transactions related to SIS alerts.

⁷³ Established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p.1).

⁷³ Established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p.1).

Or. en

Justification

To ensure the uninterrupted availability of the SIS also in the future with more data and more users, solutions at central level should be pursued. In addition to an additional copy, an active solution should be implemented. The Agency should not be limited to the current two technical sites in case a solution requires the use of another site.

Amendment 45

Proposal for a regulation

Article 4 – paragraph 4 – introductory part

Text proposed by the Commission

4. CS-SIS shall provide the services necessary for the entry and processing of SIS data, including searches in the SIS database. CS-SIS shall:

Amendment

4. CS-SIS shall provide the services necessary for the entry and processing of SIS data, including searches in the SIS database. ***For the Member States which use a national copy,*** CS-SIS shall:

Or. en

Amendment 46

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

Each Member State shall be responsible for ensuring the continuous operation of the N.SIS, its connection to NI-SIS ***and the uninterrupted availability of SIS data to the end-users.***

Amendment

Each Member State shall be responsible for ensuring the continuous operation of the N.SIS ***and*** its connection to NI-SIS.

Or. en

Amendment 47

**Proposal for a regulation
Article 6 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

Each Member State shall be responsible for ensuring the uninterrupted availability of SIS data to end-users, in particular by establishing a duplicate connection with NISIS.

Or. en

Amendment 48

**Proposal for a regulation
Article 8 – paragraph 1**

Text proposed by the Commission

Amendment

1. Supplementary information shall be exchanged in accordance with the provisions of the SIRENE Manual and using the Communication Infrastructure. Member States shall provide the necessary technical and ***personal*** resources to ensure the continuous availability and exchange of supplementary information. In the event that the Communication Infrastructure is unavailable, Member States ***may use*** other adequately secured technical means to exchange supplementary information.

1. Supplementary information shall be exchanged in accordance with the provisions of the SIRENE Manual and using the Communication Infrastructure. Member States shall provide the necessary technical and ***human*** resources to ensure the continuous availability and ***timely*** exchange of supplementary information. In the event that the Communication Infrastructure is unavailable, Member States ***shall use the backup communication infrastructure referred to***

in Article 4(1)(c). As a last resort other adequately secured technical means to exchange supplementary information *may be used*.

Or. en

Amendment 49

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. The SIRENE Bureaux shall carry out their task in a quick and efficient manner, in particular by replying to a request as soon as possible but not later than **12** hours after the receipt of the request.

Amendment

3. The SIRENE Bureaux shall carry out their task in a quick and efficient manner, in particular by replying to a request as soon as possible but not later than ~~six~~ hours after the receipt of the request. ***In case of alerts for terrorism offences the SIRENE Bureaux shall act immediately.***

Or. en

Amendment 50

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. ***Detailed rules for the exchange of supplementary information*** shall be ***adopted by means of implementing measures*** in accordance with ***the examination procedure referred to in Article 72(2) in the form*** of a manual called the ‘SIRENE Manual’.

Amendment

4. ***The Commission*** shall be ***empowered to adopt a delegated act*** in accordance with Article ***70b concerning the adoption*** of a manual ***containing detailed rules for the exchange of supplementary information (SIRENE Manual)***.

Or. en

Justification

Judging from the current Manual and SIS II legal framework the Sirene Manual should be adopted in as a delegated act as in parts it rather supplements the basic acts than implements them. The requirement of the Manual that hits are to be reported "immediately" in case of possible "serious threats to security" while the Regulation requires this to happen "as soon as possible" can be mentioned as example. Recital 6 of the Manual (OJ L44, 18.2.2015) even states: "It is indispensable to lay down a new accelerated procedure for information exchange on alerts on discreet and specific checks [...]"

Amendment 51

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Regular tests shall be undertaken as part of the mechanism established by Regulation (EU) No 1053/2013 to verify the technical and functional compliance of national copies and, in particular, whether searches in the national copy produce results equivalent to those of a search in the SIS database.

Or. en

Amendment 52

Proposal for a regulation

Article 10 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) prevent the unauthorised processing of data in SIS and any unauthorised modification or erasure of data processed in SIS (control of data entry);

Or. en

Justification

Provision foreseen in Article 34 of the Eurodac Regulation.

Amendment 53

Proposal for a regulation

Article 10 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(ka) ensure that the installed system may, in case of interruption, be restored (recovery);

Or. en

Justification

Provision foreseen in the Eurodac proposal.

Amendment 54

Proposal for a regulation

Article 10 – paragraph 1 – point k b (new)

Text proposed by the Commission

Amendment

(kb) ensure that SIS performs its functions correctly, that faults are reported (reliability) and that personal data stored in SIS cannot be corrupted by means of a system malfunctioning (integrity);

Or. en

Justification

Provision foreseen in the Eurodac proposal.

Amendment 55

Proposal for a regulation

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Where a Member State cooperates with external contractors in any SIS-related tasks, that Member State shall closely monitor the activities of the contractor to ensure the respect of all provisions of this Regulation, including in particular security, confidentiality and data protection.

Or. en

Justification

In 2012 SIS data was compromised following a hack via an external contractor in Denmark. Member States should reinforce their monitoring of such companies.

Amendment 56

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. The ***records*** shall show, in particular, the history of the alert, the date and time of the data processing activity, the data used to perform a search, a reference to the data transmitted and the ***names*** of both the competent authority and the person responsible for processing the data.

2. The ***logs*** shall show, in particular, the history of the alert, the date and time of the data processing activity, the ***type of*** data used to perform a search, a reference to the ***type of*** data transmitted and the ***name*** of both the competent authority and the person responsible for processing the data ***or performing a search.***

Or. en

Amendment 57

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. ***If the search is carried out with dactylographic data or facial image in***

deleted

accordance with Articles 40, 41 and 42 the logs shall show, in particular, the type of data used to perform a search, a reference to the type of data transmitted and the names of both the competent authority and the person responsible for processing the data.

Or. en

Amendment 58

Proposal for a regulation Article 12 – paragraph 7

Text proposed by the Commission

7. Where Member States carry out automated scanned searches of the number plates of motor vehicles, using Automatic Number Plate Recognition systems, Member States shall maintain a log of the search in accordance with national law. ***The content of this log shall be established by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).*** Where a positive match is achieved against data stored in SIS, or a national or technical copy of SIS data, a full search shall be carried out in SIS in order to verify that a match has indeed been achieved. The provisions of paragraphs 1 to 6 of this Article shall apply to this full search.

Amendment

7. Where Member States carry out automated scanned searches of the number plates of motor vehicles, using Automatic Number Plate Recognition systems, Member States shall maintain a log of the search in accordance with national law. ***The Commission shall be empowered to adopt a delegated act in accordance with Article 70b establishing the content of such a log.*** Where a positive match is achieved against data stored in SIS, or a national or technical copy of SIS data, a full search shall be carried out in SIS in order to verify that a match has indeed been achieved. The provisions of paragraphs 1 to 6 of this Article shall apply to this full search.

Or. en

Amendment 59

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

Before being authorised to process data

Amendment

Before being authorised to process data

stored in SIS and periodically after access to SIS data has been granted, the staff of the authorities having a right to access SIS shall receive appropriate training about data security, data protection rules and the procedures on data processing as set out in the SIRENE Manual. The staff shall be informed of any relevant criminal offences and penalties.

stored in SIS and periodically after access to SIS data has been granted, the staff of the authorities having a right to access SIS shall receive appropriate training about data security, data protection rules, ***in particular on relevant fundamental rights***, and the procedures on data processing as set out in the SIRENE Manual. The staff shall be informed of any relevant criminal offences and penalties. ***They shall also follow training offered by eu-LISA on measures to improve the quality of SIS data.***

Or. en

Justification

The provision on training should be more specific as regards fundamental rights, as this is foreseen in the ETIAS proposal. Furthermore, it is important to make use of training to improve data quality.

Amendment 60

Proposal for a regulation

Article 15 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) tasks relating to implementation of the budget;

Or. en

Justification

The Agency should be responsible for all tasks relating to the Communication Infrastructure. It would not be logic to maintain a division of tasks between the Agency and the Commission.

Amendment 61

Proposal for a regulation

Article 15 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) acquisition and renewal;

Or. en

Justification

*The Agency should be responsible for all tasks relating to the Communication Infrastructure.
It would not be logic to maintain a division of tasks between the Agency and the Commission.*

Amendment 62

Proposal for a regulation

Article 15 – paragraph 2 – point c c (new)

Text proposed by the Commission

Amendment

(cc) contractual matters.

