



Plenary sitting

A8-0349/2017

10.11.2017

*****I**
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 (A8-0349/2017),
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 5

Text proposed by the Commission

(5) The fact that the legislative basis necessary for governing SIS consists of separate instruments does not affect the principle that SIS constitutes one single information system that should operate as such. Certain provisions of these

Amendment

(5) The fact that the legislative basis necessary for governing SIS consists of separate instruments does not affect the principle that SIS constitutes one single information system that should operate as such. Certain provisions of these

instruments should therefore be identical.

instruments should therefore be identical, ***while other provisions should differ, in particular as regards the authorities authorised to access the data contained in SIS. The rules on the protection of personal data should be fully guaranteed, in particular the purpose limitation principle.***

Amendment 2

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) It is necessary to specify the objectives of SIS, its technical architecture and its financing, to lay down rules concerning its end-to-end operation and use and to define responsibilities, the categories of data to be entered into the system, the purposes for which the data are to be entered, the criteria for their entry, the authorities authorised to access the data, the use of biometric identifiers and further rules on data processing.

Amendment

(6) It is necessary to specify the objectives of SIS, its technical architecture and its financing, to lay down rules concerning its end-to-end operation and use and to define responsibilities, the categories of data to be entered into the system, the purposes for which the data are to be entered, the criteria for their entry, ***rules on the deletion of alerts***, the authorities authorised to access the data, the use of biometric identifiers and further rules on ***data protection and*** data processing.

Justification

Rules on the deletion of redundant alerts and on data protection issues specific to SIS should also be laid down in this Regulation.

Amendment 3

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Competent authorities should be able to enter into SIS specific information relating to any specific, objective, physical characteristics of a person not subject to change. This information may relate to

characteristics such as piercings, tattoos, marks, scars, etc. However, pursuant to Article 9 of Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a}, the data entered into SIS should not reveal sensitive information about a person such as ethnicity, religion, disability, gender or sexual orientation.

^{1a} 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).

Amendment 4

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 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.***

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 ensure its uninterrupted operation at central as well as at national level. ***For this reason there should be a reliable common backup system of the Central SIS (an active-active solution) ensuring the continuous availability of SIS data to end-users in the event of a failure, upgrades or maintenance of the central system and a backup communication infrastructure. Considerable investments are needed to bolster and improve the central system, its backup systems and the communications infrastructure.***

Amendment 5

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) It is necessary to maintain a manual setting out the detailed rules for the exchange of certain supplementary information concerning the action called for by alerts. National authorities in each Member State (the SIRENE Bureaux), should ensure the exchange of this information.

Amendment

(8) It is necessary to maintain a manual setting out the detailed rules for the exchange of certain supplementary information concerning the action called for by alerts (*the SIRENE Manual*). National authorities in each Member State (the SIRENE Bureaux), should ensure the exchange of this information *in a fast and efficient manner. In case of alerts on terrorism offences or on children the SIRENE Bureaux should act immediately.*

Amendment 6

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) In order to *maintain* the efficient exchange of supplementary information concerning the action to be taken specified in the alerts, it is appropriate to reinforce the functioning of the SIRENE Bureaux by specifying the requirements concerning the available resources, user training and the response time to the inquiries received from other SIRENE Bureaux.

Amendment

(9) In order to *ensure* the efficient exchange of supplementary information concerning the action to be taken specified in the alerts, it is appropriate to reinforce the functioning of the SIRENE Bureaux by specifying the requirements concerning available resources, user training and the response time to the inquiries received from other SIRENE Bureaux.

Amendment 7

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In order to be able to fully exploit the functionalities of SIS, Member States should ensure that end-users and the staff

of the SIRENE Bureaux regularly receive training, including on data security and protection. National standards for training end-users on data quality principles and practice should be established in cooperation with the national SIRENE Bureau. Member States should call upon the staff of the SIRENE Bureaux to help train all authorities entering alerts, with a focus on data quality and maximising the use of SIS. The delivery of training should be in compliance with the Sirene Trainers' Manual. To the extent possible, SIRENE Bureaux should also provide for staff exchanges with other SIRENE Bureaux at least once a year. Member States are encouraged to take appropriate measures to avoid the loss of skills and experience through staff turnover.

Amendment 8

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 the Member States. ***To further increase the quality of data in SIS, the Agency should also offer training on the use of SIS to national training bodies and, insofar as possible, to SIRENE staff and to end-users. Such training should focus in particular on measures to improve the quality of SIS data.***

Amendment 9

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 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.

Amendment

(12) In order to allow better monitoring of the use of SIS to analyse trends concerning migratory pressure and border management, the Agency should be able to develop a state-of-the-art capability for statistical reporting to the Member States, ***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 statistic ***retained in the repository or produced by the repository*** should not contain personal data ***as defined in Regulation (EC) No 45/2001 of the European Parliament and of the Council^{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).

Amendment 10

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

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 identification and detect multiple identities, the alert should include a

relating to persons should include a reference to the personal identification document or number and a copy of such document where available.

reference to the personal identification document or number and a *colour* copy of such document, where available.

Amendment 11

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 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.

Amendment

(15) SIS should permit the processing of biometric data in order to assist in the reliable identification of the individuals concerned. ***Any entry and use of photographs, facial images, dactyloscopic data or DNA may not exceed what is necessary for the objectives pursued, must be authorised by Union law, take place in respect of fundamental rights, including the best interests of the child, and be in accordance with relevant provisions on data protection laid down in the SIS legal instruments, Regulation (EU) 2016/679 and Directive (EU) 2016/680 of the European Parliament and of the Council^{1a}.*** 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 ***personal*** data can be lawfully processed.

^{1a} ***Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2017 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, p. 89).

Amendment 12

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 Council **and Article 5 of Regulation (EU) 2016/679**. 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.

Amendment 13

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) This Regulation should set out the conditions for use of **dactylographic** data and facial images for identification purposes. The use of facial images for identification purposes in SIS should also help to ensure consistency in border control procedures where the identification and the verification of identity are required by the use of fingerprints and facial images. Searching with **dactylographic** data should be mandatory if **there is any doubt concerning the identity of a person**. Facial images for identification purposes should only be used in the context of regular border controls in self-service kiosks and electronic gates.

Amendment

(17) This Regulation should set out the conditions for use of **dactyloscopic** data, **photographs** and facial images for identification purposes. The use of **dactyloscopic data and** facial images for identification purposes in SIS should also help ensure consistency in border control procedures where identification and the verification of identity are required by the use of fingerprints and facial images. Searching with **dactyloscopic** data should be mandatory if **the identity of the person cannot be ascertained by any other means. To verify whether the person already appears in SIS under another identity or alert, it should be possible to carry out a fingerprint search before a new alert is entered**. Facial images for identification purposes should only be used in the context of regular border controls in self-service kiosks and electronic gates.

Amendment 14

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

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 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 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

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 *dactyloscopic data* search allows an active search of the perpetrator. Therefore, it should be possible to upload the *dactyloscopic data* of an unknown perpetrator into SIS, provided that the owner of the *dactyloscopic data* can be identified to a *very* high degree of probability as the perpetrator of a serious crime or act of terrorism. This is in particular the case if *dactyloscopic data* are found on the weapon or on any object used for the offence. The mere presence of the *dactyloscopic data* at the crime scene should not be considered as indicating a *very* high degree of probability that the *dactyloscopic data* 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).

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).

Amendment 15

Proposal for a regulation

Recital 19

Text proposed by the Commission

(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/JHA⁴⁸.***

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).

Amendment 16

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

Amendment

(19) ***Complete or incomplete sets of fingerprints or palm prints*** found at a crime scene should be allowed to be checked against the dactylographic data stored in SIS if it can be established to a ***very*** high degree of probability that they belong to the perpetrator of the serious crime or terrorist offence ***provided that the competent authorities are unable to establish the identity of the person by using any other national, Union or international database.***

Amendment

(20) It should be possible, ***in a narrow band of clearly defined cases***, to add a

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.

DNA profile in cases where *dactyloscopic* 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 *references* to racial origin *or information about health or reveal any other sensitive data*.

Amendment 17

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) SIS should contain alerts on missing persons to ensure their protection or to prevent threats to public security. Issuing an alert in SIS for children at risk of abduction (*i.e.* in order to prevent a future harm that has not yet taken place as in the case of children who are at risk of *parental* abduction) should be limited, *therefore* it is appropriate to provide for strict and appropriate safeguards. In cases of children, these alerts and the corresponding procedures should serve the best interests of the child *having regard to* Article 24 of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child of 20 November 1989

Amendment

(23) SIS should contain alerts on missing persons to ensure their protection or to prevent threats to public security. Issuing an alert in SIS for children at risk of abduction (*i.e.* in order to prevent a future harm that has not yet taken place as in the case of children who are at risk of abduction *or of being removed from the Member State for the purpose of torture, sexual or gender-based violence or of being victims of activities listed in Articles 6 to 10 of Directive (EU) 2017/541 of the European Parliament and of the Council^{1a}*) should be limited. *Therefore* it is appropriate to provide for strict and appropriate safeguards, *including the entering of such an alert only following a decision by a judicial authority*. In cases of children, these alerts and the corresponding procedures should serve the best interests of the child *in accordance with* Article 24 of the Charter of Fundamental Rights of the European Union *and Article 3 of* the United Nations Convention on the Rights of the Child of 20 November 1989. *Law enforcement authorities' decisions on the action to be taken following an alert on a child should*

be taken in cooperation with child protection authorities. The national hotline for missing children should be informed.

^{1a} 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).

Amendment 18

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Regarding alerts for children at risk, in assessing whether a concrete and apparent risk exists that a child may be unlawfully and imminently removed from the Member State, the competent judicial authority should take into account the child's personal circumstances and the environment to which her or she is exposed.

Amendment 19

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) A new action should be included for cases *of suspected terrorism and serious crime, allowing for a person who is suspected to have committed* a serious crime or where there is a reason to believe that he or she will commit a serious crime, to be stopped and questioned in order to supply the most detailed information to the issuing Member State. This new action

(24) *Without prejudice to the rights of suspects and accused persons, in particular, to their right to have access to a lawyer in accordance with Directive 2013/48/EU of the European Parliament and of the Council^{1a}, a new action should be included for cases where, based on a clear indication, a person is suspected of intending to commit or of committing a*

should not amount either to searching the person or to his or her arrest. It should supply, however, sufficient information to decide about further actions. ***Serious crime should be the offences listed in Council Framework Decision 2002/584/JHA.***

serious crime ***or where the relevant information is necessary for the execution of a criminal sentence of a person convicted of a serious crime*** or where there is a reason to believe that he or she will commit a serious crime, ***to allow that person*** to be stopped and questioned in order to supply the most detailed information to the issuing Member State (***inquiry check***). This new action should not amount either to searching the person or to his or her arrest. It should supply, however, sufficient information to decide about further actions.

^{1a} Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294. 6,11,2013, p. 1).

Amendment 20

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

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 ***including in cases of alerts for the purposes of inquiry checks.*** 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

Amendment 21**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 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.

Amendment

(29) Alerts should not be kept in SIS longer than the time required to fulfil the ***specific*** purposes for which they were issued. Therefore, the ***review*** period for alerts on persons should be a maximum of ***three*** years. As a general principle, alerts on persons should be deleted from SIS after a period of ***three*** 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.

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.

Amendment 22

Proposal for a regulation

Recital 30

Text proposed by the Commission

(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^{1a}** 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.

^{1a} **Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).**

Amendment 23

Proposal for a regulation

Amendment

(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.

Recital 31

Text proposed by the Commission

(31) It is necessary to provide **clarity** concerning the deletion of alerts. An alert should be kept only for the time required to achieve the purpose for which it was entered. Considering the diverging practices of Member States concerning the definition of the point in time when an alert fulfils its purpose, it is appropriate to set out detailed criteria for each alert category to determine when it should be deleted from SIS.

Amendment

(31) It is necessary to provide **rules** concerning the deletion of alerts. An alert should be kept only for the time required to achieve the purpose for which it was entered. Considering the diverging practices of Member States concerning the definition of the point in time when an alert fulfils its purpose, it is appropriate to set out detailed criteria for each alert category to determine when it should be deleted from SIS.

Justification

Tabled for consistency.

