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Third edition of a briefing originally drafted by Costica Dumbrava. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure. Please note this document has been designed for on-line viewing.

Print



Revision of the Schengen Information System for border checks

The Schengen Information System (SIS) is a large-scale information database that supports external border control and law-enforcement cooperation in the Schengen states by enabling competent authorities, such as police and border guards, to enter and consult alerts on wanted or missing persons and lost or stolen property. In view of responding more effectively to new migration and security challenges, in December 2016, the European Commission put forward a package of three legislative proposals aimed at revising the legal framework of the SIS.

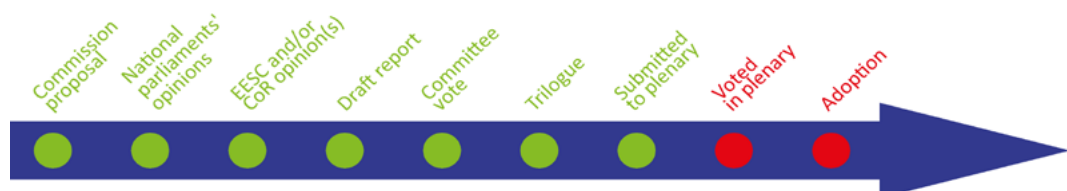
The proposal on the establishment, operation and use of the SIS in the field of border checks provides for more effective use of fingerprints and facial images in the SIS, and imposes an obligation on the Member States to record all entry bans issued to third-country nationals who have been found staying illegally in their territory.

Proposal for a regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006

COM(2016) 882, 21.12.2016, 2016/0408(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible:	Civil Liberties, Justice and Home Affairs (LIBE)
Rapporteur:	Carlos Coelho (EPP, Portugal)
Shadow rapporteurs:	Miriam Dalli (S&D, Malta), Jussi Halla-Aho (ECR, Finland), Gérard Deprez (ALDE, Belgium), Marie-Christine Vergiat (GUE/NGL, France), Eva Joly (Greens/EFA, France), Jörg Meuthen (EFDD, Germany), Lorenzo Fontana (ENF, Italy)

Next steps expected:	First-reading vote in plenary
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Introduction

The Schengen Information System (SIS) was established by the [Convention implementing the Schengen Agreement](#) in 1990, as a primary compensatory measure for the abolition of controls at the internal borders in the [Schengen area](#). SIS II – the current version of the system – was established in 2006 and became operational in 2013. Its legal basis is currently defined by [Regulation \(EC\) No 1987/2006](#) on alerts on persons, [Regulation \(EC\) No 1986/2006](#) on alerts on vehicles, and [Council Decision 2007/533/JHA](#) on alerts on missing and wanted persons and objects. In 2014, [Regulation \(EU\) No 515/2014](#) established, within the Internal Security Fund, the instrument for financial support for external borders and visa, in order to support a common visa policy and an integrated border management.

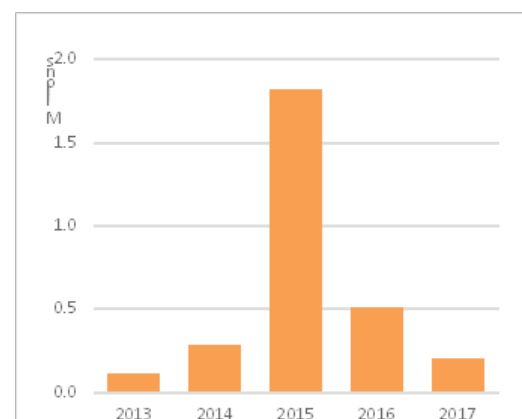
To respond more effectively to new migration and security challenges in recent years, the EU decided to implement a set of measures aimed at strengthening its external borders and enhancing cooperation and information exchange between Member States. One such measure was the proposal for a [European Border and Coast Guard](#) in 2015 and its [launch](#) in October 2016. Similarly, in December 2015, the European Commission proposed a [targeted modification](#) of the [Schengen Borders Code](#) to establish mandatory systematic checks for all travellers entering or exiting the EU. Within the revised [smart borders package](#) of February 2013, the Commission launched a proposal to establish an [EU entry/exit system](#) (EES) for registering data on the entry and exit of third-country nationals crossing the EU's external borders. The proposal for a [European travel information and authorisation system](#) (ETIAS), put forward in November 2016, is aimed at introducing a pre-screening mechanism requiring visa-exempt third-country nationals to obtain authorisation to travel to the Schengen area.

The [proposal](#) for the establishment, operation and use of the SIS in the field of border checks is part of a reform package that also includes a [proposal](#) on the use of the SIS in the field of police cooperation and judicial cooperation in criminal matters, and a [proposal](#) on the use of the SIS for the return of illegally staying third-country nationals.