Or. en

Justification

*The Agency should be responsible for all tasks relating to the Communication Infrastructure.
It would not be logic to maintain a division of tasks between the Agency and the Commission.*

Amendment 63

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular: **deleted**

(a) tasks relating to implementation of the budget;

(b) acquisition and renewal;

(c) contractual matters.

Justification

The Agency should be responsible for all tasks relating to the Communication Infrastructure. It would not be logic to maintain a division of tasks between the Agency and the Commission.

Amendment 64

Proposal for a regulation
Article 15 – paragraph 5

Text proposed by the Commission

5. The Agency shall develop and maintain a mechanism and procedures for carrying out quality checks on the data in CS-SIS and shall provide regular reports to the Member States. The Agency shall provide a regular report to the Commission covering the issues encountered and the Member States concerned. This mechanism, procedures and the interpretation of data quality compliance shall be established by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment

5. The Agency shall develop and maintain a mechanism and procedures for carrying out quality checks on the data in CS-SIS and shall provide regular reports to the Member States. The Agency shall provide a regular report to the ***European Parliament, the Council and the Commission*** covering the issues encountered and the Member States concerned. This mechanism, procedures and the interpretation of data quality compliance shall be established by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Or. en

Amendment 65

Proposal for a regulation
Article 15 – paragraph 5 a (new)

*Text proposed by the Commission**Amendment*

5a. The Agency shall also perform tasks related to providing training on the technical use of SIS and on measures to improve the quality of SIS data.

Or. en

Amendment 66

Proposal for a regulation

Article 16 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) prevent the unauthorised processing of data in SIS and any unauthorised modification or erasure of data processed in SIS (control of data entry);

Or. en

Amendment 67

Proposal for a regulation

Article 16 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(ka) ensure that the system installed may, in case of interruption, be restored (recovery);

Or. en

Amendment 68

Proposal for a regulation

Article 16 – paragraph 1 – point k b (new)

Text proposed by the Commission

Amendment

(kb) ensure that SIS performs its functions correctly, that faults are reported (reliability) and that personal data stored in SIS cannot be corrupted by means of the system malfunctioning (integrity);

Or. en

Amendment 69

Proposal for a regulation

Article 16 – paragraph 1 – point k c (new)

Text proposed by the Commission

Amendment

(kc) ensure the security of its technical sites.

Or. en

Amendment 70

Proposal for a regulation

Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the Agency cooperates with external contractors in any SIS-related tasks, it shall closely monitor the activities of the contractor to ensure compliance with all provisions of this Regulation including in particular security, confidentiality and data protection.

Or. en

Justification

In 2012 SIS data was compromised following a hack via an external contractor in Denmark. Member States should reinforce their monitoring of such companies.

Amendment 71

Proposal for a regulation

Article 18 – paragraph 3

Text proposed by the Commission

Amendment

3. If the search is carried out with dactylographic data or facial image in accordance with Articles 40, 41 and 42

deleted

the logs shall show, in particular, the type of data used to perform the search, a reference to the type data transmitted and the names of both the competent authority and the person responsible for processing the data.

Or. en

Amendment 72

Proposal for a regulation Article 18 – paragraph 4

Text proposed by the Commission

4. The logs may only be used for the purposes mentioned in paragraph 1 and shall be ***deleted at*** the earliest one year, and at the latest ***three years, after their creation. The logs which include the history of alerts shall be erased after one to*** three years after deletion of the alerts.

Amendment

4. The logs may only be used for the purposes mentioned in paragraph 1 and shall be ***erased*** the earliest one year, and at the latest three years after deletion of the alerts.

Or. en

Amendment 73

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall regularly carry out campaigns informing the public about the objectives of SIS, the data stored, the authorities having access to SIS and the rights of data subjects. Member States shall, in cooperation with their national supervisory authorities, devise and implement the necessary policies to inform their citizens about SIS generally.

Amendment

The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall regularly carry out campaigns informing the public about the objectives of SIS, the data stored, the authorities having access to SIS and the rights of data subjects. Member States shall, in cooperation with their national supervisory authorities, devise and implement the necessary policies to inform their citizens about SIS generally. ***Member States shall ensure***

that sufficient funding is made available for such information policies.

Or. en

Amendment 74

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 8(1) or the provisions of this Regulation providing for the storage of additional data, SIS shall contain only those categories of data which are supplied by each *of the* Member *States*, as required for the purposes laid down in Articles 26, 32, 34, 36 and 38.

Amendment

1. Without prejudice to Article 8(1) or the provisions of this Regulation providing for the storage of additional data, SIS shall contain only those categories of data which are supplied by each Member *State*, as required for the purposes laid down in Articles 26, 32, 34, 36 and 38.

Or. en

Amendment 75

Proposal for a regulation Article 20 – paragraph 3 – introductory part

Text proposed by the Commission

3. The information on persons in relation to whom an alert has been issued shall only contain the following data:

Amendment

3. The information on persons in relation to whom an alert has been issued *for the purpose of police and judicial cooperation* shall only contain the following data:

Or. en

Amendment 76

Proposal for a regulation Article 20 – paragraph 3 – point j

Text proposed by the Commission

Amendment

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in **Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism**;

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in **Titles II and III of Directive (EU) 2017/541**;

Or. en

Amendment 77

Proposal for a regulation

Article 20 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

These technical rules shall be similar for searches in CS-SIS, in national copies and in technical copies, as referred to in Article 53(2) and they shall be based upon common standards laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Or. en

Amendment 78

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The technical rules necessary for searching data referred to in paragraph 3 shall be laid down and developed in accordance with the examination procedure referred to in Article 72(2). These technical rules shall be similar for searches in CS-SIS, in national copies and in technical copies, as referred to in

deleted

Article 53(2) and they shall be based upon common standards laid down developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Or. en

Justification

The provision is covered in paragraph 4.

Amendment 79

**Proposal for a regulation
Article 21 – paragraph 2**

Text proposed by the Commission

2. Where a person or an object is sought by a Member State in relation to an offence that falls under Articles ***1 to 4 of Council Framework Decision 2002/475/JHA on combating terrorism***, the Member State shall, in all circumstances, create the corresponding alert under either Article 34, 36 or 38 ***as appropriate***.

Amendment

2. Where a person or an object is sought by a Member State in relation to an offence that falls under ***Title II or III of Directive (EU) 2017/541***, the Member State shall, in all circumstances, create the corresponding alert under either Article 34, 36 or 38.

Or. en

Amendment 80

**Proposal for a regulation
Article 21 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Member States shall inform Europol of any hits on alerts created under paragraph 2 of this Article.

Or. en

Amendment 81

Proposal for a regulation

Article 22 – paragraph 1 – point b

Text proposed by the Commission

(b) A DNA profile may only be added to alerts provided for in Article 32(2)(a) and (c) and only where photographs, facial images or dactylographic data suitable for identification are not available. The DNA profiles of persons who are direct ascendants, descendants or siblings of the alert subject may be added to the alert provided that those persons concerned gives explicit consent. The racial origin of the person shall not be included in the DNA profile.

Amendment

(b) A DNA profile may only be added to alerts provided for in Article 32(2)(a) and (c) and only where photographs, facial images or dactylographic data suitable for identification are not available. The DNA profiles of persons who are direct ascendants, descendants or siblings of the alert subject may be added to the alert provided that those persons concerned gives explicit consent. The racial origin of the person shall not be included in the DNA profile. ***The DNA profile shall only contain data that is strictly necessary for the purposes of identification and shall not include, or allow for the identification of, racial origin, health information or other sensitive data, in accordance with Union data protection law.***

Or. en

Amendment 82

Proposal for a regulation

Article 23 – title

Text proposed by the Commission

Requirement for an alert to be entered

Amendment

Required data for entering an alert

Or. en

Amendment 83

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

1. An alert on a person may not be entered without the data referred to in Article 20(3)(a), (g), (k), (m), (n) as well as, **where applicable**, (p), except for in the situations referred to in Article 40.

Amendment

1. An alert on a person may not be entered without the data referred to in Article 20(3)(a), (g), (k), (m), (n) as well as, **in particular for alerts created pursuant Article 36**, (p), except for in the situations referred to in Article 40.

Or. en

Amendment 84

**Proposal for a regulation
Article 24 – title**

Text proposed by the Commission

General provisions on flagging

Amendment

Flagging

Or. en

Amendment 85

**Proposal for a regulation
Article 26 – paragraph 2**

Text proposed by the Commission

2. Data on persons wanted for arrest for surrender purposes shall also be entered on the basis of arrest warrants issued in accordance with Agreements concluded between the Union and third countries on the basis of Article 37 of the Treaty on the European Union for the purpose of surrender of persons on the basis of an arrest warrant, which provide for the transmission of such an arrest warrant via the SIS.