Amendment 24

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) The integrity of SIS data is of primary importance. Therefore, appropriate safeguards should be provided to process SIS data at central as well as at national level to ensure the end-to-end security of data. The authorities involved in data processing should be bound by the security requirements of this Regulation **and** be subject to a uniform incident reporting procedure.

Amendment

(32) The integrity of SIS data is of primary importance. Therefore, appropriate safeguards should be provided to process SIS data at central as well as at national level to ensure the end-to-end security of data. The authorities involved in data processing should be bound by the security requirements of this Regulation, **be appropriately trained for that purpose**, be subject to a uniform incident reporting procedure **and be informed of any offences and criminal penalties in this respect**.

Amendment 25

Proposal for a regulation

Recital 33

(33) Data processed in SIS *in application of* this Regulation should not be transferred or made available to third countries or to international organisations. *However, it is appropriate to strengthen cooperation between the European Union and Interpol by promoting an efficient exchange of passport data. Where personal data is transferred from SIS to Interpol, these personal data should be subject to an adequate level of protection, guaranteed by an agreement, providing strict safeguards and conditions.*

(33) Data processed in SIS *and the related supplementary information exchanged* pursuant to this Regulation should not be transferred or made available to third countries or to international organisations.

Amendment 26

Proposal for a regulation Recital 34

(34) It is appropriate to grant access to SIS to authorities responsible for registering vehicles, boats and aircraft in order to allow them to verify whether the conveyance is already searched for in a Member States for seizure or for check. *Direct access should be provided to authorities which are governmental services.* This access should be limited to alerts concerning the respective conveyances and their registration document or number plate. Accordingly, the provisions of Regulation (EC) 1986/2006 of the European Parliament and of the Council⁵¹ should be included into this Regulation and that Regulation should be repealed.

(34) It is appropriate to grant *direct* access to SIS to *competent* authorities responsible for registering vehicles, boats and aircraft in order to allow them to verify whether the conveyance is already searched for in a Member States for seizure or for check. This access should be limited to alerts concerning the respective conveyances and their registration document or number plate. Accordingly, the provisions of Regulation (EC) 1986/2006 of the European Parliament and of the Council⁵¹ should be included into this Regulation and that Regulation should be repealed.

⁵¹ Regulation (EC) 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the

⁵¹ Regulation (EC) 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the

Member States responsible for issuing vehicle registration certificates (OJ L 381, 28.12.2006, p. 1).

Member States responsible for issuing vehicle registration certificates (OJ L 381, 28.12.2006, p. 1).

Amendment 27

Proposal for a regulation Recital 35

Text proposed by the Commission

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

Amendment

(35) ***National provisions transposing Directive (EU) 2016/680 should apply to the processing of personal data by competent authorities of the Member States for the purposes of the prevention, detection, investigation of serious crime or terrorist offences, or prosecution of criminal offences, the execution of criminal penalties and the 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 should be entitled to consult the data stored in 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).

Amendment 28

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 29

Proposal for a regulation Recital 36 a (new)

Text proposed by the Commission

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.*

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

Amendment 30

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 under this Regulation.

^{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).

Amendment 31

Proposal for a regulation Recital 36 c (new)

Text proposed by the Commission

Amendment

(36c) The provisions of Directive (EU) 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.

Amendment 32

Proposal for a regulation Recital 38

Text proposed by the Commission

Amendment

(38) The provisions of Decision

(38) Council Decision 2002/187/JHA⁵⁵

2002/187/JHA of 28 February 2002⁵⁵ 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 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).

setting up Eurojust with a view to reinforcing the fight against serious crime **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 **national members of Eurojust and their assistants** 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 **immediately** inform the Member State concerned allowing it to follow up the 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).

Amendment 33

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) The national independent 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 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.

Amendment

(41) The national independent supervisory authorities **established in accordance with Regulation (EU) 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 **including the exchange of supplementary information, and should be granted sufficient resources to carry out this task**. 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. Therefore, it

is appropriate to require annual statistics from Member States.

Amendment 34

Proposal for a regulation

Recital 42 a (new)

Text proposed by the Commission

Amendment

(42a) 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.

Amendment 35

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 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

(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.***

Amendment 36

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 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.***

Amendment 37

Proposal for a regulation Recital 45

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.

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, related information ***and information in case the action to be taken cannot be carried out. 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.***

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 38

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

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 cannot take the required action. Therefore it should *immediately* inform the Member State concerned allowing it to follow up the case.

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 teams as defined in Article 2(8) of Regulation (EU) 2016/1624* 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, *as defined in Article 2(8) of Regulation (EU) 2016/1624* and the migration management support team is to provide for technical and operational reinforcement to the requesting Member States, especially to those facing

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 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).

Amendment 39

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

disproportionate migratory challenges. Fulfilling the tasks assigned to the teams, **as defined in Article 2(8) of Regulation (EU) 2016/1624** 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 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).

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

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.

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 have access to SIS to the extent *which is strictly* necessary to carry out its mandate, namely to all alert categories on third country nationals in respect of whom an alert has been issued for the purposes of entry and stay, and those who are subject to restrictive measure intended to prevent entry or transit through Member States.]

⁷⁵ COM (2016)731 final.

Amendment 40

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, the adding of flags, links between alerts, specifying new object categories within the technical and electronic equipment category *and* setting the expiry date of alerts *for categories of object alerts* within the maximum time limit. 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 41

Proposal for a regulation Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) 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.

Amendment 42

Proposal for a regulation Recital 50

Text proposed by the Commission

Amendment

(50) In order to ensure transparency, a report on the technical functioning of Central SIS and the communication infrastructure, including its security, and on the exchange of supplementary information should be produced ***every two years*** by the Agency. An overall evaluation should be issued by the Commission every ***four*** years.

(50) In order to ensure transparency, a report on the technical functioning of Central SIS and the communication infrastructure, including its security, and on the exchange of supplementary information should be produced ***one year after SIS is brought into operation*** by the Agency. An overall evaluation should be issued by the Commission every ***two*** years.

Amendment 43

Proposal for a regulation Recital 50 a (new)

(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:

- the adoption of a manual containing detailed rules on the exchange of supplementary information (the SIRENE Manual);***
- rules on logs of automated scanned searches***
- the requirements to be fulfilled for the entering of biometric identifiers into the SIS;***
- the adoption of the procedure for designating the Member State responsible for entering an alert on third-country nationals subject to restrictive measures;***
- the use of photographs and facial images for the purpose of identifying persons;***
- retention periods for categories of object alerts which are shorter than the maximum period of five years; 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

Amendment 44

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation *seeks* to ensure a safe environment for all persons residing on the territory of the European Union and special protection for children who could be victim of trafficking or *parental* abduction *while fully respecting the protection of personal data*.

Amendment

(52) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation ***should fully respect the protection of personal data in accordance with Article 8 of the Charter of Fundamental Rights of the European Union while seeking*** to ensure a safe environment for all persons residing on the territory of the European Union and special protection for children who could be victim of trafficking or abduction. ***In cases concerning children, the best interests of the child should be a primary consideration.***

Amendment 45

Proposal for a regulation Recital 59

Text proposed by the Commission

(59) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession and should ***be read in conjunction with*** Council Decision 2010/365/EU on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of

Amendment

(59) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession and should ***result in the amendment of*** Council Decision 2010/365/EU on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of

Bulgaria and Romania⁶⁸.

Bulgaria and Romania⁶⁸ *to enable those two Member States to apply and implement the provisions of this Regulation in full.*

⁶⁸ OJ L 166, 1.7.2010, p. 17.

⁶⁸ OJ L 166, 1.7.2010, p. 17.

Amendment 46

Proposal for a regulation
Recital 64

Text proposed by the Commission

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 ...

(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,**

Amendment 47

Proposal for a regulation
Article 2 – title

Text proposed by the Commission

Amendment

Scope

Subject matter

Amendment 48

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

Text proposed by the Commission

Amendment

(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;

(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;

Amendment 49

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) ‘supplementary information’ means information not forming part of the alert data stored in SIS , but connected to SIS alerts, which is to be exchanged:

Amendment

(b) ‘supplementary information’ means information not forming part of the alert data stored in SIS , but connected to SIS alerts, which is to be exchanged **by the SIRENE Bureaux**:

Amendment 50

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;**

Amendment 51

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

Amendment 52

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) ‘alias’ means an assumed identity used by a person known under other identities;

Amendment 53

Proposal for a regulation

Article 3 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) ‘processing of personal data’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, logging, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

(f) ‘processing of personal data’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, **recording**, logging, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

Justification

The Commission proposal replaces ‘recording’ from the current SIS II Council Decision with ‘logging’. While it is appropriate to add ‘logging’ to the list of actions which constitute processing, ‘recording’ should also be maintained in that list.

Amendment 54

Proposal for a regulation

Article 3 – paragraph 1 – point g – point 2

Text proposed by the Commission

Amendment

(2) the search reveals an alert entered

(2) the search reveals **that** an alert **is**

by *another* Member State in SIS;

entered by *a* Member State in SIS;

Justification

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

Amendment 55

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 56

Proposal for a regulation

Article 3 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(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;

(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;

Amendment 57

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 58

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);

Amendment 59

Proposal for a regulation

Article 3 – paragraph 1 – point m

Text proposed by the Commission

Amendment

(m) 'serious crime' means offences listed in Article 2(1) and (2) of Framework Decision 2002/584/JHA of 13 June 2002⁷¹;

deleted

⁷¹ *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).*

Amendment 60

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

(n) 'terrorist offences' means offences under national law referred to in Articles 3

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

Amendment 61

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(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;

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 **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;

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 62

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).

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 63

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.

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 64

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

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.

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 *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).

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 65

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:

Amendment 66

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.

Amendment 67

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

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 NI-SIS.

Amendment 68

Proposal for a regulation

Article 7 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Each Member State shall transmit its alerts via its N.SIS Office.

Amendment

Each Member State shall ***enter alerts on the basis of all available information falling under the scope of this Regulation, and shall*** transmit its alerts via its N.SIS Office.

Amendment 69

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State shall designate ***the*** authority which shall ensure the exchange and availability of all supplementary information (the SIRENE Bureau) in

Amendment

Each Member State shall designate ***a national*** authority which ***is operational 24 hours a day, 7 days a week and*** shall ensure the exchange and availability of all

accordance with the provisions of the SIRENE Manual, as referred to in Article 8.

supplementary information (the SIRENE Bureau) in accordance with the provisions of the SIRENE Manual, as referred to in Article 8. ***The SIRENE Bureau shall serve as the sole point of contact to Member States for the exchange of supplementary information on alerts and to make it possible for the appropriate measures to be adopted when alerts on persons and objects have been entered in SIS and those persons and objects are found following a hit.***

Justification

Specifications of the structure and the mandate of the SIRENE Bureaux provided for in the Commission Implementing Decision of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II).

Amendment 70

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

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.

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 ***human*** resources to ensure the continuous availability and ***timely and effective*** 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, ***such as SIENA, may be used.***

Amendment 71

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

2. Supplementary information shall be used only for the purpose for which it was transmitted in accordance with Article 61 ***unless prior consent is obtained from the issuing Member State.***

Amendment

2. Supplementary information shall be used only for the purpose for which it was transmitted in accordance with Article 61.

Justification

In order to ensure some level of purpose limitation, it is important that the SIRENE Bureaux use supplementary information only for the purpose of the SIS alert on the basis of which it was communicated to them.

Amendment 72

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 ***substantially*** replying to a request ***for supplementary information*** as soon as possible but not later than ***six*** hours after the receipt of the request. ***In cases of alerts for terrorist offences and in cases of alerts concerning children referred to in Article 32(2)(c) the SIRENE Bureaux shall act immediately.***

Amendment 73

Proposal for a regulation Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. SIRENE forms to be dealt with by the requested SIRENE Bureau with highest priority may be marked 'URGENT', in the SIRENE forms and the reason for urgency specified.

Justification

Provision in the Sirene Manual.

Amendment 74

**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 **71a concerning the adoption** of a manual **containing detailed rules for the exchange of supplementary information (SIRENE Manual)**.

