

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 VI

Alerts on persons wanted for arrest for surrender or extradition purposes

Article 26

Objectives and conditions for entering alerts

1 Alerts on persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant, or alerts on persons wanted for arrest for extradition purposes, shall be entered at the request of the judicial authority of the issuing Member State.

2 Alerts for arrest for surrender purposes shall also be entered on the basis of arrest warrants issued, in accordance with agreements concluded between the Union and third countries on the basis of the Treaties, for the purpose of surrender of persons on the basis of an arrest warrant, which provide for the transmission of such an arrest warrant through SIS.

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

4 In the case of an ongoing operation, the issuing Member State may temporarily make an existing alert for arrest entered in accordance with this Article unavailable for searching by the end-users in the Member States involved in the operation. In such cases the alert shall only be accessible to the SIRENE Bureaux. Member States shall only make an alert unavailable if:

- a the purpose of the operation cannot be achieved by other measures;
- b a prior authorisation has been granted by the competent judicial authority of the issuing Member State; and
- c all Member States involved in the operation have been informed through the exchange of supplementary information.

The functionality provided for in the first subparagraph shall only be used for a period not exceeding 48 hours. However, if operationally necessary, it may be extended by further periods of 48 hours. Member States shall keep statistics on the number of alerts in relation to which this functionality has been used.

5 Where there is a clear indication that the objects referred to in points (a), (b), (c), (e), (g), (h), (j) and (k) of Article 38(2) are connected with a person who is the subject of an alert pursuant to paragraph 1 and 2 of this Article, alerts on those objects may be entered in order to locate the person. In such cases, the alert on the person and the alert on the object shall be linked in accordance with Article 63.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) 2018/1862 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

6 The Commission shall adopt implementing acts to lay down and develop rules necessary for entering, updating, deleting and searching the data 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).

Article 27

Additional data on persons wanted for arrest for surrender purposes

1 Where a person is wanted for arrest for surrender purposes on the basis of a European Arrest Warrant, the issuing Member State shall enter into SIS a copy of the original of the European Arrest Warrant.

A Member State may enter the copy of more than one European Arrest Warrant in an alert for arrest for surrender purposes.

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

Article 28

Supplementary information on persons wanted for arrest for surrender purposes

The issuing Member State of an alert for arrest for surrender purposes shall communicate the information referred to in Article 8(1) of Framework Decision 2002/584/JHA to the other Member States through the exchange of supplementary information.

Article 29

Supplementary information on persons wanted for arrest for extradition purposes

1 The issuing Member State of an alert for extradition purposes shall communicate the following data to all other Member States through the exchange of supplementary information:

- a the authority which issued the request for arrest;
- b whether there is an arrest warrant or a document having the same legal effect, or an enforceable judgment;
- c the nature and legal classification of the offence;
- d a description of the circumstances in which the offence was committed, including the time, place and the degree of participation in the offence by the person on whom the alert has been entered;
- e insofar as possible, the consequences of the offence; and
- f any other information useful or necessary for the execution of the alert.

2 The data listed in paragraph 1 of this Article shall not be communicated where the data referred to in Article 27 or 28 have already been provided and are considered sufficient for the execution of the alert by the executing Member State.

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Article 30

Conversion of an action to be taken concerning alerts for arrest for surrender or extradition purposes

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

Article 31

Execution of an action based on an alert for arrest for surrender or extradition purposes

1 An alert entered in SIS in accordance with Article 26 and the additional data referred to in Article 27 shall together constitute and have the same effect as a European Arrest Warrant issued in accordance with Framework Decision 2002/584/JHA where that Framework Decision applies.

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

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