Amendment

2. Data on persons wanted for arrest for surrender purposes shall also be entered on the basis of arrest warrants issued in accordance with Agreements concluded between the Union and third countries on the basis of Article 216 of the Treaty on **the functioning of** the European Union for the purpose of surrender of persons on the basis of an arrest warrant, which provide for the transmission of such an arrest warrant via the SIS.

Or. en

Amendment 86

Proposal for a regulation

Article 26 – paragraph 3

Text proposed by the Commission

3. Any reference in this Regulation to provisions of the Framework Decision 2002/584/JHA shall be construed as including the corresponding provisions of Agreements concluded between the European Union and third countries on the basis of Article 37 the Treaty on the European Union for the purpose of surrender of persons on the basis of an arrest warrant which provide for the transmission of such an arrest warrant via SIS.

Amendment

3. Any reference in this Regulation to provisions of the Framework Decision 2002/584/JHA shall be construed as including the corresponding provisions of Agreements concluded between the European Union and third countries on the basis of Article **216 of** the Treaty on **the functioning of** the European Union for the purpose of surrender of persons on the basis of an arrest warrant which provide for the transmission of such an arrest warrant via SIS.

Or. en

Amendment 87

Proposal for a regulation

Article 26 – paragraph 4

Text proposed by the Commission

4. The issuing Member State may, in the case of an ongoing search operation and following the authorisation of the relevant judicial authority of the issuing Member State, temporarily make an existing alert for arrest issued under **Article 26 of this Regulation** unavailable for searching to the effect that the alert shall not be searchable by **the end-user** and will only be accessible to the SIRENE Bureaux. This functionality shall be used for a period not exceeding 48 hours. If operationally necessary, however, it may be extended by further periods of 48 hours. Member States shall keep statistics about the number of alerts where this functionality has been used.

Amendment

4. The issuing Member State may, in the case of an ongoing search operation and following the authorisation of the relevant judicial authority of the issuing Member State, temporarily make an existing alert for arrest issued under **this Article** unavailable for searching to the effect that the alert shall not be searchable by **end-users** and will only be accessible to the SIRENE Bureaux. This functionality shall be used for a period not exceeding 48 hours. If operationally necessary, however, it may be extended by further periods of 48 hours. Member States shall keep statistics about the number of alerts where this functionality has been used.

Amendment 88

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

2. The issuing Member State may enter a ***copy of a*** translation of the European Arrest Warrant in one or more other official languages of the institutions of the European Union.

Amendment

2. The issuing Member State may enter a translation of the European Arrest Warrant in one or more other official languages of the institutions of the European Union.

Or. en

Amendment 89

Proposal for a regulation Article 30 – paragraph 1

Text proposed by the Commission

Where an arrest cannot be made, either because a requested Member State refuses to do so, in accordance with the procedures on flagging set out in Articles 24 or 25, or because, in the case of an alert for arrest for extradition purposes, an investigation has not been completed, the requested Member State shall consider the alert as being an alert for the purposes of communicating the whereabouts of the person concerned.

Amendment

Where an arrest cannot be made, either because a requested Member State refuses to do so, in accordance with the procedures on flagging set out in Articles 24 or 25, or because, in the case of an alert for arrest for extradition purposes, an investigation ***of a crime in the requested Member State*** has not been completed, the requested Member State shall consider the alert as being an alert for the purposes of communicating the whereabouts of the person concerned.

Or. en

Amendment 90

Proposal for a regulation Article 31 – paragraph 2

Text proposed by the Commission

Amendment

2. Where Framework Decision 2002/584/JHA does not apply, an alert entered in SIS in accordance with Articles 26 and 29 shall have the same legal **force** as a request for provisional arrest under Article 16 of the European Convention on Extradition of 13 December 1957 or Article 15 of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962.

2. Where Framework Decision 2002/584/JHA does not apply, an alert entered in SIS in accordance with Articles 26 and 29 shall have the same legal **effect** as a request for provisional arrest under Article 16 of the European Convention on Extradition of 13 December 1957 or Article 15 of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962.

Or. en

Amendment 91

**Proposal for a regulation
Article 32 – paragraph 1**

Text proposed by the Commission

Amendment

1. Data on missing persons or other persons who need to be placed under protection or whose whereabouts need to be ascertained shall be entered in SIS at the request of the competent authority of the Member State issuing the alert.

deleted

Or. en

Amendment 92

**Proposal for a regulation
Article 32 – paragraph 2 – introductory part**

Text proposed by the Commission

Amendment

2. The following categories of **missing** persons **may** be entered:

2. The following categories of persons **shall** be entered **in SIS following a decision of the competent authority of the Member State:**

Justification

The obligation to ask for the authorization from a national authority disappears, as time is essential in most cases. National authorities can still prohibit the creation of the alert, but are not required to authorize it.

Amendment 93

Proposal for a regulation

Article 32 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) missing unaccompanied children in migration.

Or. en

Justification

This amendment follows the recommendations of the Commission in its Communication on the protection of children in migration (COM(2017) 211).

Amendment 94

Proposal for a regulation

Article 32 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 2(a) shall apply ***in particular*** to children and to persons who have to be interned following a decision by a competent authority.

3. Paragraph 2(a) shall apply to children and to persons who have to be interned following a decision by a competent authority.

Or. en

Amendment 95

Proposal for a regulation

Article 32 – paragraph 4

Text proposed by the Commission

4. An alert on a child referred to in paragraph 2(c) shall be entered at the request of the competent judicial authority of the Member State that has jurisdiction in matters of parental responsibility in accordance with Council Regulation No 2201/2003⁷⁴ where a concrete and apparent risk exists that the child may be unlawfully and imminently removed from the Member State where that competent judicial authority is situated. In Member States which are party to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children and where Council Regulation No 2201/2003 does not apply, the provisions of the Hague Convention *are* applicable.

⁷⁴ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

Amendment

4. An alert on a child referred to in paragraph 2(c) shall be entered at the request of the competent judicial authority of the Member State that has jurisdiction in matters of parental responsibility in accordance with Council Regulation No 2201/2003⁷⁴ where a concrete and apparent risk exists that the child may be unlawfully and imminently removed from the Member State where that competent judicial authority is situated. In Member States which are party to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children and where Council Regulation No 2201/2003 does not apply, the provisions of the Hague Convention *shall be* applicable.

⁷⁴ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

Or. en

Amendment 96

**Proposal for a regulation
Article 32 – paragraph 5**

Text proposed by the Commission

5. Member States shall ensure that the data entered in SIS indicate which of the categories referred to in paragraph 2 the missing person falls into. Further, Member

Amendment

5. Member States shall ensure that the data entered in SIS indicate which of the categories referred to in paragraph 2 the missing person falls into. Further, Member

States shall also ensure that the data entered in SIS indicate which type of missing or vulnerable person case is involved. The *rules on the categorisation of the types of cases and the entering of such data shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).*

States shall also ensure that the data entered in SIS indicate which type of missing or vulnerable person case is involved. The *Commission shall be empowered to adopt a delegated act in accordance with Article 70b establishing rules on the categorisation of the types of cases and the entering of such data.*

Or. en

Amendment 97

Proposal for a regulation Article 33 – paragraph 1

Text proposed by the Commission

1. Where a person as referred to in Article 32 is located, the competent authorities shall, **subject** to paragraph 2, communicate his or her whereabouts to the Member State issuing the alert. In the case of missing children or children who need to be placed under protection the executing Member State shall consult immediately the issuing Member State in order to agree without delay on the measures to be taken in order to safeguard the best interest of the child. The competent authorities may, in the cases referred to in Article 32(2)(a) and (c), move the person to a safe place in order to prevent him or her from continuing his journey, if so authorised by national law.

Amendment

1. Where a person as referred to in Article 32 is located, the competent authorities shall, **without prejudice** to paragraph 2, communicate his or her whereabouts to the Member State issuing the alert. In the case of missing children or children who need to be placed under protection the executing Member State shall consult immediately the issuing Member State in order to agree without delay on the measures to be taken in order to safeguard the best interest of the child. The competent authorities may, in the cases referred to in Article 32(2)(a) and (c) **and (ca)**, move the person to a safe place in order to prevent him or her from continuing his journey, if so authorised by national law.

Or. en

Amendment 98

Proposal for a regulation Article 37 – paragraph 4

Text proposed by the Commission

Amendment

4. Depending on the operational circumstances and in accordance with national law, an inquiry check shall comprise a more in-depth check and a questioning of the person. ***Where inquiry checks are not authorised by the law of a Member State, they shall be replaced by discreet checks in that Member State.***

4. Depending on the operational circumstances and in accordance with national law, an inquiry check shall comprise a more in-depth check and a questioning of the person.