Context

Recently, the EU's external borders have come under strain due to a dramatic surge in the number of people crossing them, either legally or illegally. The number of non-EU citizens travelling to the EU has increased from 49 million individuals (191 million border crossings) in 2014, to [50 million](#) individuals (200 million border crossings) in 2015. It has been estimated that the number of non-EU travellers will continue to increase and will reach [76 million](#) (302 million border crossings) by 2025. The number of [illegal crossings](#) detected at the EU's external borders reached 1.8 million in 2015, despite efforts to stop this flow, but decreased to 0.5 million in 2016 and ca 0.2 million in 2017 (see Figure 1). The unprecedented influx of irregular migrants exposed

Figure 1 – Detections of illegal crossings of EU external borders (in millions)



Data source: [Frontex](#), 2014, 2015, 2016, 2017.



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deficiencies in the EU border management system and led to the temporary [reintroduction of checks](#) along several internal borders.

Existing situation

Characteristics of the SIS

The SIS consists of three components: 1) a central system; 2) national systems in each Member State that communicate with the central system; and 3) a communication infrastructure. Member States can enter, update, delete and search data via their national systems and exchange information via the Supplementary Information Request at the National Entry bureaux ([Sirene](#)). Member States are responsible for setting up, operating and maintaining their national systems and national Sirene bureaux. The EU Agency for large-scale IT systems in the area of freedom, security and justice ([eu-LISA](#)) is responsible for the operational management of the central system and the communication infrastructure. The Commission is responsible for the general oversight and evaluation of the system and for the adoption of implementing measures. The European Data Protection Supervisor ([EDPS](#)) monitors the application of the data protection rules for the central system, while the [national data protection authorities](#) supervise the application of the data protection rules in their respective countries.

SIS alerts cover the following categories of persons and objects:

- > refusal of entry or stay to third-country nationals who are not entitled to enter into or stay in the Schengen area;
- > persons for whom a [European arrest warrant](#) or an extradition request (in the case of associated countries) has been issued;
- > missing persons, in view of placing them under protection, if necessary;
- > persons sought to assist with criminal judicial procedures;
- > persons and objects for discreet or specific checks, in view of prosecuting criminal offences and preventing threats to public or national security;
- > objects for seizure or use as evidence in criminal procedures.

SIS alerts consist of three types of data: identification data for the person or object that the alert is about; information about why the person or object is being sought; and instructions for concrete action to be taken by officers on the ground when the person or object is found. Access to data is given to national authorities responsible for border control, police, customs, visa and vehicle registration and, by extension, to national judicial authorities when this is necessary for the performance of their tasks. The European Police Office ([Europol](#)) and the European Union's Judicial Cooperation Unit ([Eurojust](#)) have limited access rights for performing certain types of queries.

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SIS checks are mandatory for the processing of short-stay visas, for border checks for third-country nationals and, on a non-systematic basis, for EU citizens and other persons enjoying the right of free movement. Every police check on the territory of a Schengen state should include a check in the SIS.

Any person has the right to access SIS data related to them, as provided for by the national law of the Member State concerned. Access may only be refused when this is indispensable for the performance of a lawful task related to an alert, and for protecting the rights and freedoms of other people. Individuals may bring actions before courts or other authorities competent under the national law to access, correct, delete or retrieve information, or to obtain compensation in connection with an alert relating to them.

Identified shortcomings

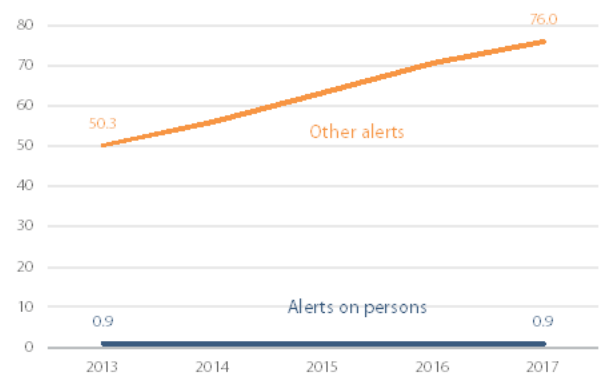
According to eu-LISA [reports](#), the number of alerts entered into the SIS increased from 50 million to 76 million, between December 2013 and December 2017 (see Figure 2). However, the distribution of alerts and the use of the SIS have been uneven among Member States. In 2017, three Member States generated more than half of the total number of alerts: Italy (19 million) Germany (10 million) and France (11 million). During the reference period, the great majority of alerts in the SIS were related to documents issued. The number of alerts on persons increased slightly, from 861 900 in 2013 to 896 791 in 2017. The majority of alerts on persons in the SIS concerned refusals of entry or stay. The number of searches in the SIS increased from 1.2 billion to 5.1 billion between April 2013 and December 2017. However, in 2017, four Member States conducted about half of the searches: France (991 million), Spain (584 million), the UK (541 million) and Germany (497 million).

