

Use of the Schengen Information System (SIS)

Responding to the need to better address migration and security challenges, including the fight against terrorism and serious crimes, the Commission presented in December 2016 a set of three proposals to develop the Schengen Information System (SIS) for additional uses, addressing potential gaps and introducing several essential changes to the current system on the types of alert entered. The European Parliament is due to vote during its October II plenary session on the texts agreed in trilogue negotiations.

Background

The strain on the EU's external borders in 2015 and 2016 has resulted in a surge in the number of citizens of third countries crossing them, both legally and illegally. At the same time, the current SIS system faces some important shortcomings. Currently, identity checks in the SIS are based on alphanumeric searches (name and date of birth). Fingerprints can only be used to verify and confirm the identity of a person who has already been identified by name. In addition, the SIS does not have common standards for inserting alerts or for interpreting and reporting information.

In addition, over the past few years an increasing number of terrorist-related cases and attacks in the EU and other security-related issues have raised concerns about the SIS's shortcomings in respect of interoperability between Member States' border and law-enforcement information systems.

The number of third-country nationals apprehended while staying illegally in the EU has increased since 2015, with a simultaneous drop in the number of effective returns. Hence, the widening gap between the number of those staying illegally and those effectively returned is seen as undermining the credibility of the EU's returns policy and as generating incentives for irregular migration.

European Commission proposal on the use of SIS in the field of border checks

The [proposed regulation](#) establishes uniform rules for securely accessing and processing SIS data. It would oblige Member States to enter an alert in the SIS when an entry ban has been issued to an illegally staying third-country national, specifying conditions for entering the alert after he/she has left national territory. It would also oblige authorities to use palm prints in a biometric identification search if ascertaining the identity of a person is impossible in any other way, while also providing for better use of fingerprints and facial images in the SIS in conjunction with the entry-exit system (EES), electronic gates and self-service kiosks at border crossing points. National visa authorities would be granted access to alerts on documents, when necessary, and the proposal allows more detailed information to be included in the alerts and expands the list of personal data to be collected for the purpose of dealing with misused identities.

European Commission proposal on the use of SIS in the field of police cooperation and judicial cooperation in criminal matters

The [proposed regulation](#) expands significantly the scope of personal data in SIS alerts (including DNA profiles), introduces an 'unknown wanted persons' alert category for persons connected to a crime, and allows preventive alerts for children at high risk of parental abduction. It would make terrorism-related SIS alerts by Member States mandatory, along with a mandatory fingerprint search if a person's identity cannot be established in other ways, and allows them to use a new 'inquiry check' to question persons more thoroughly. Member State authorities responsible for third-country nationals' stay and return, and immigration authorities, would get wider access to the SIS, along with Europol and the European Border and Coast Guard Agency when supporting Member States. The proposal also introduces additional safeguards to ensure that data collection is targeted, respects EU legislation and fundamental rights, and provides for specific alert-deletion rules and a uniform set of data access and processing rules.

European Commission proposal on the use of SIS for the return of illegally staying third-country nationals

The [proposed regulation](#) would require Member States to create SIS alerts about return decisions on illegally staying third-country nationals, persons who have been refused entry at a border crossing or are subject to return as a criminal law sanction or extradition procedures. Each Member State would also be obliged to designate an authority dealing with supplementary information on such alerts, and a procedure would be set up for cases of third-country nationals subject to an alert on return but apprehended in another Member State, with consultation rules in the case of conflicting return decisions. The proposed regulation would also offer SIS data access to national authorities issuing return decisions as well as to Europol and the European Border and Coast Guard Agency, and introduce safeguards for protection of personal data, obliging Member States to delete data immediately after receiving confirmation of return.

European Parliament position

On 6 November 2017, Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its three reports on the proposals ([border checks](#), [police cooperation and judicial cooperation in criminal matters](#), and [return of illegally staying third-country nationals](#)).

The LIBE committee welcomed the proposal on **border checks**, suggesting some amendments for improvement, aimed at ensuring better data security and stronger data protection safeguards linked to correct application of data protection provisions. It further opposed obliging Member States to have a national copy of SIS, due to risks to data protection and security, but supported duplicating all SIS elements to ensure the central system's availability to users and address security challenges. It also deplored the lack of criteria for inserting alerts for refusing entry to the Schengen area and, due to the Commission's earlier opposition to a review clause on criteria for alerts, proposed further harmonisation. On **police cooperation and judicial cooperation in criminal matters**, the committee welcomed the proposal and voted amendments such as on the need for strict analysis of highly sensitive biometric data collected before its registration in SIS, and clear guidelines for SIS data consultation and the necessity of personal data treatment safeguards for vulnerable third-country nationals, including missing children. It underlined that Member States should apply guidelines on common practice on taking fingerprints and facial images of irregular third-country nationals, and respect minors' dignity and physical integrity during these procedures. It further highlighted the need to guarantee, also to third-country nationals not present in the EU, effective remedies and appeals against decisions for entering an alert in SIS for the purposes of refusing entry and stay. On the **return of illegally staying third-country nationals**, the LIBE committee stressed the EU return policy's ineffectiveness and the proposed EU-wide information-sharing system's potential for effective monitoring of return decisions' implementation. Amendments include considering the best interests of family life and the non-refoulement principle in return measures, and suspending SIS return alerts in case of an appeal. It also suggested the option of not registering data on third-country nationals detained until removal, and immediate deletion of SIS return alerts' when third-country nationals are granted residence in another Member State. It also suggested ensuring that when a return decision is accompanied by an entry ban, the SIS alert would become effective after the subject's departure.

Following several trilogue meetings, on 12 June 2018 the European Parliament and Council reached an informal [agreement](#) on the package. The LIBE committee endorsed the provisional agreement on 20 June 2018. Parliament is due to vote on the final texts during the October II plenary session.

First-reading reports: Committee responsible: LIBE; return of illegally staying third-country nationals [2016/0407 \(COD\)](#), Rapporteur Jeroen Lenaers (EPP, the Netherlands); border checks [2016/0408\(COD\)](#), and police cooperation [2016/0409 \(COD\)](#); Rapporteur: Carlos Coelho (EPP, Portugal).

For further information see our 'EU Legislation in progress' briefings ([return of illegally staying third-country nationals](#); [border checks](#); [police cooperation and judicial cooperation in criminal matters](#)).