Or. en

Justification

As a new type of action, in between the lowest (discreet checks) and the most thorough (specific checks), these should not be optional. The system is only performant as the executing Member State carries out the action required by the issuing Member State. Procedural safeguards are guaranteed.

Amendment 99

**Proposal for a regulation
Article 39 – paragraph 1**

Text proposed by the Commission

Amendment

1. Where a search brings to light an alert for an object which has been located, the authority which matched the two items of data shall in accordance with national law seize the object and contact the authority which issued the alert in order to agree on the measures to be taken. For this purpose, personal data may also be communicated ***in accordance with this Regulation.***

1. Where a search brings to light an alert for an object which has been located, the authority which matched the two items of data shall in accordance with national law seize the object and contact the authority which issued the alert in order to agree on the measures to be taken. For this purpose, personal data may also be communicated ***through the exchange of supplementary information.***

Or. en

Amendment 100

**Proposal for a regulation
Article 39 – paragraph 2**

Text proposed by the Commission

Amendment

2. *The information referred to in paragraph 1 shall be communicated through the exchange of supplementary information.*

deleted

Or. en

Amendment 101

Proposal for a regulation Article 40 – paragraph 1

Text proposed by the Commission

Amendment

Dactylographic data *may be entered in SIS, not related to persons who are* subject of *the alerts*. These dactylographic data shall be either complete or incomplete sets of fingerprints or palm prints discovered at the *scenes of crimes under investigation*, of serious crime *and* terrorist offence *and* where it can be established to a high degree of probability that they belong to *the* perpetrator of the offence. *The* dactylographic data *in this category* shall be stored as “unknown suspect or wanted person” provided that the competent authorities cannot establish the identity of the person by using any other national, European or international database.

Dactylographic data *not relating to a person who is the* subject of *an alert may be entered in SIS*. These dactylographic data shall be either complete or incomplete sets of fingerprints or palm prints discovered at the *scene of the crime during the* investigation of *a* serious crime *or a* terrorist offence where it can be established to a high degree of probability that they belong to *an unknown* perpetrator of the offence. *Such* dactylographic data shall be stored as *under the category* "unknown suspect or wanted person" provided that the competent authorities cannot establish the identity of the person by using any other national, European or international database.

Or. en

Amendment 102

Proposal for a regulation Article 41 – paragraph 1

Text proposed by the Commission

In the event of a hit or a potential match with the data stored pursuant to Article 40, the identity of the person shall be established in accordance with national law, ***together with*** verification that the dactylographic data stored in SIS belong to the person. Member States shall communicate by using supplementary information in order to facilitate timely investigation of the case.

Amendment

In the event of a hit or a potential match with the data stored pursuant to Article 40, the identity of the person shall be established in accordance with national law, ***after*** verification ***by a fingerprint expert*** that the dactylographic data stored in SIS belong to the person. Member States shall communicate by using supplementary information in order to facilitate timely investigation of the case.

Or. en

Amendment 103

Proposal for a regulation
Article 42 – paragraph 2

Text proposed by the Commission

2. ***Dactylographic*** data may also be used to identify a person. ***Dactylographic*** data stored in SIS shall be searched for identification purposes if the identity of the person cannot be ascertained by ***other means***.

Amendment

2. ***Dactyloscopic*** data may also be used to identify a person. ***Dactyloscopic*** data stored in SIS shall be searched for identification purposes if the identity of the person cannot be ascertained by ***alphanumeric data***.

Or. en

Amendment 104

Proposal for a regulation
Article 42 – paragraph 3

Text proposed by the Commission

3. ***Dactylographic*** data stored in SIS in relation to alerts issued pursuant to Articles 26, 34(1) b) and d) and Article 36 may also be searched by using complete or incomplete sets of fingerprints or palm prints discovered at the scenes of crimes

Amendment

3. ***Dactyloscopic*** data stored in SIS in relation to alerts issued pursuant to Articles 26, 34(1) b) and d) and Article 36 may also be searched by using complete or incomplete sets of fingerprints or palm prints discovered at the scenes of crimes

under investigation, and where it can be established to a high degree of probability that they belong to the perpetrator of the offence provided that the competent authorities are unable to establish the identity of the person by using any other national, European or international database.

during the investigation of a serious crime or a terrorist offence, and where it can be established to a high degree of probability that they belong to the perpetrator of the offence provided that the competent authorities are unable to establish the identity of the person by using any other national, European or international database.

Or. en

Amendment 105

Proposal for a regulation

Article 42 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where final identification in accordance with paragraph 4 reveals that the result of the comparison received from the Central System does not correspond to the dactyloscopic data sent for comparison, Member States shall immediately erase the result of the comparison and communicate this fact as soon as possible and no later than after three working days to the Agency.

Or. en

Amendment 106

Proposal for a regulation

Article 42 – paragraph 4

Text proposed by the Commission

Amendment

4. As soon as this becomes technically possible, and while ensuring a high degree of reliability of identification, photographs and facial images may be used to identify a person. Identification based on *photographs or* facial images shall only be

4. *The Commission shall be empowered to adopt a delegated act in accordance with Article 70b establishing rules on the use of photographs and facial images for the purpose of identifying persons.* As soon as this becomes

used at regular border crossing points where self-service systems and automated border control systems are in use.

technically possible, and while ensuring a high degree of reliability of identification, photographs and facial images may be used to identify a person. Identification based on facial images shall only be used at regular border crossing points where self-service systems and automated border control systems are in use.

Or. en

Amendment 107

Proposal for a regulation

Article 43 – paragraph 1 – point c

Text proposed by the Commission

(c) ***other law enforcement activities carried out for the*** prevention, detection and investigation of criminal offences within the Member State concerned;

Amendment

(c) prevention, detection and investigation of ***terrorist offences or other serious*** criminal offences within the Member State concerned ***to whom Directive (EU) 2016/680 applies;***

Or. en

Amendment 108

Proposal for a regulation

Article 43 – paragraph 3

Text proposed by the Commission

3. The right to access data entered in SIS and to search such data directly may be exercised by the authorities ***competent to carry out the tasks*** referred to in paragraph 1(c) in the performance of these tasks. The access by these authorities shall be ***governed by the law of each Member State.***

Amendment

3. The right to access data entered in SIS and to search such data directly may be exercised by the authorities referred to in paragraph 1(c) in the performance of these tasks. The access by these authorities shall be ***in accordance with this Regulation and with Union law on data protection.***

Or. en

Amendment 109

Proposal for a regulation

Article 44 – paragraph 4

Text proposed by the Commission

4. Article 39 of this Regulation shall not apply to access gained in accordance with this Article. The communication to the police or judicial authorities by services *as* referred to in paragraph 1 of any information **brought to light** by access to SIS which gives rise to suspicion of the commission of a criminal offence shall be governed by national law.

Amendment

4. Article 39 of this Regulation shall not apply to access gained in accordance with this Article. The communication to the police or judicial authorities by services referred to in paragraph 1 of any information **obtained** by access to SIS which gives rise to suspicion of the commission of a criminal offence shall be governed by national law.

Or. en

Amendment 110

Proposal for a regulation

Article 45 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The services in the Member States responsible for issuing registration certificates or ensuring traffic management for boats, including boat engines and aircraft shall have access to the following data entered into SIS in accordance with Article 38(2) of this Regulation for the **sole** purpose of checking whether boats, including boat engines; aircraft or containers presented to them for registration or subject of traffic management have been stolen, misappropriated or lost or are sought as evidence in criminal proceedings:

Amendment

The services in the Member States responsible for issuing registration certificates or ensuring traffic management for boats, including boat engines and aircraft shall have access to the following data entered into SIS in accordance with Article 38(2) of this Regulation for the purpose of checking whether boats, including boat engines, aircraft or containers presented to them for registration or subject of traffic management have been stolen, misappropriated or lost or are sought as evidence in criminal proceedings:

Or. en

Amendment 111

Proposal for a regulation

Article 45 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Subject to paragraph 2, **the law of each Member State shall govern** access to those data by **those** services in that Member State. Access to the data listed **(a) to (c) above** shall be limited to the specific competence of the services concerned.

Amendment

Without prejudice to paragraph 2, **national law shall apply to the** access to those data by **the** services in that Member State. Access to the data listed **in points (a), (b) and (c) of this paragraph** shall be limited to the specific competence of the services concerned.

Or. en

Amendment 112

Proposal for a regulation

Article 45 – paragraph 4

Text proposed by the Commission

4. Article 39 of this Regulation shall not apply to access gained in accordance with this Article. The communication to the police or judicial authorities by services as referred to in paragraph 1 of any information **brought to light** by access to SIS which gives rise to suspicion of a criminal offence shall be governed by national law.