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. The SIS legal framework allows the use of biometrics for verifying identity, provided that the necessary technology is available.

In a March 2016 [report](#), the European Counter-terrorism Coordinator (ECTC) pointed to problems related to the fact that the SIS does not have common standards for inserting alerts and for interpreting and reporting information: there are incompatibilities between the rules on issuing alerts that hinder the creation of alerts on different grounds for the same person; furthermore, alerts often lack relevant information, which makes it difficult to hold persons at the scene in case of a discreet check. Although Europol has the right to directly access and search data in the SIS for arrests, discreet and specific checks, and objects for seizure, so far it has carried out only a limited number of searches.

The recently adopted revised [Schengen Borders Code](#) makes it mandatory for Member States to carry out systematic checks against relevant databases for all persons entering or exiting the Schengen area.

Figure 2 – SIS alerts (in millions)



Data source: [eu-LISA](#), 2014, 2015, 2016 and 2017.

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Parliament's starting position

The European Parliament has consistently advocated more effective cooperation between Member States' law enforcement authorities, provided that appropriate safeguards on data protection and privacy are maintained. In its [resolution](#) of 11 February 2015 on anti-terrorism measures, the Parliament restated its call on the Member States to make optimal use of existing databases, and reiterated that 'all data collection and sharing, including by EU agencies such as Europol, should be compliant with EU and national law and based on a coherent data protection framework offering legally binding personal data protection standards at an EU level'. In its [resolution](#) of 6 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the Parliament stressed that the integrity of the Schengen area and the abolition of internal border controls are dependent on effective external border management and effective information exchange between Member States.

The Parliament has broadly supported the upgrading of the Frontex mandate and the establishment of the [European Border and Coast Guard Agency](#), which was given the additional task of assisting Member States in implementing return decisions. In its [resolution](#) of 6 July 2016 on the strategic priorities for the Commission's 2017 work programme, the Parliament called on the Commission to present proposals to improve and develop the existing information systems in order to address information gaps.

Council and European Council starting position

The **European Council** has repeatedly called for reinforcing the management of the EU's external borders in order to cope with migration pressure and security challenges. The European Council's [strategic guidelines for justice and home affairs](#) of June 2014 identified the need to improve the link between the EU's internal and external policies and called for the intensification of operational cooperation among Member States, 'while using the potential of information and communication technologies' innovations'. In its [conclusions](#) of 15 October 2015, the European Council called for devising 'technical solutions to reinforce the control of the EU's external borders to meet both migration and security objectives, without hampering the fluidity of movement'. In its [conclusions](#) of 17- 18 December 2015, the European Council urged to address the shortcomings at the external borders, notably by ensuring systematic security checks with relevant databases.

In its [conclusions](#) of 10 June 2015 on the renewed European Union internal security strategy 2015-2020, the **Council** called for 'reinforcing border security through systematic and coordinated checks against the relevant databases based on risk assessment', and for 'improving information exchange and accessibility, especially by ensuring the interoperability of different information systems'. On 6 June 2016, the Council Presidency put forward a [roadmap](#) to enhance information exchange and information management including interoperability solutions in the area of justice and home affairs. In its note [Information technology \(IT\) measures related to border management](#), presented on 3 October 2016, the Council Presidency maintained that a well-functioning information architecture constituted a prerequisite for effective border management.



Proposal

Preparation of the proposal

In its communication on a [European agenda on migration](#), the Commission stated that managing the borders more efficiently requires making better use of the opportunities provided by IT systems and technologies. In another communication, on a [European agenda on security](#), the Commission announced its intention to revise the SIS legal framework and to look into possibilities to assist Member States in implementing travel bans. In the [EU action plan on return](#), the Commission stated that the existing European information systems should be better used to enhance the effectiveness of the EU return system, and announced proposals to make it compulsory for Member States to introduce all entry bans and return decisions into the SIS. The Commission communication on [stronger and smarter information systems for borders and security](#) explored options on how existing and future information systems could enhance external border management and internal security, and discussed the possibility of creating an SIS alert on irregular migrants subject to return decisions.

In June 2016, the high-level expert group on information systems and interoperability ([HLEG](#)) was established to work on a joint strategy to make data management in the EU more effective and efficient. The HLEG's [interim report](#), presented in December 2016, emphasised the need to raise the standards of data quality and data usage, and identified priority options to be considered in promoting the interoperability of information systems.