Amendment 75

**Proposal for a regulation
Article 9 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure, by means of the services provided by CS-SIS, that data stored in the national copy are, by means of automatic updates referred to in Article 4(4), identical to and consistent with the SIS database, and that a search in its national copy produces a result equivalent to that of a search in the SIS database. End-users shall receive the data required to perform their tasks, in particular **all data required** for the identification of the data subject and **to take** the required action.

Amendment

2. Member States shall ensure, by means of the services provided by CS-SIS, that data stored in the national copy **established voluntarily by a Member State**, are by means of automatic updates referred to in Article 4(4), identical to and consistent with the SIS database, and that a search in its **voluntary** national copy produces a result equivalent to that of a search in the SIS database. **In so far as this is possible**, end-users shall receive the data required to perform their tasks, in particular, **where necessary, all available data allowing** for the identification of the data subject and the required action **to be taken**.

Justification

Not all information on all persons subject to an alert will be available to Member States. Imposing an open-ended obligation to provide the end-user with information that might not

be available makes no sense. It is also unclear on whom this obligation falls.

Amendment 76

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 SIS.

Amendment 77

Proposal for a regulation

Article 10 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) deny unauthorised persons access to data-processing facilities used for processing personal data (*facilities* access control);

(b) deny unauthorised persons access to data-processing **equipment and** facilities used for processing personal data (**equipment, access control and facilities entry control**);

Amendment 78

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);

Justification

Provision foreseen in Article 34 of the Eurodac Regulation.

Amendment 79

Proposal for a regulation

Article 10 – paragraph 1 – point g

Text proposed by the Commission

(g) ensure that all authorities with a right of access to SIS or to the data processing facilities create profiles describing the functions and responsibilities of persons who are authorised to access, enter, update, delete and search the data and make these profiles available to the national supervisory authorities referred to in Article 66 **without delay** upon their request (personnel profiles);

Amendment

(g) ensure that all authorities with a right of access to SIS or to the data processing facilities create profiles describing the functions and responsibilities of persons who are authorised to access, enter, update, delete and search the data and make these profiles available to the national supervisory authorities referred to in Article 66 **immediately** upon their request (personnel profiles);

Justification

Provision foreseen in Article 34 of the Eurodac Regulation.

Amendment 80

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);

Justification

Provision foreseen in the Eurodac proposal.

Amendment 81

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);

Justification

Provision foreseen in the Eurodac proposal.

Amendment 82

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 compliance with all provisions of this Regulation, including in particular security, confidentiality and data protection.

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 83

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that every access to and all exchanges of personal data within CS-SIS are logged in their N.SIS for the purposes of checking whether or not the search is lawful, monitoring the lawfulness of data

1. ***Without prejudice to Article 25 of Directive (EU) 2016/680***, Member States shall ensure that every access to and all exchanges of personal data within CS-SIS are logged in their N.SIS for the purposes of checking whether or not the search is

processing, self-monitoring and ensuring the proper functioning of N.SIS, data integrity and security.

lawful, monitoring the lawfulness of data processing, self-monitoring and ensuring the proper functioning of N.SIS, data integrity and security.

Justification

Logs are already foreseen in the Police Data Protection Directive 2016/680.

Amendment 84

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

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.

Amendment

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, the data processed** and the **name** of both the competent authority and the person **performing a search and** processing the data.

Amendment 85

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

3. **By way of derogation from paragraph 2, if** the search is carried out with **dactylographic** data or facial image in accordance with Articles 40, 41 and 42 the logs shall show, the type of data **processed instead of the actual data.**

Justification

The ‘transmission’ of data has been replaced, inconsistently, by the ‘processing’ of data in the Commission proposal, it would seem more appropriate to refer to data that is ‘processed’ rather than ‘transmitted’.

Amendment 86

Proposal for a regulation Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Rules and formats for logs including regarding the retention period for logs, in order to ensure that the rights of citizens are upheld when it comes to verifying the legality of data processing, and to achieve greater harmonisation of the retention period between Member States and differentiation between the retention period for logs on systematic consultations, particularly at border posts, and other consultations, particularly on the basis of police checks, shall be laid down by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment 87

Proposal for a regulation Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. The logs may be used only for the purpose referred to in paragraph 1 and shall be deleted ***at the earliest one year, and at the latest three*** years, after their creation.

4. The logs may be used only for the purpose referred to in paragraph 1 and shall be deleted ***two*** years after their creation.

Justification

In line with the recommendation of the European Data Protection Supervisor, for the purposes of legal certainty, the retention period for logs should be specified precisely.

Amendment 88

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' **national law** allows automated scanned searches of the number plates of motor vehicles, **and Member States carry out such searches** using Automatic Number Plate Recognition systems, Member States shall maintain a log of the search. The **Commission shall be empowered to adopt a delegated act** in accordance with **Article 71a establishing the rules regarding such logs**. 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 89

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Member States shall ensure that each authority entitled to access SIS data takes the measures necessary to comply with this Regulation and cooperates, **where necessary**, with the national supervisory authority.

Amendment

Member States shall ensure that each authority entitled to access SIS data takes the measures necessary to comply with this Regulation and cooperates with the national supervisory authority.

Justification

The national authorities with access to SIS should be required to cooperate with national supervisory authority and not have the right to choose when to cooperate and when not to.

Amendment 90

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. 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.

1. 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, ***fundamental rights including*** 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 ***laid down in accordance with Article 70a of this Regulation.***

Justification

It is important to retain provisions on sanctions to be provided at national level for misuse of data or exchange of supplementary information contrary to the proposed Regulation, along the lines of Article 65 of the current Council Decision. Information on those sanctions should form part of the staff training provided.

Amendment 91

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. ***Member States shall have a national SIS training programme. This training programme shall include training for end-users as well as the staff of the SIRENE Bureaux.***

Amendment 92

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. ***Common training courses shall be organised at least once a year, to enhance cooperation between SIRENE Bureaux by allowing staff to meet colleagues from other SIRENE Bureaux, by allowing staff to meet colleagues from other SIRENE***

Bureaux, share information on national working methods and create a consistent and equivalent level of knowledge.

Amendment 93

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;

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 94

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(cb) acquisition and renewal;

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 95

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(cc) 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 96

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 97

Proposal for a regulation Article 15 – paragraph 5

Text proposed by the Commission

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 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).

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 **lists and** 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).

Amendment 98

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.

Amendment 99

Proposal for a regulation Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) deny unauthorised persons access to data-processing facilities used for processing personal data (*facilities access control*);

(b) deny unauthorised persons access to data-processing **equipment and material and** facilities used for processing personal data (**equipment, access control and facilities entry control**);

Amendment 100

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);

Amendment 101

Proposal for a regulation Article 16 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) create profiles describing the

(g) create profiles describing the

functions and responsibilities for persons who are authorised to access the data or the data processing facilities and make these profiles available to the European Data Protection Supervisor referred to in Article 64 ***without delay*** upon its request (personnel profiles);

functions and responsibilities for persons who are authorised to access the data or the data processing facilities and make these profiles available to the European Data Protection Supervisor referred to in Article 64 ***immediately*** upon its request (personnel profiles);

Amendment 102

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);

Amendment 103

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);

Amendment 104

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.

Amendment 105

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.

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 106

Proposal for a regulation Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. The logs shall show, in particular, the history of *the alerts*, the date and time of *the data transmitted*, the type of data used to perform *searches*, *the reference to the type of data transmitted* and the name of the competent authority *responsible for* processing the data.

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

Amendment 107

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

3. **By way of derogation to paragraph 2,** if the search is carried out with

accordance with Articles 40, 41 and 42 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.***

dactylographic data or facial image in accordance with Articles 40, 41 and 42 the logs shall show the type ***of data processed instead of the actual data.***

Amendment 108

Proposal for a regulation Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Rules and formats for logs shall be laid down by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment 109

Proposal for a regulation Article 18 – paragraph 4

Text proposed by the Commission

Amendment

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.

4. The logs may only be used for the purposes mentioned in paragraph 1 and shall be deleted ***two years*** after their creation. The logs which include the history of alerts shall be erased after ***two*** years after deletion of the alerts.

Amendment 110

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission, in cooperation

1. ***At the start of the application of***

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.

this Regulation, The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall carry out a campaign informing **EU citizens and third-country nationals** about the objectives of SIS, the data stored, the authorities having access to SIS and the rights of data subjects. **The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall repeat such campaigns regularly at least once per year.** Member States shall, in cooperation with their national supervisory authorities, devise and implement the necessary policies to inform their citizens **and residents** about SIS generally. **Member States shall ensure that sufficient funding is made available for such information policies.**

Amendment 111

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.

Amendment 112

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:

Amendment 113

Proposal for a regulation

Article 20 – paragraph 3 – point e

Text proposed by the Commission

(e) any specific, objective, physical characteristics not subject to change;

Amendment

(e) any specific, objective, physical characteristics not subject to change, ***not linked to special categories of personal data defined in Article 9 of Regulation (EU) 2016/679, such as ethnicity, religion, disability, gender or sexual orientation;***

Amendment 114

Proposal for a regulation

Article 20 – paragraph 3 – point h

Text proposed by the Commission

(h) *sex*;

Amendment

(h) ***gender***;

Amendment 115

Proposal for a regulation

Article 20 – paragraph 3 – point j

Text proposed by the Commission

(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;***

Amendment

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in ***Articles 3 to 12 and 14 of Directive (EU) 2017/541;***

Amendment 116

Proposal for a regulation

Article 20 – paragraph 3 – point x

Text proposed by the Commission

Amendment

(x) relevant DNA profiles *subject to* Article 22(1)(b) *of this Regulation*;

(x) *where permitted, in accordance with* Article 22(1)(b) *and Article 32(2)(a)*, relevant DNA profiles;

Amendment 117

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

Text proposed by the Commission

Amendment

(y) *dactylographic* data;

(y) *dactyloscopic* data;

Amendment 118

Proposal for a regulation Article 20 – paragraph 3 – point z a (new)

Text proposed by the Commission

Amendment

(za) *data referred to in points (a) to (d), (f) to (g) and (i), from a valid identification document(s) carried by the person other than the document referred to in points (s) to (v), insofar as such data is not available in the latter document.*

Amendment 119

Proposal for a regulation Article 20 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Technical rules shall be similar for searches in CS-SIS, in national copies and in technical copies, as referred to in Article 53. 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

Amendment 120

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 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).*

deleted

Amendment 121

Proposal for a regulation

Article 21 – paragraph 2

Text proposed by the Commission

Amendment

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.

2. Where a person or an object is sought by a Member State in relation to an offence that falls under Articles **3 to 12 and 14 of the Directive (EU) 2017/541**, the Member State shall, in all circumstances, create the corresponding alert under either Article 34, 36 or 38 as appropriate.

Justification

It must be clarified that an alert must be entered where a suspect is sought in relation to an alleged terrorist offence. The offences listed in the existing Council Decision on SIS II (referring to the old Council Framework Decision on combating terrorism) are replaced by the same offences now laid down in Directive (EU) 2017/541 on combating terrorism. The

term 'in all circumstances' is deleted because it is redundant.

Amendment 122

Proposal for a regulation Article 22 – title

Text proposed by the Commission

Specific rules for entering photographs, facial images, **dactylographic** data and DNA profiles

Amendment

Specific rules for entering photographs, facial images, **dactyloscopic** data and DNA profiles.

Amendment 123

Proposal for a regulation Article 22 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 a concerning the requirements to be fulfilled for the entering of biometric identifiers, including DNA profiles, into SIS in accordance with this Regulation. Those requirements shall include the number of fingerprints to be inserted, the method of capturing them and the minimum quality standard to be fulfilled by all biometric identifiers.

Amendment 124

Proposal for a regulation Article 22 – paragraph 1 – point a

Text proposed by the Commission

(a) Photographs, facial images, **dactylographic** data **and DNA profiles** shall only be entered following a quality check to ascertain the fulfilment of a minimum data quality standard.

Amendment

(a) Photographs, facial images **and dactyloscopic** data shall only be entered following a quality check to ascertain the fulfilment of a minimum data quality standard.

Justification

As DNA data is the most sensitive of personal data, it is crucial to delimit its use properly and clearly define in which circumstances it may be added to an alert. The text relevant to DNA profiles has been added to subparagraph (b).