Amendment

4. Article 39 of this Regulation shall not apply to access gained in accordance with this Article. The communication to the police or judicial authorities by services as referred to in paragraph 1 of any information **obtained** by access to SIS which gives rise to suspicion of a criminal offence shall be governed by national law.

Or. en

Amendment 113

Proposal for a regulation

Article 46 – paragraph 1

Text proposed by the Commission

1. The European Union Agency for Law Enforcement Cooperation (Europol) shall **have, within** its mandate, the right to

Amendment

1. The European Union Agency for Law Enforcement Cooperation (Europol) shall, **where necessary to fulfil** its

access and search data entered into SIS.

mandate, have the right to access and search data entered into SIS.

Or. en

Amendment 114

Proposal for a regulation

Article 46 – paragraph 5 – point b

Text proposed by the Commission

(b) limit access to data entered in SIS to specifically authorised staff of Europol;

Amendment

(b) limit access to data entered in SIS to specifically authorised staff of Europol ***requiring access for the performance of their tasks;***

Or. en

Amendment 115

Proposal for a regulation

Article 46 – paragraph 5 – point c

Text proposed by the Commission

(c) adopt and apply measures provided for in Articles 10 ***and*** 11;

Amendment

(c) adopt and apply measures provided for in Articles 10, 11, ***13 and 14;***

Or. en

Amendment 116

Proposal for a regulation

Article 46 – paragraph 9

Text proposed by the Commission

9. For the purpose of verifying the lawfulness of data processing, self-monitoring and ensuring proper data security and integrity Europol ***should*** keep log of every access to and search in SIS.

Amendment

9. For the purpose of verifying the lawfulness of data processing, self-monitoring and ensuring proper data security and integrity Europol ***shall*** keep log of every access to and search in SIS.

Such logs and documentation shall not be considered to be the unlawful downloading or copying of any part of SIS.

Such logs shall show, in particular, the date and time of the data processing activity, the type of data used to perform a search, a reference to the type of data transmitted and the name of the person responsible for processing the data. Such logs and documentation shall not be considered to be the unlawful downloading or copying of any part of SIS.

Or. en

Amendment 117

Proposal for a regulation Article 47 – paragraph 1

Text proposed by the Commission

1. The national members of Eurojust and their assistants shall, within their mandate, have the right to access and search data entered in SIS ***within their mandate***, in accordance with Articles 26, 32, 34 38 and 40.

Amendment

1. ***Only*** the national members of Eurojust and their assistants shall, ***where necessary to execute their duties and*** within their mandate, have the right to access and search data entered in SIS in accordance with Articles 26, 32, 34, 38 and 40.

Or. en

Amendment 118

Proposal for a regulation Article 47 – paragraph 2

Text proposed by the Commission

2. Where a search by a national member of Eurojust reveals the existence of an alert in SIS, ***he or she*** shall inform the issuing Member State.

Amendment

2. Where a search by a national member of Eurojust reveals the existence of an alert in SIS, ***the national member*** shall inform the issuing Member State.

Or. en

Amendment 119

Proposal for a regulation

Article 47 – paragraph 3

Text proposed by the Commission

3. ***Nothing in*** this Article ***shall be interpreted as affecting*** the provisions of Decision 2002/187/JHA concerning data protection and the liability for any unauthorised or incorrect processing of such data by national members of Eurojust or their assistants, or as affecting the powers of the Joint Supervisory Body set up pursuant to that Decision.

Amendment

3. This Article ***is without prejudice to*** the provisions of Decision 2002/187/JHA concerning data protection and the liability for any unauthorised or incorrect processing of such data by national members of Eurojust or their assistants, or as affecting the powers of the Joint Supervisory Body set up pursuant to that Decision.

Or. en

Amendment 120

Proposal for a regulation

Article 47 – paragraph 4

Text proposed by the Commission

4. Every access and search made by a national member of Eurojust or an assistant shall ***be logged in accordance with the provisions of Article 12 and every use made by them of data accessed by them shall be logged.***

Amendment

4. ***For the purpose of verifying the lawfulness of data processing, self-monitoring and ensuring proper data security and integrity, Eurojust shall keep logs of every access to and search in SIS made by a national member of Eurojust or an assistant. Such logs shall show, in particular, the date and time of the data processing activity, the type of data used to perform a search, a reference to the type of data transmitted and the name of the person responsible for processing the data. Such logs and documentation shall not be considered to be the unlawful downloading or copying of any part of SIS.***

Or. en

Justification

The relevant provisions should be the same as in case of Europol.

Amendment 121

**Proposal for a regulation
Article 47 – paragraph 6**

Text proposed by the Commission

Amendment

6. Access to data entered in SIS shall be limited to the national members and their assistants and shall not be extended to Eurojust staff.

deleted

Or. en

Amendment 122

**Proposal for a regulation
Article 48 – paragraph 1**

Text proposed by the Commission

Amendment

1. In accordance with Article 40(8) of Regulation (EU) 2016/1624, the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks as well as the members of the migration management support teams shall, within their mandate, have the right to access and search data entered in SIS *within their mandate*.

1. In accordance with Article 40(8) of Regulation (EU) 2016/1624, the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks as well as the members of the migration management support teams shall, within their mandate, *insofar as it is necessary for the performance of their tasks and insofar as required by the operational plan for a specific operation*, have the right to access and search data entered in SIS *in accordance with this Regulation*.

Or. en

Amendment 123

**Proposal for a regulation
Article 48 – paragraph 4**

Text proposed by the Commission

4. ***Every instance of access and every search made by a member of the European Border and Coast Guard teams or teams of staff involved in return-related tasks or by a member of the migration management support team shall be logged in accordance with the provisions of Article 12 and every use made by them of data accessed by them shall be logged.***

Amendment

4. ***For the purpose of verifying the lawfulness of data processing, self-monitoring and ensuring proper data security and integrity the European Border and Coast Guard Agency shall keep logs of every access to and search in SIS made by a member of the European Border and Coast Guard teams or teams of staff involved in return-related tasks or by a member of the migration management support team Such logs shall show, in particular, the date and time of the data processing activity, the type of data used to perform a search, a reference to the type of data transmitted and the name of the person responsible for processing the data. Such logs and documentation shall not be considered to be the unlawful downloading or copying of any part of SIS.***

Or. en

Amendment 124

**Proposal for a regulation
Article 48 – paragraph 5**

Text proposed by the Commission

5. Access to data entered in SIS shall be limited to a member of the European Border and Coast Guard teams or teams of staff involved in return-related tasks or by a member of the migration management support team ***and*** shall not be extended to any other team members.

Amendment

5. Access to data entered in SIS shall be limited to a member of the European Border and Coast Guard teams or teams of staff involved in return-related tasks or by a member of the migration management support team ***provided that they have received the required training. The access*** shall not be extended to any other team members.

Or. en

Amendment 125

Proposal for a regulation

Article 48 – paragraph 6

Text proposed by the Commission

6. Measures to ensure security and confidentiality as provided for in Articles 10 **and** 11 shall be adopted and applied.

Amendment

6. Measures to ensure security and confidentiality as provided for in Articles 10, 11, **13 and 14** shall be adopted and applied.

Or. en

Amendment 126

Proposal for a regulation

Article 49 – paragraph 2

Text proposed by the Commission

2. The European Border and Coast Guard Agency shall, for the purpose of performing its tasks conferred on it by the Regulation establishing a European Travel Information and Authorisation System (ETIAS), have the right to access and search data entered in SIS, in accordance with Articles 26, 32, 34, 36 and 38(2) (j) and (k).

Amendment

[2. The European Border and Coast Guard Agency shall, for the purpose of performing its tasks conferred on it by the Regulation **xxx/2017** establishing a European Travel Information and Authorisation System (ETIAS), have the right to access and search data entered in SIS, in accordance with Articles 26, 32, 34, 36 and 38(2) (j) and (k) **of this Regulation.**]

Or. en

Amendment 127

Proposal for a regulation

Article 49 – paragraph 3

Text proposed by the Commission

3. **Where a verification by the European Border and Coast Guard Agency reveals the existence of an alert in SIS the procedure set out in Article 22 of Regulation establishing a European**

Amendment

deleted

Travel Information and Authorisation System (ETIAS) applies.

Or. en

Amendment 128

Proposal for a regulation Article 49 – paragraph 5

Text proposed by the Commission

Amendment

5. Every instance of access and every search made by the European Border and Coast Guard Agency shall be logged in accordance with the provisions of Article 12 and each use made of data accessed by them shall be registered.

deleted

Or. en

Amendment 129

Proposal for a regulation Article 49 – paragraph 6

Text proposed by the Commission

Amendment

6. Except where necessary to perform the tasks for the purposes of the Regulation establishing a European Travel Information and Authorisation System (ETIAS), no parts of SIS shall be connected to any computer system for data collection and processing operated by or at the European Border and Coast Guard Agency, nor shall the data contained in SIS to which the European Border and Coast Guard Agency has access be transferred to such a system. No part of SIS shall be downloaded. The logging of access and searches shall not be construed to be the downloading or copying of SIS data.

