Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters

2016/0409(COD) - 21/12/2016 - Legislative proposal

PURPOSE: to reform the Schengen Information System (SIS) in order to enhance the general provisions regarding 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.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in 2016, the Commission carried out a comprehensive evaluation of SIS, three years after the entry into operation of its second generation. This evaluation showed that SIS has been a genuine operational success.

Nonetheless, the effectiveness and efficiency of the system should be further strengthened. To this end, the Commission is presenting a first set of three proposals to improve and extend the use of SIS as result of the evaluation while continuing its work to make existing and future law enforcement and border management systems more interoperable.

These proposals cover the use of the system for:

- border management,
- **police cooperation and judicial cooperation in criminal matters**, and
- the return of illegally staying third country nationals.

CONTENT: the present proposal and the supplementary proposal on border management lay down rules covering the comprehensive end-to-end use of SIS, including the Central SIS managed by eu-LISA Agency, but also the needs of the end-user.

End-to-end use of SIS: with over 2 million end-users in the competent authorities across Europe, SIS is an extremely widely used and effective tool for information exchange. This proposal as well as the parallel proposal on border management include rules covering the complete end-to-end operation of the system, including Central SIS operated by eu-LISA, the national systems and the end-user applications. It addresses not only the central and national systems themselves, but also the end-users' technical and operational needs.

In order to use SIS to its full effectiveness Member States should ensure that each time their end-users are entitled to carry out a search in a national police or immigration database, they also search SIS in parallel. This way SIS can fulfil its objective as the **main compensatory measure in the area without internal border controls** and Member States can better address the cross-border dimension of criminality and the mobility of criminals.

Data quality: the proposal maintains the principle that the Member State, which is the data owner, is also responsible for the accuracy of the data entered in SIS. It is, however, necessary to provide for a central mechanism managed by eu-LISA which allows Member States to regularly review those alerts in which the mandatory data fields may raise quality concerns.

The proposal empowers eu-LISA to produce data quality reports to Member States at regular intervals.

Photographs, facial images, dactylographic data and DNA profiles: the possibility to search with fingerprints with a view to identify a person is already set out in existing Regulation. Two new proposals make this search **mandatory** if the identity of the person cannot be ascertained in any other way.

Currently, facial images can only be used to confirm a person's identity following an alphanumeric search, rather than as the basis for a search. Furthermore, changes make provision for facial images, photographs and **palm prints** to be used to search the system and identify people, when this becomes technically possible. Dactylography refers to the scientific study of fingerprints as a method of identification. Palm prints can be used to establish a person's identity in the same way that fingerprints can be used.

In cases where fingerprints or palm prints are not available, the proposal allows for the use of DNA profiles for missing persons who need to be placed under protection, especially children. This functionality will be used only in the absence of fingerprints and will be accessible only to authorised users.

The proposed changes will also allow **SIS alerts to be issued for unknown persons** wanted in connection with a crime, based on fingerprints or palm prints. This new alert category complements the Prüm provisions that enable interconnectivity of national criminal fingerprint identification systems. Via the Prüm mechanism, 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 (usually for investigative purposes). A person can be identified via the Prüm mechanism only if he or she has been fingerprinted in another Member State for criminal purposes. Hence, first time offenders cannot be identified.

Under this proposal, the **storage of fingerprints of unknown wanted persons**, will enable the fingerprints of an unknown perpetrator to be uploaded into SIS so that he or she can be identified as wanted if encountered in another Member State.

It should be noted that the use of this functionality presupposes that the Member States conducted a prior consultation of all available national and international sources but could not ascertain the identity of the person concerned.

Access to SIS by immigration authorities – institutional users: users such as Europol, Eurojust and the European Border and Coast Guard Agency shall have access to SIS and SIS data that they need. Appropriate safeguards are put in place to ensure that the data in the system is properly protected requiring that these bodies may only access the data they need to carry out their tasks.

Provisions are also laid down enabling immigration authorities to access SIS.

Suspension of certain alerts: the proposal provides for Member States to temporarily suspend alerts for arrest (in case of an ongoing police operation or investigation), making them visible only to SIRENE Bureaux but not to the officers on the ground for a limited period of time. This provision helps to avoid that a confidential police operation to arrest a highly wanted offender is jeopardised by a police officer who is not involved in the matter.

Provisions are laid down for alerts on missing persons. Changes to these allow **preventive alerts** to be issued in cases where **parental abduction** is deemed a high risk, and provide for more finely tuned categorisation of missing persons alerts. These changes will mean that, where there is a high risk of imminent parental abduction, border guards and law enforcement officials are made aware of the risk and will be able to examine more closely the circumstances where an at-risk child is travelling, taking the child into protective custody if required. This alert will require an appropriate decision of the judicial authorities granting custody only to one of the parents.

Inquiry check: the proposal introduces a new form of check, the 'inquiry check'. This is, in particular, intended to support measures to counter terrorism and serious crime. It allows authorities to stop and question the person concerned. It is more in-depth than the existing discreet check, but does not involve searching the person and does not amount to arresting him or her. It may, however, provide sufficient information to decide on further action to be taken.

An expanded list of objects is set out for which alerts can be issued, adding falsified documents, falsified banknotes, IT equipment, component parts of vehicles, etc.

Data protection and security: the proposal clarifies responsibility for preventing, reporting and responding to incidents that might affect the security or integrity of SIS infrastructure, SIS data or supplementary information. It provides that the Commission remains responsible for the contractual management of the SIS communication infrastructure, including tasks which will be transferred to eu-LISA.

Categories of data and data processing: in order to provide more and more precise information to the end-users to facilitate and accelerate the required action as well as to allow the better identification of the alert subject, this proposal expands the types of information that can be held about people for whom an alert has been issued.

The proposal also expands the list of personal data that may be entered and processed in SIS for the purpose of dealing with misused identities as more data facilitates the victim and the perpetrator of **misused identity**. The extension of this provision entails no risk as all these data can only be entered upon the consent of the victim of misused identity.

This will now also include:

- facial images;
- palm prints;
- details of identity documents;
- the victim's address;
- the names of the victim's father and mother.

The proposal sets out the rights for data subjects to access data, rectify inaccurate data and erase unlawfully stored data.

Lastly, provisions are laid down as regards statistics on the use of the SIS.

BUDGETARY IMPLICATIONS: the estimated cost is **EUR 64.3 million** from 2018-2020.