Amendment 125

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 **in the situations** provided for in **Article 32(2)(a) only following a quality check to ascertain the profile fulfils a minimum data quality standard** and only where photographs, facial images or **dactyloscopic** 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. **Where a DNA profile is added to an alert, that profile shall contain the minimum information strictly necessary for the identification of the missing person and, in all event, shall always exclude the racial origin and health information about that person.**

Amendment 126

Proposal for a regulation

Article 22 – paragraph 2

Text proposed by the Commission

2 Quality standards shall be established for the storage of the data referred to under paragraph 1(a) of this Article and Article 40. The specification of these standards shall be laid down by means of implementing measures and updated in accordance with the

Amendment

2 Quality standards shall be established for the storage of the data referred to under paragraph 1(a) **and (b)** of this Article and Article 40. The specification of these standards shall be laid down by means of implementing measures and updated in accordance with

examination procedure referred to in Article 72(2).

the examination procedure referred to in Article 72(2).

Amendment 127

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), **(b)**, (g), **(h)**, **(i)**, (k), (m), (n) as well as, where applicable, (p), except for in the situations referred to in Article 40.

Amendment 128

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. Where available, **all** other data listed in Article 20(3) shall also be entered.

Amendment

2. **Without prejudice to Article 22,** where available, **and provided that the conditions for entering the data have been met, the** other data listed in Article 20(3) shall also be entered.

Amendment 129

Proposal for a regulation Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Compatibility of alerts

1. Before entering a new alert, a Member State shall check whether the person is already the subject of an alert in SIS.

2. *Only one alert per person or per object per Member State may be entered in SIS. However, where necessary, new alerts may be entered on the same person by other Member States, provided that they are compatible. The compatibility shall be ensured in accordance with paragraph 3.*

3. *Rules on the compatibility of alerts shall be laid down in the SIRENE Manual referred to in Article 8(4). Where a person is already the subject of an alert in SIS, a Member State wishing to enter a new alert shall check that there is no incompatibility between the alerts. If there is no incompatibility, the Member State may enter the new alert. If the alerts are incompatible, the SIRENE Bureaux concerned shall consult with each other by exchanging supplementary information in order to reach an agreement in line with the order of priority referred to in the SIRENE Manual. Departures from that order of priority may be made after consultation between the Member States if essential national interests are at stake.*

Amendment 130

Proposal for a regulation Article 24 – title

Text proposed by the Commission

Amendment

General provisions on flagging

Flagging

Amendment 131

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a Member State considers that to give effect to an alert entered in

1. Where a Member State considers that to give effect to an alert entered in

accordance with Articles 26, 32 **and** 36 is incompatible with its national law, its international obligations or essential national interests, it may subsequently require that a flag be added to the alert to the effect that the action to be taken on the basis of the alert will not be taken in its territory. The flag shall be added by the SIRENE Bureau of the issuing Member State.

accordance with Articles 26, 32, 36 **and 40** is incompatible with its national law, its international obligations or essential national interests, it may subsequently require that a flag be added to the alert to the effect that the action to be taken on the basis of the alert will not be taken in its territory. The flag shall be added by the SIRENE Bureau of the issuing Member State.

Justification

The new alert category provided for in Article 40 could equally lead to incompatibility issues with national law, international obligations or essential national interests, and so should be included in the list of Articles for which flag can be added to the alert.

Amendment 132

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.

Amendment 133

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

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 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.

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 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 134

Proposal for a regulation Article 32 – paragraph 1

Text proposed by the Commission

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.

Amendment

deleted

Amendment 135

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

Text proposed by the Commission

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

Amendment

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

Amendment 136

Proposal for a regulation Article 32 – paragraph 2 – point a – point ii

Text proposed by the Commission

Amendment

(ii) in order to prevent threats;

(ii) in order to prevent a threat **to public security**;

Amendment 137

Proposal for a regulation Article 32 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) missing **persons** who do not need to be placed under protection;

(b) missing **adults** who do not need to be placed under protection;

Amendment 138

Proposal for a regulation Article 32 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) children at risk of abduction in accordance with paragraph 4.

(c) children at risk of abduction, **including by a family member, or of being removed from the Member State for the purpose of torture, or sexual or gender-based violence, or of being victims of activities listed in Articles 6 to 10 of Directive 2017/541.**

Amendment 139

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 in particular to persons who have to be interned following a decision by a competent **judicial** authority **and to children.**

Amendment 140

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 141

Proposal for a regulation

Article 32 – paragraph 4 a (new)

Amendment

4. An alert on a child **at risk** referred to in paragraph 2(c) shall be entered **following a decision** 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. **Such a decision shall be taken as soon as possible.** 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. **Relevant protocols and tools shall support the necessary action to be taken, as included in the alert.**

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).

4a. *The competent child protection authorities, including the national hotline and the child's parents, caretakers and/or guardians, as appropriate, taking into account the child's best interests, shall be informed of an alert on a missing child under point (c) of paragraph 1.*

Amendment 142

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 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).

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 or *child at risk* falls into. Further, Member States shall also ensure that the data entered in SIS indicate which type of *child at risk or* missing person case is involved, *wherever the type of case is known*. 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). *Under those rules, the types of missing persons who are children shall include:*

- (a) *runaways;*
- (b) *unaccompanied children in the context of migration;*
- (c) *children abducted by a family member.*

Amendment 143

Proposal for a regulation Article 32 – paragraph 6

Text proposed by the Commission

6. Four months before a child who is the subject of an alert under this Article reaches adulthood, CS-SIS shall automatically notify the issuing Member State that the reason for request and the action to be taken have to be updated or the alert **has to** be deleted.

Amendment 144

**Proposal for a regulation
Article 32 – paragraph 7**

Text proposed by the Commission

7. Where there is a clear indication that vehicles, boats or aircraft are connected with a person who is the subject of an alert pursuant to paragraph 2, alerts on those vehicles, boats and aircraft may be issued in order to locate the person. In those cases the alert on the **missing** person and the alert on the object shall be linked in accordance with Article 60. The technical rules necessary for entering, updating, deleting and searching the data referred to in this paragraph shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment 145

**Proposal for a regulation
Article 32 – paragraph 7 a (new)**

Text proposed by the Commission

Amendment

6. Four months before a child who is the subject of an alert under this Article reaches adulthood, CS-SIS shall automatically notify the issuing Member State that the reason for request and the action to be taken have to be updated or the alert **will** be deleted

Amendment

7. Where there is a clear indication that vehicles, boats or aircraft are connected with a person who is the subject of an alert pursuant to paragraph 2, alerts on those vehicles, boats and aircraft may be issued in order to locate the person. In those cases the alert on the person and the alert on the object shall be linked in accordance with Article 60. The technical rules necessary for entering, updating, deleting and searching the data referred to in this paragraph shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

7a. Member States shall enter in SIS the data of children who have gone missing from reception facilities as missing persons.

Amendment 146

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 147

Proposal for a regulation Article 36 – paragraph 2

Text proposed by the Commission

2. The alert may be issued for the purposes of prosecuting criminal offences, executing a criminal sentence and for the prevention of threats to public security:

Amendment

1. Where a person as referred to in Article 32 is located, the competent authorities shall, **without prejudice** to paragraph 2, communicate **without delay** his or her whereabouts to the Member State issuing the alert. In the case of children **subject to alerts under Article 32** the executing Member State shall consult **without delay** the issuing Member State **including its child protection authorities** in order to agree without delay **and at the latest within 12 hours** on the measures to be taken in order to safeguard the best interest of the child. The competent authorities may, **where appropriate**, 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. **If the alert concerns a child, the decision on the safe place shall take in consideration the vulnerability of the child and his or her best interests.**

Amendment

2. The alert may be issued for the purposes of **preventing, detecting, investigating and** prosecuting criminal offences, executing a criminal sentence and for the prevention of threats to public security:

Amendment 148

Proposal for a regulation

Article 36 – paragraph 2 – point a

Text proposed by the Commission

(a) where there is a clear indication that a person intends to commit or is committing a serious crime, ***in particular the offences referred to in Article 2(2) of the Framework Decision 2002/584/JHA;***

Amendment

(a) where there is clear indication that a person intends to commit or is committing a serious crime, ***where this is punishable, in the issuing Member State, by a custodial sentence or detention order for a maximum period of at least one year;***

Amendment 149

Proposal for a regulation

Article 36 – paragraph 2 – point b

Text proposed by the Commission

(b) where the information referred to in Article 37(1) is necessary for the execution of a criminal sentence of a person convicted of a serious crime, ***in particular the offences referred to in Article 2(2) of the Framework Decision 2002/584/JHA;***
or

Amendment

(b) where the information referred to in Article 37(1) is necessary for the execution of a criminal sentence of a person convicted of a serious crime, ***where this is punishable, in the issuing Member State, by a custodial sentence or detention order for a maximum period of at least three years;*** or

Amendment 150

Proposal for a regulation

Article 36 – paragraph 2 – point c

Text proposed by the Commission

(c) where an overall assessment of a person, in particular on the basis of past criminal offences, gives reason to believe that that person may also commit serious crimes in the future, ***in particular the offences referred to in Article 2(2) of the Framework Decision 2002/584/JHA.***

Amendment

(c) where an overall assessment of a person, in particular on the basis of past criminal offences, gives reason to believe that that person may also commit serious crimes in the future, ***where this is punishable, in the issuing Member State, by a custodial sentence or detention order for a maximum period of at least three years.***

Amendment 151

Proposal for a regulation Article 36 – paragraph 4

Text proposed by the Commission

4. Where there is *a* clear *indication* that vehicles, boats, aircraft *and* containers are connected with the serious crimes referred to in paragraph 2 or the serious threats referred to in paragraph 3, alerts on those vehicles, boats, aircraft and containers may be issued.

Amendment

4. Where there is clear *evidence* that vehicles, boats, aircraft, containers, *trailers with an unladen weight exceeding 750 kg and caravans* are connected with the serious crimes referred to in paragraph 2 or the serious threats referred to in paragraph 3, alerts on those vehicles, boats, aircraft and containers may be issued.

Amendment 152

Proposal for a regulation Article 36 – paragraph 5

Text proposed by the Commission

5. Where there is *a* clear *indication* that blank official documents or issued identity documents are connected with the serious crimes referred to in paragraph 2 or the serious threats referred to in paragraph 3, alerts on those documents, regardless of the identity of the original holder of the identity document, if any, may be issued. The technical rules necessary for entering, updating, deleting and searching the data referred to in this paragraph shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment

5. Where there is clear *evidence* that blank official documents or issued identity documents are connected with the serious crimes referred to in paragraph 2 or the serious threats referred to in paragraph 3, alerts on those documents, regardless of the identity of the original holder of the identity document, if any, may be issued. The technical rules necessary for entering, updating, deleting and searching the data referred to in this paragraph shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment 153

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

1. For the purposes of discreet checks, inquiry checks or specific checks, all or some of the following information shall be collected and communicated to the authority issuing the alert when border control checks, police and customs checks or other law enforcement activities are carried out within a Member State:

Amendment

1. For the purposes of discreet checks, inquiry checks or specific checks, all or some of the following information shall be collected and ***immediately*** communicated to the authority issuing the alert when border control checks, police and customs checks or other law enforcement activities are carried out within a Member State:

Amendment 154

Proposal for a regulation

Article 37 – paragraph 1 – point f

Text proposed by the Commission

(f) the vehicle, boat, aircraft ***or*** container used;

Amendment

(f) the vehicle, boat, aircraft, container, ***trailers with an unladen weight exceeding 750 kg and caravans*** used;

Amendment 155

Proposal for a regulation

Article 37 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 156

Proposal for a regulation

Article 37 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Depending on the operational circumstances and in accordance with national law, ***and without prejudice to the rights of suspects and accused persons to***

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.*

have access to a lawyer in accordance with Directive 2013/48/EU of the European Parliament and of the Council^{1a}, an inquiry check shall comprise a more in-depth check and a questioning of the person.

^{1a} *Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).*

Amendment 157

Proposal for a regulation Article 38 – paragraph 2 – point h

Text proposed by the Commission

(h) aircraft;

Amendment

(h) aircraft *and aircraft engines*;

Amendment 158

Proposal for a regulation Article 38 – paragraph 3

Text proposed by the Commission

3. The *definition of* new sub-categories of object under paragraph 2(n) *and the* technical rules necessary for entering, updating, deleting and searching the data referred to in paragraph 2 shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment

3. The *Commission shall be empowered to adopt a delegated act in accordance with Article 71a to define* new sub-categories of object under paragraph 2(n). *The* technical rules necessary for entering, updating, deleting and searching the data referred to in paragraph 2 shall be laid down and developed by means of implementing measures in accordance with the examination procedure referred to in Article 72(2).