6. [Except where necessary to perform the tasks for the purposes of the Regulation .../... establishing a European Travel Information and Authorisation System (ETIAS)], no parts of SIS shall be connected to any computer system for data collection and processing operated by or at the European Border and Coast Guard Agency, nor shall the data contained in SIS to which the European Border and Coast Guard Agency has access be transferred to such a system. No part of SIS shall be downloaded. The logging of access and searches shall not be construed to be the downloading or copying of SIS data.]

Or. en

Amendment 130

Proposal for a regulation

Article 49 – paragraph 7

Text proposed by the Commission

7. Measures to ensure security and confidentiality as provided for in Articles 10 **and** 11 shall be adopted and applied by the European Border and Coast Guard Agency.

Amendment

7. Measures to ensure security and confidentiality as provided for in Articles 10, 11, **13 and 14** shall be adopted and applied by the European Border and Coast Guard Agency.

Or. en

Amendment 131

Proposal for a regulation

Article 51 – paragraph 2

Text proposed by the Commission

2. A Member State issuing an alert shall, within five years of its entry into SIS, review the need to retain it. Alerts issued for the purposes of Article 36 of this Regulation shall be **kept for** a maximum period of one year.

Amendment

2. A Member State issuing an alert shall, within five years of its entry into SIS, review the need to retain it. Alerts issued for the purposes of Article 36 of this Regulation shall be **reviewed within** a maximum period of one year.

Or. en

Amendment 132

Proposal for a regulation

Article 51 – paragraph 3

Text proposed by the Commission

3. Alerts on blank official documents and issued identity documents entered in accordance with Article 38 shall be kept for a maximum of 10 years. **Shorter retention periods for categories of object alerts may be established by means of**

Amendment

3. Alerts on blank official documents and issued identity documents entered in accordance with Article 38 shall be kept for a maximum of 10 years. **Alerts on other objects issued in accordance with Articles 36 and 38 shall be kept for a**

implementing measures adopted in accordance with *the examination procedure referred to in Article 72(2)*.

maximum period of five years. The Commission shall be empowered to adopt a delegated act in accordance with *Article 70b concerning shorter retention periods for categories of object alerts*.

Or. en

Amendment 133

Proposal for a regulation Article 51 – paragraph 8

Text proposed by the Commission

8. Member States shall keep statistics about the number of alerts for which the retention period has been extended in accordance with paragraph 6.

Amendment

8. Member States shall keep statistics about the number of alerts for which the retention period has been extended in accordance with paragraph 6 *and transmit them to the supervisory authorities referred to in Article 50*.

Or. en

Amendment 134

Proposal for a regulation Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to national law, where a person has been interned following a decision by a competent authority an alert may be retained until that person has been repatriated.

Amendment

Without prejudice to the national law, where a person has been interned following a decision by a competent authority an alert may be retained until that person has been repatriated.

Or. en

Amendment 135

Proposal for a regulation Article 52 – paragraph 8

Text proposed by the Commission

Amendment

8. (b) the expiry of the alert.

(b) the expiry of the alert ***in accordance with Article 51.***

Or. en

Amendment 136

Proposal for a regulation Article 53 – paragraph 9

Text proposed by the Commission

Amendment

9. In so far as Union law does not lay down specific provisions, the law of each Member State shall apply to data entered in its N.SIS.

9. In so far as Union law does not lay down specific provisions, the law of each Member State shall apply to data entered in its N.SIS. ***The Commission shall maintain a public website containing this information. It shall ensure that the website is always up to date.***

Or. en

Amendment 137

Proposal for a regulation Article 57 – paragraph 1

Text proposed by the Commission

Amendment

1. Any event that has or may have an impact on the security of SIS and may cause damage or loss to SIS data shall be considered to be a security incident, especially where access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.

1. Any event that has or may have an impact on the security of SIS and may cause damage or loss to SIS data shall be considered to be a security incident, especially where ***unauthorised*** access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.

Or. en

Amendment 138

Proposal for a regulation

Article 57 – paragraph 3

Text proposed by the Commission

3. Member States shall notify the Commission, the Agency and the national supervisory authority of security incidents. The Agency shall notify the Commission and the European data Protection Supervisor of security incidents.

Amendment

3. ***Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) No 2016/679 or to Article 30 of Directive (EU) No 2016/680,*** Member States shall notify the Commission, the Agency and the national supervisory authority of security incidents ***without delay. In the event of a security incident on the Central SIS,*** the Agency shall notify the Commission and the European data Protection Supervisor ***without delay*** of ***those*** security incidents.

Or. en

Amendment 139

Proposal for a regulation

Article 57 – paragraph 4

Text proposed by the Commission

4. Information regarding a security incident that has or may have an impact on the operation of SIS in a Member State or within the Agency or on the availability, integrity and confidentiality of the data entered or sent by other Member States shall be ***given*** to the Member States and reported in compliance with the incident management plan provided by the Agency.

Amendment

4. Information regarding a security incident that has or may have an impact on the operation of SIS in a Member State or within the Agency or on the availability, integrity and confidentiality of the data entered or sent by other Member States, shall be ***provided*** to the Member States ***without delay*** and reported in compliance with the incident management plan provided by the Agency.

Or. en

Amendment 140

Proposal for a regulation

Article 57 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Member States and eu-LISA shall collaborate in the event of a security incident.

Or. en

Amendment 141

Proposal for a regulation

Article 57 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. In case of a data breach data subjects shall be informed in accordance with Article 34 of Regulation (EU) No 2016/679 or Article 31 of Directive (EU) No 2016/680.

Or. en

Amendment 142

Proposal for a regulation

Article 57 – paragraph 4 c (new)

Text proposed by the Commission

Amendment

4c. The Commission shall report serious incidents to the European Parliament and the Council without delay.

Or. en

Amendment 143

Proposal for a regulation

Article 63 – paragraph 2

Text proposed by the Commission

2. The Agreement referred to in paragraph 1 shall foresee that the data shared shall only be accessible to members of Interpol from countries that ensure an adequate level of protection of personal data. Before concluding this Agreement, the Council shall seek the opinion of the Commission on the adequacy of the level of protection of personal data and respect of fundamental rights *and liberties* regarding the automatic processing of personal data by Interpol and by countries which have delegated members to Interpol.

Amendment

2. The Agreement referred to in paragraph 1 shall foresee that the data shared shall only be accessible to members of Interpol from countries that ensure an adequate level of protection of personal data. Before concluding this Agreement, the Council shall seek the opinion of the Commission on the adequacy of the level of protection of personal data and respect of fundamental rights regarding the automatic processing of personal data by Interpol and by countries which have delegated members to Interpol.

Or. en

Amendment 144

Proposal for a regulation

Article 63 – paragraph 3

Text proposed by the Commission

3. The Agreement referred to in paragraph 1 may also provide for access through SIS for the Member States to data from the Interpol database on stolen or missing travel documents, in accordance with the relevant provisions of this *Decision* governing alerts on stolen, misappropriated, lost and invalidated passports entered in SIS.

Amendment

3. The Agreement referred to in paragraph 1 may also provide for access through SIS for the Member States to data from the Interpol database on stolen or missing travel documents, in accordance with the relevant provisions of this *Regulation* governing alerts on stolen, misappropriated, lost and invalidated passports entered in SIS.

Or. en

Amendment 145

Proposal for a regulation

Article 64 – paragraph 1

Text proposed by the Commission

1. Regulation (EC) No 45/2001 shall apply to the processing of personal data by the Agency under this Regulation.

Amendment

1. Regulation (EC) No 45/2001 shall apply to the processing of personal data by the Agency ***and the European Border and Coast Guard Agency*** under this Regulation.

Or. en

Amendment 146

Proposal for a regulation

Article 64 – paragraph 2

Text proposed by the Commission

2. Regulation (EU) 2016/679 shall apply to the processing of personal data ***provided that national provisions transposing Directive (EU) 2016/680 do not apply.***

Amendment

2. Regulation (EU) 2016/679 shall apply to the processing of personal data ***under this Regulation unless such processing is carried out by the competent authorities of the Member States for the purposes of the prevention, detection, investigation or prosecution of criminal offences, the execution of criminal penalties or safeguarding against threats to public security.***

Or. en

Amendment 147

Proposal for a regulation

Article 64 – paragraph 3

Text proposed by the Commission

3. ***For*** processing of data by competent national authorities for the purposes of the prevention, ***investigation***, detection, or prosecution of criminal

Amendment

3. ***National provisions transposing Directive (EU) 2016/680 shall apply to the*** processing of ***personal*** data ***under this Regulation*** by competent national

offences *of* the execution of criminal penalties *including the* safeguarding against *the prevention of threat* to public security *national provisions transposing Directive (EU) 2016/680 shall apply.*

authorities for the purposes of the prevention, , detection, *investigation* or prosecution of criminal offences, the execution of criminal penalties *or* safeguarding against *threats* to public security.

