

Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 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 and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU

CHAPTER V

Categories of data and flagging

Article 20

Categories of data

- 1 Without prejudice to Article 8(1) or to 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, 38 and 40.
- 2 The categories of data shall be as follows:
 - a information on persons in relation to whom an alert has been entered;
 - b information on objects referred to in Articles 26, 32, 34, 36 and 38.
- 3 Any alert in SIS which includes information on persons shall contain only the following data:
 - a surnames;
 - b forenames;
 - c names at birth;
 - d previously used names and aliases;
 - e any specific, objective, physical characteristics not subject to change;
 - f place of birth;
 - g date of birth;
 - h gender;
 - i any nationalities held;
 - j whether the person concerned:
 - (i) is armed;
 - (ii) is violent;
 - (iii) has absconded or escaped;
 - (iv) poses a risk of suicide;
 - (v) poses a threat to public health; or
 - (vi) is involved in an activity referred to in Articles 3 to 14 of Directive (EU) 2017/541;
 - k the reason for the alert;

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- l the authority which created the alert;
- m a reference to the decision giving rise to the alert;
- n the action to be taken in the case of a hit;
- o links to other alerts pursuant to Article 63;
- p the type of offence;
- q the person's registration number in a national register;
- r for alerts referred to in Article 32(1), a categorisation of the type of case;
- s the category of the person's identification documents;
- t the country of issue of the person's identification documents;
- u the number(s) of the person's identification documents;
- v the date of issue of the person's identification documents;
- w photographs and facial images;
- x in accordance with Article 42(3), relevant DNA profiles;
- y dactyloscopic data;
- z a copy of the identification documents, in colour wherever possible.

4 The Commission shall adopt implementing acts to lay down and develop the technical rules necessary for entering, updating, deleting and searching the data referred to in paragraphs 2 and 3 of this Article and the common standards referred to in paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

5 Technical rules shall be similar for searches in CS-SIS, in national or shared copies and in technical copies made under Article 56(2). They shall be based on common standards.

Article 21

Proportionality

1 Before entering an alert and when extending the period of validity of an alert, Member States shall determine whether the case is adequate, relevant and important enough to warrant an alert in SIS.

2 Where a person or an object is sought under an alert related to a terrorist offence, the case shall be considered adequate, relevant and important enough to warrant an alert in SIS. For public or national security reasons, Member States may exceptionally refrain from entering an alert when it is likely to obstruct official or legal inquiries, investigations or procedures.

Article 22

Requirement for an alert to be entered

1 The minimum set of data necessary in order to enter an alert into SIS shall be the data referred to in points (a), (g), (k) and (n) of Article 20(3), except for in the situations referred to in Article 40. The other data referred to in that paragraph shall also be entered into SIS, if available.

2 The data referred to in point (e) of Article 20(3) of this Regulation shall only be entered when this is strictly necessary for the identification of the person concerned. When such data are entered, Member States shall ensure that Article 10 of Directive (EU) 2016/680 is complied with.

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Article 23

Compatibility of alerts

1 Before entering an alert, the Member State shall check whether the person or the object concerned is already the subject of an alert in SIS. To check whether the person is already the subject of an alert, a check with dactyloscopic data shall also be carried out if such data are available.

2 Only one alert per person or per object per Member State shall be entered into SIS. Where necessary, new alerts may be entered on the same person or object by other Member States, in accordance with paragraph 3.

3 Where a person or an object 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 of the Member States concerned shall consult each other by exchanging supplementary information in order to reach an agreement. Rules on the compatibility of alerts shall be laid down in the SIRENE Manual. Departures from the compatibility rules may be made after consultation between the Member States if essential national interests are at stake.

4 In the case of hits on multiple alerts on the same person or object, the executing Member State shall observe the priority rules for alerts laid down in the SIRENE Manual.

If a person is subject to multiple alerts entered by different Member States, alerts for arrest entered in accordance with Article 26 shall be executed as a priority, subject to Article 25.

Article 24

General provisions on flagging

1 Where a Member State considers that to give effect to an alert entered in accordance with Article 26, 32 or 36 is incompatible with its national law, its international obligations or essential national interests, it may 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.

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

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

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Article 25

Flagging related to alerts for arrest for surrender purposes

1 Where Framework Decision 2002/584/JHA applies, a Member State shall request the issuing Member State to add a flag preventing arrest as a follow-up 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.

A Member State may also require that a flag be added to the alert if its competent judicial authority releases the subject of the alert during the surrender process.

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 Member State may also require the issuing Member State to add a flag 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.

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