Amendment 159

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

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*.

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 *through the exchange of supplementary information*.

Amendment 160

Proposal for a regulation Article 39 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

Amendment 161

Proposal for a regulation Chapter XI – title

Text proposed by the Commission

ALERTS ON UNKNOWN WANTED PERSONS FOR IDENTIFICATION ACCORDING TO NATIONAL LAW AND SEARCH WITH BIOMETRIC DATA

Amendment

ALERTS ON UNKNOWN WANTED PERSONS FOR **IDENTIFICATION** UNDER NATIONAL LAW

Amendment 162

Proposal for a regulation Article 40 – title

Text proposed by the Commission

Alerts on unknown wanted person for apprehension under national law

Amendment

Alerts on unknown wanted person for **identification** under national law

Amendment 163

Proposal for a regulation Article 40 – paragraph 1

Text proposed by the Commission

1. **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.**

Amendment

1. **Dactyloscopic** data may be entered in SIS, not related to persons who are subject of the alerts. These **dactyloscopic** data shall be either complete or incomplete sets of fingerprints or palm prints discovered at the scenes of **terrorist offences or other serious crimes under investigation** and where it can be established to a **very** high degree of probability that they belong to the perpetrator of the offence. **If the competent authority of the issuing Member State cannot establish the identity of the suspect by using any other relevant data base, the dactyloscopic data in this category may be stored as “unknown suspect or wanted person” for the purpose of identifying such a person and his or her whereabouts.**

Amendment 164

Proposal for a regulation Article 41 – paragraph 1

Text proposed by the Commission

1. In the event of a hit or a potential match with the data stored pursuant to Article 40, the identity of the person shall

Amendment

1. 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.

be established in accordance with national law, **after** verification **by a fingerprint expert** that the **dactyloscopic** data stored in SIS belong to the person. Member States shall **immediately** communicate by using supplementary information in order to facilitate timely investigation of the case.

Amendment 165

Proposal for a regulation Article 42 – title

Text proposed by the Commission

Specific rules for verification or search with photographs, facial images, **dactylographic** data and DNA profiles

Amendment

Specific rules for verification or search with photographs, facial images, **dactyloscopic** data and DNA profiles

Amendment 166

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

1. **Photographs**, facial images, **dactylographic** data and DNA profiles shall be retrieved from SIS to **verify** the identity of a person who has been **located** as a result of an alphanumeric search made in SIS.

Amendment

1. **Where photographs**, facial images, **dactyloscopic** data and DNA profiles **are contained within an alert in SIS, such data** shall be retrieved from SIS to **confirm** the identity of a person who has been **found** as a result of an alphanumeric search made in SIS.

Amendment 167

Proposal for a regulation Article 42 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. To check whether the person already appears in SIS under another identity, a fingerprint search may be carried out before a new alert is issued.

Amendment 168

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 **used** for identification purposes **only** if the identity of the person cannot be ascertained by **alphanumeric data**. **For this purpose the Central SIS shall contain an automated fingerprint identification system (AFIS)**.

Amendment 169

Proposal for a regulation Article 42 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall make available to end-users an Automated Fingerprint Identification System at the latest two years after the entry into force of this Regulation. They shall take necessary measures to that end, including, where necessary, adjustments to their N.SIS.

Amendment 170

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 **terrorist**

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.

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

Amendment 171

Proposal for a regulation Article 42 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Where final identification in accordance with this Article reveals that the result of the comparison received from the Central SIS does not correspond to the dactyloscopic data sent for comparison, Member States shall immediately erase the result of the comparison and communicate this to the Agency as soon as possible and no later than within three working day.*

Amendment 172

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

4. **The Commission is empowered to adopt a delegated act in accordance with Article 71a determining the use of photographs and facial images and DNA profiles for the purpose of identifying persons and the technical standards for doing so including the search, as well as the identification and confirmation of identity. The Commission shall adopt that delegated act as soon as this becomes technically possible with** 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 used at regular border crossing points where self-service systems and automated border control systems are in use.

Amendment 173

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

Amendment 174

Proposal for a regulation

Article 43 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) security checks in the context of procedures related to applications for international protection, insofar as those authorities do not constitute "determining authorities" as defined in Article 2(f) of Directive 2013/32/EU of the European Parliament and of the Council^{1a}, and where relevant providing advice in accordance with Council Regulation(EU) 377/2004^{1b}.

^{1a} ***Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).***

^{1b} ***Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an***

Amendment 175

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***.

Amendment 176

Proposal for a regulation Article 44 – paragraph 1 – introductory part

Text proposed by the Commission

1. The ***services*** in the Member States responsible for issuing registration certificates for vehicles, as referred to in Council Directive 1999/37/EC⁷⁵, shall have access to the following data entered into SIS in accordance with Article 38(2)(a), (b), (c) and (l) of this Regulation for the sole purpose of checking whether vehicles presented to them for registration have been stolen, misappropriated or lost or are sought as evidence in criminal proceedings:

⁷⁵ Council Directive 1999/37 of 29 April 1999 on the registration of documents for vehicles (OJ L 138, 1.6.1999, p. 57).

Amendment

1. The ***competent authorities*** in the Member States responsible for issuing registration certificates for vehicles, as referred to in Council Directive 1999/37/EC⁷⁵, shall have access ***only*** to the following data entered into SIS in accordance with Article 38(2)(a), (b), (c) and (l) of this Regulation for the sole purpose of checking whether vehicles presented to them for registration have been stolen, misappropriated or lost or are sought as evidence in criminal proceedings:

⁷⁵ Council Directive 1999/37 of 29 April 1999 on the registration of documents for vehicles (OJ L 138, 1.6.1999, p. 57).

Amendment 177

Proposal for a regulation

Article 44 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Access to those data by the *services responsible for issuing registration certificates for vehicles* shall be governed by the national law of *that* Member State.

Amendment

Access to those data by the *competent authorities referred to in the first subparagraph* shall be governed by the national law of *the* Member State *of the competent authority in question*.

Amendment 178

Proposal for a regulation

Article 44 – paragraph 2

Text proposed by the Commission

2. *Services as referred to in paragraph 1 that are government services shall have the right to access directly the data entered in SIS.*

Amendment

deleted

Amendment 179

Proposal for a regulation

Article 44 – paragraph 3

Text proposed by the Commission

3. *Services as referred to in paragraph 1 that are non-government services shall have access to data entered in SIS only through the intermediary of an authority as referred to in Article 43 of this Regulation. That authority shall have the right to access those data directly and to pass them on to the service concerned. The Member State concerned shall ensure that the service in question and its employees are required to respect any limitations on the permissible use of data passed on to them by the authority.*

Amendment

deleted

Amendment 180

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 **competent authorities** as 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.

Amendment 181

Proposal for a regulation

Article 45 – paragraph 1 – introductory part

Text proposed by the Commission

1. 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

1. The **competent authorities** in the Member States responsible for issuing registration certificates or ensuring traffic management for boats, including boat engines and aircraft shall have access **only** 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 182

Proposal for a regulation

Article 45 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) **data on aircraft engines.**

Amendment 183

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

Access to those data by the competent authorities referred to in the first subparagraph shall be governed by the national law of the Member State of the competent authority in question. Access to the data listed in points (a), (b) (c) and (ca) of the first subparagraph shall be limited to the specific competence of the competent authorities concerned.

Amendment 184

Proposal for a regulation

Article 45 – paragraph 2

Text proposed by the Commission

2. Services as referred to in paragraph 1 that are government services shall have the right to access directly the data entered in SIS.

Amendment

deleted

Amendment 185

Proposal for a regulation

Article 45 – paragraph 3

Text proposed by the Commission

3. Services referred to in paragraph 1 that are non-government services shall have access to data entered in SIS only through the intermediary of an authority as referred to in Article 43 of this Regulation. That authority shall have the right to access the data directly and to pass those data on to the service concerned. The Member State concerned

Amendment

deleted

shall ensure that the service in question and its employees are required to respect any limitations on the permissible use of data conveyed to them by the authority.

Amendment 186

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 *competent authorities* 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.

Amendment 187

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 access and search data entered into SIS.

Amendment

1. The European Union Agency for Law Enforcement Cooperation (Europol) shall, *where necessary to fulfill* its mandate, *have* the right to access and search data entered into SIS.

Amendment 188

Proposal for a regulation Article 46 – paragraph 2

Text proposed by the Commission

2. Where a search by Europol reveals the existence of an alert in SIS, Europol shall inform the issuing Member State via the channels defined by Regulation (EU)

Amendment

2. Where a search by Europol reveals the existence of an alert in SIS, Europol shall *immediately* inform the issuing Member State *through the exchange of*

supplementary information by means of the communication infrastructure and in accordance with the provisions set out in the SIRENE Manual. Until Europol is able to use the functionalities intended for the exchange of supplementary information, it shall inform issuing Member States via the channels defined by Regulation (EU) 2016/794.

Amendment 189

Proposal for a regulation Article 46 – paragraph 3

Text proposed by the Commission

3. The use of information obtained from a search in the SIS is subject to the consent of the Member State *concerned*. If the Member State allows the use of such information, the handling thereof by Europol shall be governed by Regulation (EU) 2016/794. Europol may only communicate such information to third countries and third bodies with the consent of the Member State *concerned*.

Amendment

3. The use of information obtained from a search in the SIS is subject to the consent of the *issuing* Member State. If the Member State allows the use of such information, the handling thereof by Europol shall be governed by Regulation (EU) 2016/794. Europol may only communicate such information to third countries and third bodies with the consent of the *issuing* Member State *and in full respect of Union law on data protection*.

Amendment 190

Proposal for a regulation Article 46 – paragraph 4

Text proposed by the Commission

4. Europol may request further information from the Member State *concerned* in accordance with the provisions of Regulation (EU) 2016/794.

Amendment

4. Europol may request further information from the *issuing* Member State in accordance with the provisions of Regulation (EU) 2016/794.

Amendment 191

Proposal for a regulation Article 46 – paragraph 5 – point b

Text proposed by the Commission

Amendment

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

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

Amendment 192

Proposal for a regulation

Article 46 – paragraph 5 – point c

Text proposed by the Commission

Amendment

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

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

Amendment 193

Proposal for a regulation

Article 46 – paragraph 7

Text proposed by the Commission

Amendment

7. Any copies, as referred to in paragraph 6, which lead to off-line databases may be retained for a period not exceeding 48 hours. ***That period may be extended in an emergency until the emergency comes to an end. Europol*** shall report ***any*** such ***extensions*** to the European Data Protection Supervisor.

7. Any copies, as referred to in paragraph 6, which lead to off-line databases may be retained for a period not exceeding 48 hours. ***Where Europol creates an offline database with SIS data, it*** shall report ***the existence of*** such a ***database*** to the European Data Protection Supervisor.

Amendment 194

Proposal for a regulation

Article 46 – paragraph 9

Text proposed by the Commission

Amendment

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.

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 processed 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. ***The content, retention period and rules and formats for the logs are defined in accordance with Article 12.***

Amendment 195

Proposal for a regulation Article 46 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. Europol shall be immediately informed by Member States of any alerts created under Articles 34, 36 or 38 and hits concerning those alerts where a person or an object is sought by a Member State in relation to an offence referred to in Directive (EU) 2017/541.

Amendment 196

Proposal for a regulation Article 47 – paragraph 1

Text proposed by the Commission

Amendment

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.

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 within their mandate, in accordance with Articles 26, 32, 34, 38 and 40.

Amendment 197

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 **immediately** inform the issuing Member State.

Amendment 198

**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, **and to** the powers of the Joint Supervisory Body set up pursuant to that Decision.

Amendment 199

**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 in accordance with the provisions of Article 12. 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 processed 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.

Amendment 200

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

Amendment 201

Proposal for a regulation Article 47 – paragraph 7

Text proposed by the Commission

Amendment

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

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

Amendment 202

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 teams as defined in Article 2(8) of Regulation (EU) 2016/1624* 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 *in accordance with this Regulation. They shall have this right only insofar as it is necessary for the performance of their tasks and insofar as*

required by the operational plan for a specific operation.