Or. en

Amendment 148

Proposal for a regulation

Article 64 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Regulation (EU) 2016/794 shall apply to the processing of personal data by Europol pursuant to Article 30 of this Regulation.

Or. en

Amendment 149

Proposal for a regulation

Article 65 – title

Text proposed by the Commission

Amendment

Right of access, rectification of inaccurate data and erasure of unlawfully stored data

Right of access, rectification *and restriction* of inaccurate data and erasure of unlawfully stored data

Or. en

Amendment 150

Proposal for a regulation

Article 65 – paragraph 1

Text proposed by the Commission

Amendment

1. ***The right of data subjects to have access to data relating to them entered in SIS and to have such data rectified or erasure shall be exercised in accordance with the law of the Member State before which they invoke that right.***

1. ***Without prejudice to Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679 any data subject shall have the right to access and obtain the data relating to him or her recorded in the SIS and may request that data relating to him or her which are inaccurate be rectified or completed and that data recorded unlawfully be erased.***

Or. en

Amendment 151

Proposal for a regulation

Article 65 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where appropriate, Articles 14 to 18 of Directive (EU) 2016/680 shall apply.

Or. en

Amendment 152

Proposal for a regulation

Article 65 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In such cases, Member States shall provide for the controller to inform the data subject in writing, without undue delay, of any refusal or restriction of access and of the reasons for the refusal or restriction. Such information may be omitted where its provision would undermine a purpose under this paragraph. Member States shall provide for the controller to inform the data subject of the possibility of lodging a

complaint with a supervisory authority or of seeking a judicial remedy.

Or. en

Amendment 153

Proposal for a regulation

Article 65 – paragraph 4 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

Member States shall provide for the controller to document the factual or legal reasons on which the decision is based. That information shall be made available to the supervisory authorities.

Or. en

Amendment 154

Proposal for a regulation

Article 65 – paragraph 4 – subparagraph 1 c (new)

Text proposed by the Commission

Amendment

For such cases, Member States shall adopt measures providing that the rights of the data subject may also be exercised through the competent supervisory authorities.

Or. en

Amendment 155

Proposal for a regulation

Article 65 – paragraph 7

Text proposed by the Commission

Amendment

7. The person concerned shall be

7. The person concerned shall be

informed about the follow-up given to the exercise of his rights of rectification and erasure as soon as possible and in any event not later than **three months** from the date on which he applies for rectification or erasure or sooner if national law so provides.

informed about the follow-up given to the exercise of his **or her** rights of rectification and erasure as soon as possible and in any event not later than **60 days** from the date on which **the person** applies for rectification or erasure or sooner if national law so provides.

Or. en

Amendment 156

Proposal for a regulation Article 66 – paragraph 1

Text proposed by the Commission

1. Any person may bring an action before the courts or the authority competent under the law of any Member State to access, rectify, erase or obtain information or **to obtain** compensation in connection with an alert relating to him.

Amendment

1. ***Without prejudice to Articles 77 to 82 and 79 of Regulation (EU) 2016/679 and Articles 52 to 56 of Directive (EU) 2016/680*** any person may bring an action before the courts or the authority competent under the ***national*** law of any Member State to access, rectify, erase or obtain information or compensation in connection with an alert relating to him ***or her***.

Or. en

Amendment 157

Proposal for a regulation Article 68 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Supervisor shall ***ensure that*** the personal data processing activities of the Agency are carried out in accordance with this Regulation. The duties and powers referred to in Articles 46 and 47 of Regulation (EC) ***No 45/2001*** shall apply accordingly.

Amendment

1. The European Data Protection Supervisor shall ***be responsible for monitoring*** the personal data processing activities of the Agency, ***the European Border and Coast Guard Agency, Eurojust and Europol and for ensuring that such activities*** are carried out in accordance with this Regulation. The

duties and powers referred to in Articles 46 and 47 of Regulation (EC) **No 45/2001** shall apply accordingly.

Or. en

Amendment 158

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

2. The European Data Protection Supervisor shall ensure that an audit of the Agency's personal data processing activities is carried out in accordance with international auditing standards at least every four years. A report on that audit shall be sent to the European Parliament, the Council, the Agency, the Commission and the National Supervisory Authorities. The Agency shall be given an opportunity to make comments before the report is adopted.

Amendment

2. The European Data Protection Supervisor shall ensure that an audit of the Agency's, ***the European Border and Coast Guard Agency, Eurojust and Europol*** personal data processing activities is carried out in accordance with international auditing standards at least every four years. A report on that audit shall be sent to the European Parliament, the Council, the Agency, the Commission and the National Supervisory Authorities. The Agency shall be given an opportunity to make comments before the report is adopted.

Or. en

Amendment 159

Proposal for a regulation Article 69 – paragraph 4

Text proposed by the Commission

4. A joint report of activities as regards coordinated supervision shall be sent by the Board established by Regulation (EU) 2016/679 to the European Parliament, the Council, and the Commission ***every two years***.

Amendment

4. A joint report of activities as regards coordinated supervision shall be sent by the Board established by Regulation (EU) 2016/679 to the European Parliament, the Council, and the Commission ***annually***.

Or. en

Amendment 160

Proposal for a regulation Chapter 16 – title

Text proposed by the Commission

LIABILITY

Amendment

LIABILITY AND PENALTIES

Or. en

Amendment 161

Proposal for a regulation Article 70 – paragraph 1

Text proposed by the Commission

1. Each Member State shall be liable for any damage caused to a person through the use of N.SIS. This shall also apply to damage caused by the issuing Member State, where the latter entered factually inaccurate data or stored data unlawfully.

Amendment

1. Each Member State shall be liable for any ***material or immaterial*** damage caused to a person ***as a result of an unlawful processing operation, or any act incompatible with this Regulation or*** through the use of N.SIS. This shall also apply to damage caused by the issuing Member State, where the latter entered factually inaccurate data or stored data unlawfully.

Or. en

Amendment 162

Proposal for a regulation Article 70 a (new)

Text proposed by the Commission

Amendment

Article 70 a

Penalties

Member States shall ensure that any misuse of data entered in SIS or any exchange of supplementary information

contrary to this Decision is subject to effective, proportionate and dissuasive penalties in accordance with national law.

Or. en

Amendment 163

Proposal for a regulation Article 70 b (new)

Text proposed by the Commission

Amendment

Article 70 b

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Articles 8(4), 12(7), 32(5), 42(4), 51(3) and 75(2a) shall be conferred on the Commission for an indeterminate period of time from ... [the date of entry into force of this Regulation].***
- 3. The delegation of power referred to in Articles 8(4), 12(7), 32(5), 42(4), 51(3) and 75(2a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.***
- 5. As soon as it adopts a delegated***

act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 8(4), 12(7), 32(5), 42(4), 51(3) and 75(2a) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. en

Amendment 164

Proposal for a regulation Article 71 – paragraph 3

Text proposed by the Commission

3. The Agency shall produce, daily, monthly and annual statistics showing the number of records per category of alert, the annual number of hits per category of alert, how many times SIS was searched and how many times SIS was accessed for the purpose of entering, updating or deleting an alert in total and for each Member State. The statistics produced shall not contain any personal data. The annual statistical report shall be published. The Agency shall also provide annual statistics on the use of the functionality on making an alert issued **under** pursuant to Article 26 of this Regulation temporarily non-searchable, in total and for each Member State, including any extensions to the retention period of 48 hours.

Amendment

3. The Agency shall produce, daily, monthly and annual statistics showing the number of records per category of alert, the annual number of hits per category of alert, how many times SIS was searched and how many times SIS was accessed for the purpose of entering, updating or deleting an alert in total and for each Member State. The statistics produced shall not contain any personal data. The annual statistical report shall be published. The Agency shall also provide annual statistics on the use of the functionality on making an alert issued pursuant to Article 26 of this Regulation temporarily non-searchable, in total and for each Member State, including any extensions to the retention period of 48 hours.

Amendment 165**Proposal for a regulation
Article 71 – paragraph 5***Text proposed by the Commission*

5. The Agency shall provide the Member States, the Commission, Europol, Eurojust and the European Border and Coast Guard Agency with any statistical reports that it produces. In order to monitor the implementation of legal acts of the Union, the Commission shall be able to request the Agency to provide additional specific statistical reports, either regular or ad hoc, on the performance or use of SIS and SIRENE communication.

