

Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)

CHAPTER IV

CATEGORIES OF DATA AND FLAGGING

Article 20

Categories of data

1 Without prejudice to Article 8(1) or the provisions of this Decision providing for the storage of additional data, SIS II 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.

2 The categories of data shall be as follows:

- a persons in relation to whom an alert has been issued;
- b objects referred to in Articles 36 and 38.

3 The information on persons in relation to whom an alert has been issued shall be no more than the following:

- a surname(s) and forename(s), name(s) at birth and previously used names and any aliases which may be entered separately;
- b any specific, objective, physical characteristics not subject to change;
- c place and date of birth;
- d sex;
- e photographs;
- f fingerprints;
- g nationality(ies);
- h whether the person concerned is armed, violent or has escaped;
- i reason for the alert;
- j authority issuing the alert;
- k a reference to the decision giving rise to the alert;
- l action to be taken;
- m link(s) to other alerts issued in SIS II pursuant to Article 52;
- n the type of offence.

4 The technical rules necessary for entering, updating, deleting and searching the data referred to in paragraphs 2 and 3 shall be established in accordance with the procedure referred to in Article 67, without prejudice to the provisions of the instrument setting up the Management Authority.

5 The technical rules necessary for searching data referred to in paragraph 3 shall be similar for searches in CS-SIS, in national copies and in technical copies, as referred to in Article 46(2).

Article 21

Proportionality

Before issuing an alert, Member States shall determine whether the case is adequate, relevant and important enough to warrant entry of the alert in SIS II.

Article 22

Specific rules for photographs and fingerprints

The use of photographs and fingerprints as referred to in Article 20(3)(e) and (f) shall be used subject to the following provisions:

- (a) photographs and fingerprints shall only be entered following a special quality check to ascertain the fulfilment of a minimum data quality standard. The specification of the special quality check shall be established in accordance with the procedure referred to in Article 67, without prejudice to the provisions of the instrument setting up the Management Authority;
- (b) photographs and fingerprints shall only be used to confirm the identity of a person who has been located as a result of an alphanumeric search made in SIS II.
- (c) as soon as this becomes technically possible, fingerprints may also be used to identify a person on the basis of his biometric identifier. Before this functionality is implemented in SIS II, the Commission shall present a report on the availability and readiness of the required technology, on which the European Parliament shall be consulted.

Article 23

Requirement for an alert to be entered

- 1 Alerts on persons may not be entered without the data referred to in Article 20(3)(a), (d), (l) as well as, where applicable, (k).
- 2 When available, all other data listed in Article 20(3) shall also be entered.

Article 24

General provisions on flagging

1 Where a Member State considers that to give effect to an alert entered in accordance with Articles 26, 32 or 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 Member State which entered the alert.

2 In order to enable Member States to require that a flag be added to an alert issued in accordance with Article 26, all Member States shall be notified automatically about any new alert of that category by the exchange of supplementary information.

3 If in particularly urgent and serious cases, a Member State issuing an alert requests the execution of the action, the Member State executing the alert shall examine whether it is able to allow the flag added at its behest to be withdrawn. If the Member State executing the alert is able to do so, it shall take the necessary steps to ensure that the action to be taken can be carried out immediately.

Article 25

Flagging related to alerts for arrest for surrender purposes

1 Where Framework Decision 2002/584/JHA applies, a flag preventing arrest shall only be added to an alert for arrest for surrender purposes where the competent judicial authority under national law for the execution of a European Arrest Warrant has refused its execution on the basis of a ground for non-execution and where the addition of the flag has been required.

2 However, at the behest of a competent judicial authority under national law, either on the basis of a general instruction or in a specific case, a flag may also be required to be added to an alert for arrest for surrender purposes if it is obvious that the execution of the European Arrest Warrant will have to be refused.