Amendment 203

Proposal for a regulation Article 48 – paragraph 2

Text proposed by the Commission

2. **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 access and search data entered in SIS in accordance with paragraph 1 via the technical interface set up and maintained by the European Border and Coast Guard Agency as referred to in Article 49(1).

Amendment

2. **Members of the teams as defined in Article 2(8) of Regulation (EU) 2016/1624** as well as the members of the migration management support teams shall access and search data entered in SIS in accordance with paragraph 1 via the technical interface set up and maintained by the European Border and Coast Guard Agency as referred to in Article 49(1).

Amendment 204

Proposal for a regulation Article 48 – paragraph 3

Text proposed by the Commission

3. Where a search 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 reveals the existence of an alert in SIS, the issuing Member State shall be informed thereof. In accordance with Article 40 of Regulation (EU) 2016/1624, members of the teams may only act in response to an alert in SIS under instructions from and, as a general rule, in the presence of border guards or staff involved in return-related tasks of the host Member State in which they are operating. The host Member State may authorise members of the teams to act on its behalf.

Amendment

3. Where a search by a **member of the teams as defined in Article 2(8) of Regulation (EU) 2016/1624** or by a member of the migration management support team reveals the existence of an alert in SIS, the issuing Member State shall be informed thereof **immediately**. In accordance with Article 40 of Regulation (EU) 2016/1624, members of the teams may only act in response to an alert in SIS under instructions from and, as a general rule, in the presence of border guards or staff involved in return-related tasks of the host Member State in which they are operating **and only where they have the power to do so under Article 40(1) of Regulation (EU) 2016/1624**. The host Member State may authorise members of

the teams to act on its behalf.

Amendment 205

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 teams as defined in Article 2(8) of Regulation (EU) 2016/1624 or by a member of the migration management support teams. 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 processed 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. The content, retention period and rules and formats for the logs are defined in accordance with Article 12.*

Amendment 206

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 teams as defined in Article 2(8) of Regulation (EU) 2016/1624* 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.

Amendment 207

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.

Amendment 208

Proposal for a regulation Article 49 – paragraph 1

Text proposed by the Commission

1. For the purposes of Article 48(1) **and paragraph 2 of this Article** the European Border and Coast Guard Agency shall set up and maintain a technical interface which allows a direct connection to Central SIS.

Amendment

1. For the purposes of Article 48(1) the European Border and Coast Guard Agency shall set up and maintain a technical interface which allows a direct connection to Central SIS.

Amendment 209

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. **Duly authorised staff of the ETIAS Central Unit established within the** European Border and Coast Guard Agency shall, **insofar as it is necessary** for the purpose of performing **any** tasks conferred on it by the Regulation establishing a European Travel Information and Authorisation System (ETIAS), have the right to access and **verify** data entered in SIS, in accordance with Articles 26, 32, 34,

Amendment 210

Proposal for a regulation Article 49 – paragraph 3

Text proposed by the Commission

Amendment

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 Travel Information and Authorisation System (ETIAS) applies.

deleted

Amendment 211

Proposal for a regulation Article 49 – paragraph 4

Text proposed by the Commission

Amendment

4. Nothing in this Article shall be interpreted as affecting the provisions of Regulation (EU) 2016/1624 concerning data protection and the liability for any unauthorised or incorrect processing of such data by the European Border and Coast Guard Agency.

4. Nothing in this Article shall be interpreted as affecting the provisions of Regulation (EU) 2016/1624 concerning data protection and the liability for any unauthorised or incorrect processing of such data by the European Border and Coast Guard Agency.

Amendment 212

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

Amendment 213

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.* **deleted**

Amendment 214

Proposal for a regulation Article 49 – paragraph 7

Text proposed by the Commission

Amendment

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.

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.

Amendment 215

Proposal for a regulation Article 51 – title

Text proposed by the Commission

Amendment

Retention period of alerts

Review period of alerts

Amendment 216

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. Alerts entered in SIS pursuant to this Regulation shall be kept **only** for the time required to achieve the purposes for which they were entered.

Amendment

1. Alerts entered in SIS pursuant to this Regulation shall **not** be kept **longer than** for the time required to achieve the purposes for which they were entered.

Amendment 217

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 **three** 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.

Amendment 218

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

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 maximum period of five years. The Commission shall be empowered to adopt a delegated act** in accordance with **Article 71a concerning shorter retention periods for categories of object alerts**.

Amendment 219

Proposal for a regulation

Article 51 – paragraph 5

Text proposed by the Commission

5. ***In cases where*** it becomes clear to staff in the SIRENE Bureau, who are responsible for coordinating and verifying of data quality, that an alert on a person has achieved its purpose and should be deleted from SIS, the staff shall notify the authority which created the alert to bring this issue to the attention of the authority. The authority shall have **30** calendar days from the receipt of ***this*** notification to indicate that the alert has been or shall be deleted or shall state reasons for the retention of the alert. If the **30**-day period expires without such a reply the alert shall be deleted by the staff of the SIRENE Bureau. SIRENE Bureaux shall report any recurring issues in this area to their national supervisory authority.

Amendment

5. ***As soon as*** it becomes clear to staff in the SIRENE Bureau, who are responsible for coordinating and verifying of data quality, that an alert on a person ***or an object*** has achieved its purpose and should be deleted from SIS, the staff shall ***immediately*** notify the authority which created the alert to bring this issue to the attention of the authority. The authority shall have ***seven*** calendar days from the receipt of ***that*** notification to indicate that the alert has been or shall be deleted or shall state reasons for the retention of the alert. If the ***seven***-day period expires without such a reply the alert shall be deleted by the staff of the SIRENE Bureau. SIRENE Bureaux shall report any recurring issues in this area to their national supervisory authority.

Amendment 220

Proposal for a regulation

Article 51 – paragraph 6

Text proposed by the Commission

6. Within the review period, the Member State issuing the alert may, following a comprehensive individual assessment, which shall be logged, decide to keep the alert longer, should this prove necessary for the purposes for which the alert was issued. In such a case paragraph 2 shall apply also to the extension. Any extension of an alert shall be communicated to CS-SIS.

Amendment

6. Within the review period, the Member State issuing the alert may, following a comprehensive individual assessment, which shall be logged, decide to keep the alert longer, should this prove necessary ***and proportionate*** for the purposes for which the alert was issued. In such a case paragraph 2 shall apply also to the extension. Any extension of an alert shall be communicated to CS-SIS.

Amendment 221

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 67.**

Amendment 222

Proposal for a regulation Article 52 – paragraph 1

Text proposed by the Commission

1. Alerts for arrest for surrender or extradition purposes pursuant to Article 26 shall be deleted once the person has been surrendered or extradited to the competent authorities of the issuing Member State. They **may** also be deleted where the judicial decision on which the alert was based has been revoked by the competent judicial authority according to national law.

Amendment

1. Alerts for arrest for surrender or extradition purposes pursuant to Article 26 shall be deleted once the person has been surrendered or extradited to the competent authorities of the issuing Member State. They **shall** also be deleted where the judicial decision on which the alert was based has been revoked by the competent judicial authority according to national law.

Amendment 223

Proposal for a regulation Article 52 – paragraph 2 – subparagraph 1 – point a – indent 4

Text proposed by the Commission

- the location **of the child.**

Amendment

- the location **and his or her placement under official protection.**

Amendment 224

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.

Amendment 225

Proposal for a regulation

Article 52 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Where a hit has been achieved in a Member State and the address details were forwarded to the issuing Member State and a subsequent hit in that Member State reveals the same address details the hit shall be logged in the executing Member State but neither the address details nor supplementary shall be resent to the issuing Member State. In such cases the executing Member State shall inform the issuing Member State of the repeated hits and the issuing Member State shall *consider* the need to maintain the alert.

Amendment

Where a hit has been achieved in a Member State and the address details were forwarded to the issuing Member State and a subsequent hit in that Member State reveals the same address details the hit shall be logged in the executing Member State but neither the address details nor supplementary shall be resent to the issuing Member State. In such cases the executing Member State shall inform the issuing Member State of the repeated hits and the issuing Member State shall ***carry out a comprehensive individual assessment of*** the need to maintain the alert.

Amendment 226

Proposal for a regulation

Article 52 – paragraph 4 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) completion of the check by an executing Member State.

Amendment 227

Proposal for a regulation

Article 52 – paragraph 6

Text proposed by the Commission

6. Alerts on unknown wanted persons pursuant to Article 40 shall be deleted *in accordance with the following rules*:

Amendment 228

**Proposal for a regulation
Article 52 – paragraph 6 – point b**

Text proposed by the Commission

(b) the expiry of the alert.

Amendment 229

**Proposal for a regulation
Article 52 – paragraph 6 – point b a (new)**

Text proposed by the Commission

Amendment 230

**Proposal for a regulation
Article 52 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment 231

**Proposal for a regulation
Article 52 – paragraph 6 b (new)**

Amendment

6. Alerts on unknown wanted persons pursuant to Article 40 shall be deleted *upon*:

Amendment

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

Amendment

(ba) a decision to delete by the competent authority of the issuing Member State.

Amendment

6a. In addition to paragraphs 1 to 6 of this Article, alerts shall also be deleted where necessary following the compatibility check provided for in Article 23a.

Text proposed by the Commission

Amendment

6b. *Where an alert expires in accordance with Article 51, its deletion under paragraph 2 or 3 shall be carried out automatically.*

Amendment 232

Proposal for a regulation Article 53 – paragraph 3

Text proposed by the Commission

Amendment

3. Technical copies, as referred to in paragraph 2, which lead to off-line databases may be retained for a period not exceeding 48 hours. ***That period may be extended in the event of an emergency until the emergency comes to an end.***

3. Technical copies, as referred to in paragraph 2, which lead to off-line databases may be retained for a period not exceeding 48 hours.

Amendment 233

Proposal for a regulation Article 53 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall keep an up-to-date inventory of those copies, make that inventory available to their national supervisory authority, and ensure that the provisions of this Regulation, in particular those of Article 10, are applied in respect of those copies.

4. Member States shall keep an up-to-date inventory of those copies, make that inventory available to their national supervisory authority ***as well as the European Data Protection Supervisor***, and ensure that the provisions of this Regulation, in particular those of Article 10, are applied in respect of those copies.

Amendment 234

Proposal for a regulation Article 53 – paragraph 7

Text proposed by the Commission

7. Any use of data which does not comply with paragraphs 1 to 6 shall be considered as misuse under the national law of each Member State.

Amendment

7. Any use of data which does not comply with paragraphs 1 to 6 shall be considered as misuse under the national law of each Member State ***and subject to penalties in accordance with Article 70a.***

Amendment 235

**Proposal for a regulation
Article 53 – paragraph 8**

Text proposed by the Commission

8. Each Member State shall send, to the Agency, a list of its competent authorities which are authorised to search directly the data contained in SIS pursuant to this Regulation, as well as any changes to the list. The list shall specify, for each authority, which data it may search and for what purposes. The Agency shall ensure the annual publication of the list in the *Official Journal of the European Union*.

Amendment

8. Each Member State shall send to the Agency a list of its competent authorities which are authorised to search directly the data contained in SIS pursuant to this Regulation, as well as any changes to the list. The list shall specify, for each authority, which data it may search and for what purposes. The Agency shall ensure the annual publication of the list in the *Official Journal of the European Union*. ***The Commission shall maintain a public website containing this information. It shall ensure that the website is always up to date.***

Amendment 236

**Proposal for a regulation
Article 55 – title**

Text proposed by the Commission

Information in case of non-execution of alert

Amendment

Procedure in case of non-execution of alert

Amendment 237

**Proposal for a regulation
Article 55 – paragraph 1**

Text proposed by the Commission

1. If a requested action cannot be performed, ***the requested Member State shall immediately inform the Member State issuing the alert.***

Amendment

1. If a requested action cannot be performed, ***the following procedure applies:***

(a) the requested Member State shall immediately inform the issuing Member State ***via its SIRENE Bureau stating why not, in accordance with the SIRENE Manual;***

(b) ***the Member States concerned may agree on the action to be taken in line with the SIS legal instruments and their own national laws;***

(c) ***if a requested action cannot be carried out with regard to persons involved in an activity referred to in Directive (EU) 2017/541, the requested Member State shall immediately inform Europol.***

Amendment 238

**Proposal for a regulation
Article 56 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Where an issuing Member State has relevant additional or modified data as listed in Article 20(3), the Member State shall complete or correct the alert immediately.