Amendment

5. The Agency shall provide the ***European Parliament, the*** Member States, the Commission, Europol, Eurojust and the European Border and Coast Guard Agency with any statistical reports that it produces. In order to monitor the implementation of legal acts of the Union, the Commission shall be able to request the Agency to provide additional specific statistical reports, either regular or ad hoc, on the performance or use of SIS and SIRENE communication.

Or. en

Amendment 166**Proposal for a regulation
Article 75 – paragraph 2 – introductory part***Text proposed by the Commission*

2. It shall apply from ***the date fixed by the Commission after:***

(a) ***the necessary implementing measures have been adopted;***

Amendment

2. It shall apply from ... ***[one year after the date of entry into force] with the exception of Article 5, Article 8(4), Article 9(1), Article 12(7), Article 15(5) and (6), Article 20(3) and (4), Article 22(2), Article 32(5) and (7), Article 34(2), Article 36(5), Article 38(3), Article 42(4), Article 51(3), Article 59(4), Article 60(6), Article 71(6) and Article 75(2a), which shall apply from the date of entry into force of this Regulation.***

(b) Member States have notified the Commission about that they have made the necessary technical and legal arrangements to process SIS data and exchange supplementary information pursuant to this Regulation;

(c) The Agency has notified the Commission about the completion of all testing activities with regard CS-SIS and the interaction between CS-SIS and N.SIS.

Or. en

Justification

A fixed date of application should be inserted which may, however, if necessary, be adjusted by a delegated act (see AM on paragraph 2a below). In the meantime, the provisions necessary for the implementing measures and delegated acts should be directly applicable so that work on these measures may begin directly with the entry into force.

Amendment 167

Proposal for a regulation

Article 75 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The Commission shall be empowered to adopt delegated acts in accordance with Article 70b concerning amendments to the date of application of this Regulation.

Or. en

Amendment 168

Proposal for a regulation

Article 75 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation shall be binding in its entirety and directly applicable to

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Member States in accordance with the
*Treaty on the Functioning of the
European Union.*

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Treaties.

Or. en

EXPLANATORY STATEMENT

Background

The current Schengen Information System II ('SIS II') legal framework although agreed by 2006/2007 only became applicable on 9 April 2013 when the SIS II system was ready.

Following these hugely deplorable delays, accompanied by an investment eight times bigger than anticipated, the SIS II has, however, developed into a European success story. As the evaluation report of the Commission and the SIS II statistics show, the number of alerts and hits have been constantly increasing.

However there is still much room for improvement by Member States. The assessment accompanying the current proposals and the evaluations and recommendations on the Schengen Evaluation Mechanism, sometimes point to serious issues regarding the non- or wrong implementation of the SIS II legal framework. These range from data quality problems, lack of training of end-users to insufficient information on alerts and delays on the SIRENE bureaux following-up a hit. This is particularly worrisome regarding terrorism.

SIS is regularly subject to evaluation and these new proposals, along with the amendments in this draft, are a reflection of this. However the rapporteur calls on the Member States to swiftly implement all recommendations that have been addressed to them and to take all measures to fully exploit the functionalities offered by SIS II according to its legal framework without delay.

Position of the rapporteur on the new proposals

The rapporteur welcomes the Commission's proposals, as they further strengthen the SIS, underlining its truly European nature, maintaining its main characteristics and addressing some of the shortcomings at national level.

Still, the rapporteur considers that further improvements can be made and presents in this draft report a series of amendments to this end. The amendments can be grouped under the following main headings:

Architecture

The rapporteur is fully aware of the fact that structurally the system has to be reinforced to enable it to cope with ever more data inserted, in particular biometric data, new search functionalities and more users. It is clear that as the key European law enforcement and borders large-scale IT system it has to be reliably available to end-users at any time. The rapporteur doubts, however, that the solution proposed by the Commission, that is to oblige all Member States to have a national copy, is the right way to go. Parliament has always been sceptical of national, and also of technical copies, mainly due to the inherent risks for data protection and security. Nonetheless, Parliament, as a compromise, accepted - and accepts still - that those Member States that do want to have national copies can have them. What it cannot accept is to impose that obligation to those that do not. Following the agreement on the

SIS II legal framework much effort was made, and money spent, to have a properly functioning central system. The rapporteur firmly believes that further efforts should be made in order to ensure the uninterrupted availability of the system at this level. The rapporteur is proposing, therefore, a series of amendments which seek to further enhance the availability and capacity of the central system to end-users. In particular, CS-SIS should contain a further copy and a backup system should be in simultaneous active operation all the time. In the same spirit, consideration should be given to increase SIS reliability and security by duplicating all key elements of the architecture, including the communication infrastructure. Finally, eu-LISA should become the sole actor responsible for the communication infrastructure.

Access to the system

The Commission proposes to provide for enhanced access possibilities for a series of European agencies. While the rapporteur agrees with these proposals, he nevertheless has tabled a series of amendments which seek to define in a more precise way, with reference to the existing mandates of the respective agencies, the circumstances under which SIS data may be accessed. He also proposes to increase the safeguards in this respect, be it in terms of prior training, logging and oversight.

The rapporteur firmly believes in the added value of the system and recognises the need to address the new security challenges. Namely, ensuring access to all relevant national competent authorities. This access should, however, be conditional on all legal provisions on data protection being applicable to these authorities and on the possibility for the supervisory authorities to verify the correct application of the legal provisions, including through the Schengen evaluation mechanism.

Data Security

Given the nature of the data contained in the SIS, data security has to be a key objective. The rapporteur recognises that much effort is made by eu-LISA and Member States in this regard. Nevertheless, the case of the hacking into the SIS via an external service provider in Denmark should be a reminder to increase efforts in this regard. The rapporteur welcomes the new provisions on security incidents proposed by the Commission. He proposes some amendments on this provision especially regarding the cooperation between the different institutional actors and the Member States. He also suggests, having the Danish case in mind, that Member States and eu-LISA should closely monitor the activities of contractors. Finally, a few further requirements regarding data security are added in line with other large-scale IT systems.

Data Protection

Data protection for SIS is complex due to its dual nature as an immigration and law enforcement database. In addition, its different users at European level and national level are subject to a wide range of legal provisions. All efforts have to be made, however, to provide for appropriate safeguards which are also robust enough to stand the test of everyday use. Achieving this is as crucial for the integrity and legitimacy of the system as are its successes. A series of amendments are, therefore, proposed which mainly aim to clarify which the applicable rules are. In addition, a number of provisions are strengthened and brought further in line with EU Data Protection framework.

Specific changes as regards the alerts

The rapporteur welcomes in general the changes proposed by the Commission to the provisions on alerts for the purposes of police and judicial cooperation. In particular, the introduction of a new alert on unknown wanted person for identification and search with biometric data (Chapter XI) as well as improved alerts on missing persons. However, the rapporteur firmly believes improvements can be done in order to ensure more action between Member States and with Europol.

In this regard, Europol can provide fast and quality intelligence around the clock and provide support to Member States with hits on suspects for terrorism. Conversely, Europol will also be able to provide better support if it has - live - information on what is happening on the ground, and this has always be done in full compliance with the applicable European data protection legal framework.

On the other hand, SIS can only deliver security to our citizens inasmuch Member States insert the necessary information in the system and follow-up on the action to take. Therefore, the rapporteur welcomes the proposed inquiry checks, but, given their nature, believes these should be mandatory, in full compliance with all procedural safeguards. In parallel, Member States should introduce enough information to allow the competent authorities of the executing Member State to act. The rapporteur, thus, strengthens the information required from Member States.

Due to its hybrid nature, SIS can also contribute to better protect people at risk. Unaccompanied children who cross the Union's borders are in a particularly vulnerable situation and can become victims of trafficking and different forms of exploitation. As Europol noticed, 10.000 of these children had "disappeared". Therefore, the rapporteur proposes to create a new subcategory of missing persons where those children are to be mentioned explicitly.

Entry into force of the new provisions

The Schengen area currently has been put in a difficult situation. Terrorism and migration have led to the prolonged internal border controls, posing new challenges that need to be addressed quickly. The rapporteur, therefore, considers that SIS is key for this purpose today and can deliver solutions. The proposals should therefore be adopted as swiftly as possible, as we are upgrading the biggest, best implemented and most used centralised European information system and thus delivering concrete and immediate solutions to problems affecting European citizens. The rapporteur therefore proposes that the new legal framework should become applicable one year after the entry into force. A fixed deadline should be inserted to avoid long delays which was the case with the SIS II legal framework.