The comprehensive [evaluation](#) of the SIS, finalised by the Commission in December 2016, found that 'SIS has been a genuine operational success' and that changes were needed in order to provide a better response to ongoing security and migration challenges. The report emphasised the need to harmonise national procedures in the field of managing refusals of entry and stay. In the preparation of the proposal, the Commission took into account the results of consultations with relevant stakeholders, such as the [SISVIS Committee](#), the [SISII supervision coordination group](#) and the Member States' [national data protection authorities](#). The Commission did not carry out an impact assessment but relied on the findings of four independent studies.

The changes the proposal would bring

End-to-end use of the SIS

The proposal introduces measures that address end-users' operational and technical needs. It adds new data fields for existing alerts, strengthens provisions regarding business continuity, and establishes a uniform set of rules and obligations for end-users (officers on the ground) on how to access and process SIS data in a secure way.



Preparation of the proposal

The changes the proposal would bring

New alert on refusal of entry and stay

Currently, Member States may enter alerts in the SIS in respect of persons subject to an entry ban based on a failure to comply with national migration legislation. The proposal introduces the obligation for Member States to enter an alert in the SIS where an entry ban has been issued to an illegally staying third-country national. It specifies the timing and conditions for entering such an alert after the third-country national has left the territory of the Member State in compliance with an obligation to return.

Extended use of biometrics

The proposal provides for more effective use of fingerprints and facial images in the SIS and introduces palm prints as a new element of biometric identification. It will be mandatory to carry out a fingerprint search if the identity of the person cannot be ascertained in any other way. The use of facial images for identification will ensure greater consistency between the SIS and the proposed EES, electronic gates and self-service kiosks (available at regular border crossing points).

Wider access for EU agencies

The proposal maintains the existing access rights of national authorities and extends access to the SIS for Europol, the European Border and Coast Guard agency and its teams, and the future ETIAS central unit. National visa authorities will also have access to alerts on documents, if this is necessary for carrying out their tasks.

Enhanced data protection and security

The proposal clarifies the responsibilities for preventing, reporting and responding to incidents that may affect the security and integrity of the SIS. It allows for 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. It provides for specific rules on the retention and deletion of alerts.

Budgetary implications

The estimated costs related to the proposal amount to €64.3 million for the 2018-2020 period – also covering the implementation of the changes provided for in the [proposal](#) on the use of the SIS in the field of police cooperation and judicial cooperation in criminal matters. Each Member State will receive a lump sum of €1.2 million to upgrade its national system. The budget will be secured through a re-programming of the remainder of the smart borders envelope of the Internal Security Fund.

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Views

Advisory committees

The advisory committees are not consulted mandatorily on this proposal.

National parliaments

The deadline for the subsidiarity check passed on 30 May 2017. Chambers of [national parliaments](#) from 18 Member States considered the proposals and a number submitted [comments](#) for political dialogue.

Stakeholders' views¹

In his [opinion](#) of May 2017, the **European Data Protection Supervisor** (EDPS) praised the proposal for the attention paid to data protection, but expressed concerns about the rules governing the collection and processing of sensitive data (such as DNA profiles), the broadening of institutional access to data and the extension of the data retention period for most of the alerts on persons.

In its [report](#) on fundamental rights and the interoperability of EU information systems, the **European Union Agency for Fundamental Rights** (FRA) welcomed the reinforced SIS rules on missing children or children subject to trafficking in human beings, and emphasised the need to ensure high quality and completeness of SIS alerts.

¹ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.



Legislative process

The legislative proposal on the Schengen Information System for border checks ([COM\(2016\) 882](#)) was published on 21 December 2016. It falls under the ordinary legislative procedure ([2016/0408\(COD\)](#)).

In the European Parliament, the LIBE committee (rapporteur: Carlos Coelho, EPP, Portugal) adopted its [report](#) on 10 November 2017, and the plenary subsequently confirmed the decision to begin interinstitutional negotiations. The report welcomed the proposal and put forward a series of amendments seeking to: remove the obligation of Member States to have a national copy of the database; enhance the availability and capacity of the central system; enable a greater role for Europol, increase data security and strengthen data protection rules.

In the Council, the proposal was discussed several times and a [mandate](#) to start interinstitutional negotiations was agreed on 8 November 2017. After a long series of trilogues, on 12 June 2018, EP and Council negotiators announced an [informal agreement](#) which obliges Member States to share details on a terrorist act with all other Member States, creates immediately applicable alerts on terrorism, and provides for the immediate exchange of information in cases involving children or terrorism. It provides for increased use of biometrics (fingerprints, palm prints, facial images and DNA) with Member States' law-enforcement authorities, along with stronger data protection rules and greater Europol access to SIS in terrorist cases. Member States are obliged to enter return decisions concerning irregular migrants into SIS, introduce a new alert system on the expiration of the voluntary leaving period and inform the Member State launching an alert that a non-EU national has left the EU. The LIBE committee voted to approve the provisional agreement on 20 June 2018, and a vote on the text at first reading is expected during the October II plenary.



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