Amendment 239

**Proposal for a regulation
Article 56 – paragraph 1 b (new)**

Text proposed by the Commission

Amendment

1b. Where another Member State has relevant additional or modified alphanumeric data as listed in Article

20(3), that Member State shall transmit it immediately to the issuing Member to enable the latter to complete the alert.

Amendment 240

Proposal for a regulation Article 56 – paragraph 3

Text proposed by the Commission

3. Where a Member State other than that which issued an alert has evidence suggesting that an item of data is factually incorrect or has been unlawfully stored, it shall, through the exchange of supplementary information, inform the issuing Member State at the earliest opportunity and not later than **10** days after the said evidence has come to its attention. The issuing Member State shall check the communication and, if necessary, correct or delete the item in question *without delay*.

Amendment

3. Where a Member State other than that which issued an alert has evidence suggesting that an item of data is factually incorrect or has been unlawfully stored, it shall, through the exchange of supplementary information, inform the issuing Member State at the earliest opportunity and not later than **two working** days after the said evidence has come to its attention. The issuing Member State shall check the communication and, if necessary, correct or delete the item in question *within seven working days from the notification*

Amendment 241

Proposal for a regulation Article 56 – paragraph 4

Text proposed by the Commission

4. Where the Member States are unable to reach agreement within two months of the time when the evidence first came to light, as described in paragraph 3, the Member State which did not issue the alert shall submit the matter to the national supervisory authorities concerned for a decision.

Amendment

4. Where the Member States are unable to reach agreement within two months of the time when the evidence first came to light, as described in paragraph 3, the Member State which did not issue the alert shall submit the matter to the national supervisory authorities *and to the European Data Protection Supervisor* concerned for a decision *by means of cooperation under Article 69*.

Amendment 242

Proposal for a regulation Article 56 – paragraph 5

Text proposed by the Commission

5. The Member States shall exchange supplementary information where a person complains that he or she is not the person wanted by an alert. Where the outcome of the check shows that there are in fact two different persons the complainant shall be informed of the measures laid down in Article 59.

Amendment

5. The Member States shall exchange supplementary information where a person complains that he or she is not the person wanted by an alert. Where the outcome of the check shows that there are in fact two different persons the complainant shall be informed of the measures laid down in Article 59 **and of his or her right to redress in accordance with Article 66(1)**.

Amendment 243

Proposal for a regulation Article 56 – paragraph 6

Text proposed by the Commission

6. ***Where a person is already the subject of an alert in SIS, a Member State which enters a further alert shall reach agreement on the entry of the alert with the Member State which entered the first alert. The agreement shall be reached on the basis of the exchange of supplementary information.***

Amendment

deleted

Amendment 244

Proposal for a regulation Article 57 – paragraph 1

Text proposed by the Commission

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

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 ***unauthorised*** access to data may have occurred or where the availability, integrity and confidentiality of

been compromised.

data has or may have been compromised.

Amendment 245

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, the national supervisory authority **and the European Data Protection Supervisor immediately** of security incidents. ***In the event of a security incident on the Central SIS, the Agency shall notify the Commission and the European Data Protection Supervisor immediately of those*** security incidents.

Amendment 246

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 ***immediately*** and reported in compliance with the incident management plan provided by the Agency.

Amendment 247

Proposal for a regulation Article 57 – paragraph 4 a (new)

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Text proposed by the Commission

Amendment

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

Amendment 248

**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.

Amendment 249

**Proposal for a regulation
Article 57 – paragraph 4 c (new)**

Text proposed by the Commission

Amendment

4c. The Commission shall report serious incidents immediately to the European Parliament and the Council.

Amendment 250

**Proposal for a regulation
Article 57 – paragraph 4 d (new)**

Text proposed by the Commission

Amendment

4d. Where a security incident is caused by the misuse of data, Member States, Europol, Eurojust and the European Border and Coast Guard Agency shall ensure that penalties or disciplinary measures may be imposed in accordance with Article 70a.

Amendment 251

Proposal for a regulation

Article 58 – paragraph 1 – point a

Text proposed by the Commission

(a) the SIRENE Bureau shall contact the requesting authority to clarify whether or not the alert is on the same person;

Amendment

(a) the SIRENE Bureau shall ***immediately*** contact the requesting authority to clarify whether or not the alert is on the same person;

Amendment 252

Proposal for a regulation

Article 58 – paragraph 1 – point b

Text proposed by the Commission

(b) where the cross-check reveals that the subject of the new alert and the person already in SIS are indeed one and the same, the SIRENE Bureau shall apply the procedure for entering multiple alerts as referred to in Article 56(6). Where the outcome of the check is that there are in fact two different persons, the SIRENE Bureau shall approve the request for entering the second alert by adding the necessary elements to avoid any misidentifications.

Amendment

(b) where the cross-check reveals that the subject of the new alert and the person already in SIS are indeed one and the same, the SIRENE Bureau shall apply the procedure for entering multiple alerts as referred to in Article 23a. Where the outcome of the check is that there are in fact two different persons, the SIRENE Bureau shall approve the request for entering the second alert by adding the necessary elements to avoid any misidentifications.

Amendment 253

Proposal for a regulation

Article 59 – paragraph 1

Text proposed by the Commission

1. Where confusion may arise between the person actually intended as the subject of an alert and a person whose identity has been misused, the issuing Member State shall, subject to that person's explicit consent, add data relating to the

Amendment

1. Where confusion may arise between the person actually intended as the subject of an alert and a person whose identity has been misused, the issuing Member State shall, subject to that person's explicit consent, add data relating to the

latter to the alert in order to avoid the negative consequences of misidentification.

latter to the alert in order to avoid the negative consequences of misidentification. ***Any person whose identity has been misused has the right to withdraw his or her consent to the information being processed.***

Amendment 254

Proposal for a regulation Article 59 – paragraph 3

Text proposed by the Commission

3. For the purpose of this Article, only the following personal data may be entered and further processed in SIS:

Amendment

3. For the purpose of this Article, ***and subject to the explicit consent of the person whose identity was misused for each data category,*** only the following personal data may be entered and further processed in SIS :

Amendment 255

Proposal for a regulation Article 59 – paragraph 3 – point h

Text proposed by the Commission

(h) *sex*;

Amendment

(h) ***gender***;

Amendment 256

Proposal for a regulation Article 59 – paragraph 5

Text proposed by the Commission

5. The data referred to in paragraph 3 shall be deleted at the same time as the corresponding alert ***or earlier where the person so requests.***

Amendment

5. The data referred to in paragraph 3 shall be deleted ***as soon as this is requested by the person whose identity was misused or*** at the same time as the corresponding alert ***is deleted.***

Amendment 257

Proposal for a regulation Article 63

Text proposed by the Commission

Amendment

Article 63

deleted

Exchange of data on stolen, misappropriated, lost or invalidated passports with Interpol

1. By way of derogation from Article 62, the passport number, country of issuance and the document type of stolen, misappropriated, lost or invalidated passports entered in SIS may be exchanged with members of Interpol by establishing a connection between SIS and the Interpol database on stolen or missing travel documents, subject to the conclusion of an Agreement between Interpol and the European Union. The Agreement shall provide that the transmission of data entered by a Member State shall be subject to the consent of that Member State.

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.

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 258

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, *the European Border and Coast Guard and Eurojust* under this Regulation

Amendment 259

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.*

Amendment 260

Proposal for a regulation Article 64 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. National provisions transposing Directive (EU) 2016/680 shall apply to the processing of personal data under this Regulation by competent national 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.

Amendment 261

**Proposal for a regulation
Article 64 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2b. Regulation (EU) 2016/794 shall apply to the processing of personal data by Europol pursuant to Article 46 of this Regulation.

Amendment 262

**Proposal for a regulation
Article 64 – paragraph 3**

Text proposed by the Commission

Amendment

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

deleted

Amendment 263

Proposal for a regulation Article 65 – title

Text proposed by the Commission

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

Amendment

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

Amendment 264

Proposal for a regulation Article 65 – paragraph 1

Text proposed by the Commission

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.*

Amendment

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 and that data processing be restricted.*

Amendment 265

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.

Amendment 266

Proposal for a regulation Article 65 – paragraph 4 – subparagraph 1 a (new)

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.

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.

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.

Amendment 267

Proposal for a regulation Article 65 – paragraph 5

Text proposed by the Commission

Amendment

5. Any person has the right to have factually inaccurate data relating to him rectified or unlawfully stored data relating to him erased.

deleted

Amendment 268

Proposal for a regulation Article 65 – paragraph 6

Text proposed by the Commission

6. The person concerned shall be informed as soon as possible and in any event not later than **60** days from the date on which he applies for access or sooner if national law so provides.

Amendment

6. The person concerned shall be informed as soon as possible and in any event not later than **30** days from the date on which he *or she* applies for access or sooner if national law so provides, ***regardless of whether the person is on Union territory or not.***

Amendment 269

**Proposal for a regulation
Article 65 – paragraph 7**

Text proposed by the Commission

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.

Amendment

7. The person concerned shall be informed about the follow-up given to the exercise of his ***or her*** rights to rectification erasure ***and to restriction of processing*** as soon as possible and in any event not later than ***60 days*** from the date on which he ***or she*** applies for rectification, or erasure ***or for a restriction of processing*** or sooner if national law so provides. ***The person shall be informed under this paragraph regardless of whether he or she is on Union territory or not.***

Amendment 270

**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 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 law of any Member State to access, rectify, erase information

or to obtain *a processing restriction and compensation* in connection with an alert relating to him *or her*.

Amendment 271

Proposal for a regulation Article 66 – paragraph 3 – point c

Text proposed by the Commission

(c) the number of requests for the rectification of inaccurate data and the erasure of unlawfully stored data to the data controller and the number of cases where the data were rectified or erased;

Amendment

(c) the number of requests for the rectification of inaccurate data and the erasure *or restriction of processing* of unlawfully stored data to the data controller and the number of cases where the data were rectified or erased;

Amendment 272

Proposal for a regulation Article 66 – paragraph 3 – point d

Text proposed by the Commission

(d) the number of requests for the rectification of inaccurate data and the erasure of unlawfully stored data submitted to the national supervisory authority;

Amendment

(d) the number of requests for the rectification of inaccurate data and the erasure *or restriction of processing* of unlawfully stored data submitted to the national supervisory authority;

Amendment 273

Proposal for a regulation Article 66 – paragraph 3 – point f

Text proposed by the Commission

(f) the number of cases where the court ruled in favour of the applicant in any aspect of the case;

Amendment

(f) the number of cases where the court ruled in favour of the applicant in any aspect of the case *and the number of cases where compensation was obtained*;

Amendment 274

Proposal for a regulation Article 67 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that the national supervisory **authority(ies)** designated in each Member State and endowed with the powers referred to in Chapter VI of Directive (EU) 2016/680 or Chapter VI of Regulation (EU) 2016/679 monitor independently the lawfulness of the processing of SIS personal data on their territory and its transmission from their territory, and the exchange and further processing of supplementary information.

Amendment

1. Each Member State shall ensure that the national **independent** supervisory **authorities** designated in each Member State and endowed with the powers referred to in Chapter VI of Directive (EU) 2016/680 or Chapter VI of Regulation (EU) 2016/679 monitor independently the lawfulness of the processing of SIS personal data on their territory and its transmission from their territory, and the exchange and further processing of supplementary information.

Amendment 275

Proposal for a regulation Article 67 – paragraph 2

Text proposed by the Commission

2. The national supervisory **authority** shall ensure that an audit of the data processing operations in its N.SIS is carried out in accordance with international auditing standards at least every four years. The audit shall either be carried out by the national supervisory **authority**, or the national supervisory **authority(ies)** shall directly order the audit from an independent data protection auditor. The national supervisory **authority** shall at all times retain control over and undertake the responsibilities of the independent auditor.

Amendment

2. The national supervisory **authorities** shall ensure that an audit of the data processing operations in its N.SIS is carried out in accordance with international auditing standards at least every four years. The audit shall either be carried out by the national supervisory **authorities**, or the national supervisory **authorities** shall directly order the audit from an independent data protection auditor. The national supervisory **authorities** shall at all times retain control over and undertake the responsibilities of the independent auditor.

Amendment 276

Proposal for a regulation Article 67 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that their national supervisory **authority has** sufficient resources to fulfil the tasks entrusted to **it** under this Regulation.

Amendment

3. Member States shall ensure that their national supervisory **authorities have** sufficient resources to fulfil the tasks entrusted to **them** under this Regulation. **They shall also ensure that their national supervisory authorities have access to assistance from persons with expertise on biometric data.**

Amendment 277

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 shall **be responsible for monitoring** the personal data processing activities of the Agency, **the European Border and Coast Guard, Europol and Eurojust and for ensuring that those 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.

Amendment 278

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

Amendment

2. The European Data Protection Supervisor shall ensure that an audit of the Agency's, **the European Border and Coast**

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.

Guard's, Europol's and Eurojust'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 279

Proposal for a regulation Article 68 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The European Data Protection Supervisor shall be granted sufficient resources to fulfil the tasks entrusted to it under this Regulation, including assistance from persons with expertise on biometric data.

Amendment 280

Proposal for a regulation Article 69 – paragraph 1

Text proposed by the Commission

Amendment

1. The national supervisory authorities and the European Data Protection Supervisor, each acting within the scope of its respective competences, shall actively cooperate within the framework of their responsibilities ***and shall ensure coordinated supervision of SIS.***

1. The national supervisory authorities and the European Data Protection Supervisor, each acting within the scope of its respective competences, shall actively cooperate ***with each other*** within the framework of their responsibilities ***in accordance with Article [62] of [New Regulation on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data].***

Amendment 281

Proposal for a regulation Chapter XVI – title

Text proposed by the Commission

LIABILITY

Amendment

LIABILITY AND PENALTIES

Amendment 282

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 ***and eu-LISA shall*** be liable for any ***material or immaterial*** damage caused to a person ***as a result of an unlawful processing operation, as a result of 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.

Amendment 283

Proposal for a regulation Article 70 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Any person who, or Member State which, has suffered material or immaterial damage as a result of an unlawful processing operation or of any act incompatible with this Regulation shall be entitled to receive compensation from the Member State responsible for the

damage suffered or from eu-LISA if it is responsible for the damage suffered. The Member State or eu-LISA shall be partially or fully relieved of that liability if it proves that the harmful event cannot be attributed to it. Claims for compensation brought against a Member State shall be governed by the provisions of national law of the defendant Member State, in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680.

Amendment 284

Proposal for a regulation Article 70 a (new)

Text proposed by the Commission

Amendment

Article 70 a

Penalties

Member States shall ensure that any processing of data stored in SIS or any exchange of supplementary information contrary to this Regulation is punishable in accordance with national law. The penalties provided shall be effective, proportionate and dissuasive and shall include administrative and criminal penalties.

Europol and the European Border and Coast Guard Agency shall ensure that members of their staff or members of their teams accessing SIS under their authority who process data stored therein in breach of this Regulation are subject to sanctions by the Agency or, in the case of team members, by their home Member State.

Amendment 285

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, **completing**, 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 286

**Proposal for a regulation
Article 71 – paragraph 4**

Text proposed by the Commission

4. Member States as well as Europol, Eurojust and the European Border and Coast Guard Agency shall provide the Agency and the Commission with the information necessary to draft the reports referred to in paragraphs 3, 7 and 8. This information shall include separate statistics on the number of searches carried out by, **or on behalf of, by the services** in the Member States responsible for issuing vehicle registration certificates and **the services** in the Member States responsible for issuing registration certificates or ensuring traffic management for boats, including boat engines; aircraft and containers. The statistics shall also show the number of hits per category of alert.

Amendment

4. Member States as well as Europol, Eurojust and the European Border and Coast Guard Agency shall provide the Agency and the Commission with the information necessary to draft the reports referred to in paragraphs 3, 7 and 8. This information shall include separate statistics on the number of searches carried out by the **competent authorities** in the Member States responsible for issuing vehicle registration certificates and the **competent authorities** in the Member States responsible for issuing registration certificates or ensuring traffic management for boats, including boat engines; aircraft and containers. The statistics shall also show the number of hits per category of

alert.

Amendment 287

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 Council, the*** Member States, the Commission, Europol and the European Border and Coast Guard Agency ***and the European Data Protection Supervisor*** with any statistical reports that it produces ***and any specific statistical reports requested***. 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 288

Proposal for a regulation Article 71 – paragraph 6

Text proposed by the Commission

6. For the purpose of paragraphs 3, 4 and 5 of this Article and of Article 15(5), the Agency shall establish, implement and host a central repository in its technical sites containing the data referred to in paragraph 3 of this Article and in Article 15(5) which shall not allow for the identification of individuals and shall allow the Commission and the agencies referred to in paragraph 5 to obtain bespoke reports and statistics. ***The*** Agency shall grant access to Member States, the Commission, Europol, Eurojust and the European Border and Coast Guard Agency to the central

Amendment

6. For the purpose of paragraphs 3, 4 and 5 of this Article and of Article 15(5), the Agency shall establish, implement and host a central repository in its technical sites containing the data referred to in paragraph 3 of this Article and in Article 15(5) which shall not allow for the identification of individuals and shall allow the Commission and the agencies referred to in paragraph 5 to obtain bespoke reports and statistics. ***Upon request, the*** Agency shall grant access to Member States, the Commission, Europol, Eurojust and the European Border and Coast Guard Agency

repository by means of secured access through the Communication Infrastructure with control of access and specific user profiles solely for the purpose of reporting and statistics.

Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted by means of implementing measures adopted in accordance with the examination procedure referred to in Article 72(2).

to the central repository *specific items and information* by means of secured access through the Communication Infrastructure with control of access and specific user profiles solely for the purpose of reporting and statistics.

Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted by means of implementing measures adopted in accordance with the examination procedure referred to in Article 72(2).

Amendment 289

Proposal for a regulation Article 71 – paragraph 7

Text proposed by the Commission

7. **Two years** after SIS is brought into operation and every two years thereafter, the Agency shall submit to the European Parliament and the Council a report on the technical functioning of Central SIS and the Communication Infrastructure, including the security thereof, and the bilateral and multilateral exchange of supplementary information between Member States.

Amendment

7. **One year** after SIS is brought into operation and every two years thereafter, the Agency shall submit to the European Parliament and the Council a report on the technical functioning of Central SIS and the Communication Infrastructure, including the security thereof *on the functioning of the automated fingerprint identification system*, and the bilateral and multilateral exchange of supplementary information between Member States.

Amendment 290

Proposal for a regulation Article 71 – paragraph 8

Text proposed by the Commission

8. **Three years** after SIS is brought into operation and every **four** years thereafter, the Commission shall produce an overall evaluation of Central SIS and

Amendment

8. **One year** after SIS is brought into operation and every **two** years thereafter, the Commission shall produce an overall evaluation of Central SIS and the bilateral

the bilateral and multilateral exchange of supplementary information between Member States. That overall evaluation shall include an examination of results achieved against objectives, and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in respect of Central SIS, the security of Central SIS and any implications for future operations. The Commission shall transmit the evaluation to the European Parliament and the Council.

and multilateral exchange of supplementary information between Member States. That overall evaluation ***shall take the opinion of the European Data Protection Supervisor into account, and*** shall include an examination of results achieved against objectives, and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in respect of Central SIS, the security of Central SIS and any implications for future operations. ***The overall evaluation report shall also include the creation of an automated fingerprint file function and SIS information campaigns organised by the Commission in accordance with Article 19.*** The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment 291

Proposal for a regulation Article 71 a (new)

Text proposed by the Commission

Amendment

Article 71 a

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 Article 8(4), Article 12(7), Article 22 (-1), Article 42(4), Article 51(3) and Article 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 Article 8(4), Article 12(7), Article 22 (-1), Article 42(4), Article 51(3) and Article 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 Article 8(4), Article 12(7), Article 22 (-1), Article 42(4), Article 51(3) and Article 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.

Amendment 292

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:*

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(-1), Article 32(5) and (7), Article 34(3), 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.

Amendment 293

Proposal for a regulation Article 75 – paragraph 2 – point a

Text proposed by the Commission

Amendment

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

Amendment 294

Proposal for a regulation Article 75 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(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; **deleted**

Amendment 295

Proposal for a regulation Article 75 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) The Agency has notified the Commission about the completion of all testing activities with regard CS-SIS and **deleted**

*the interaction between CS-SIS and
N.SIS.*

Amendment 296

**Proposal for a regulation
Article 75 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

**2a. The Commission shall be
empowered to adopt delegated acts in
accordance with Article 71a concerning
amendments to the date of application of
this Regulation.**

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, while respecting all national 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 new subcategories 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.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters			
References	COM(2016)0883 – C8-0530/2016 – 2016/0409(COD)			
Date submitted to Parliament	22.12.2016			
Committee responsible Date announced in plenary	LIBE 6.4.2017			
Committees asked for opinions Date announced in plenary	AFET 6.4.2017	BUDG 6.4.2017	TRAN 6.4.2017	JURI 6.4.2017
Not delivering opinions Date of decision	AFET 30.1.2017	BUDG 12.1.2017	TRAN 27.2.2017	JURI 25.1.2017
Rapporteurs Date appointed	Carlos Coelho 9.3.2017			
Discussed in committee	30.3.2017	10.7.2017	28.9.2017	6.11.2017
Date adopted	6.11.2017			
Result of final vote	+: 41	–: 3	0: 4	
Members present for the final vote	Asim Ahmedov Ademov, Gerard Batten, Monika Beňová, Malin Björk, Michał Boni, Raymond Finch, Kinga Gál, Ana Gomes, Sylvie Guillaume, Filiz Hyusmenova, Dietmar Köster, Barbara Kudrycka, Cécile Kashetu Kyenge, Juan Fernando López Aguilar, Monica Macovei, Roberta Metsola, Claude Moraes, Péter Niedermüller, Judith Sargentini, Birgit Sippel, Csaba Sógor, Helga Stevens, Traian Ungureanu, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Auke Zijlstra			
Substitutes present for the final vote	Carlos Coelho, Anna Maria Corazza Bildt, Pál Csáky, Miriam Dalli, Gérard Deprez, Marek Jurek, Jeroen Lenaers, Elly Schlein, Barbara Spinelli, Róza Gräfin von Thun und Hohenstein, Axel Voss			
Substitutes under Rule 200(2) present for the final vote	Max Andersson, André Elissen, Karin Kadenbach, Peter Kouroumbashev, Julia Reda, Sofia Ribeiro, Julie Ward, Wim van de Camp			
Date tabled	10.11.2017			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

41	+
ALDE	Gérard Deprez, Filiz Hyusmenova, Cecilia Wikström
ECR	Marek Jurek, Monica Macovei, Helga Stevens
EFDD	Kristina Winberg
NI	Udo Voigt
PPE	Asim Ahmedov Ademov, Michał Boni, Carlos Coelho, Anna Maria Corazza Bildt, Pál Csáky, Kinga Gál, Barbara Kudrycka, Jeroen Lenaers, Roberta Metsola, Sofia Ribeiro, Csaba Sógor, Róza Gräfin von Thun und Hohenstein, Traian Ungureanu, Axel Voss, Wim van de Camp
S&D	Monika Beňová, Miriam Dalli, Ana Gomes, Sylvie Guillaume, Karin Kadenbach, Peter Kouroumbashev, Cécile Kashetu Kyenge, Dietmar Köster, Juan Fernando López Aguilar, Claude Moraes, Péter Niedermüller, Elly Schlein, Birgit Sippel, Julie Ward, Josef Weidenholzer
VERTS/ALE	Max Andersson, Julia Reda, Judith Sargentini

3	-
ENF	André Elissen; Auke Zijlstra
GUE/NGL	Malin Björk

4	0
EFDD	Gerard Batten, Raymond Finch
GUE/NGL	Barbara Spinelli, Marie-Christine Vergiat

Key to symbols:

+ : in favour

- : against

0 : abstention