

Revision of the Schengen Information System for law enforcement

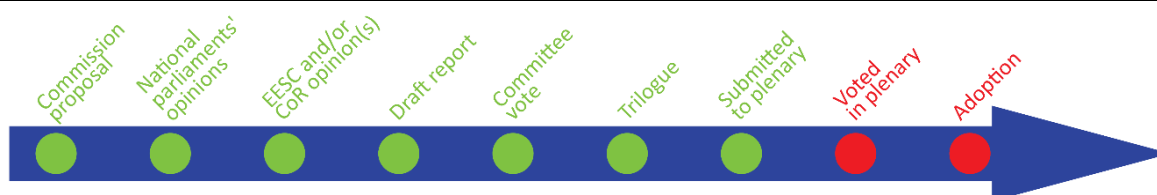
OVERVIEW

The Schengen Information System (SIS) is a large-scale information database that supports external border control and law enforcement cooperation in the Schengen states. It enables competent authorities, such as police and border guards, to enter and consult alerts on certain categories of wanted or missing persons and lost or stolen property.

In December 2016, the European Commission adopted a package of proposals aimed at responding more effectively to new migration and security challenges. One of these proposals is focused on improving and extending the use of the SIS in the field of police cooperation and judicial cooperation in criminal matters. It clarifies procedures, creates new alerts and checks, extends the use of biometrics, and enlarges access for law enforcement authorities.

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 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

<i>Committee responsible:</i>	Civil Liberties, Justice and Home Affairs (LIBE)	COM(2016) 883 21.12.2016
<i>Rapporteur:</i>	Carlos Coelho (EPP, Portugal)	2016/0409(COD)
<i>Shadow rapporteurs:</i>	Miriam Dalli (S&D, Malta), Jussi Halla-Aho (ECR, Finland), Gérard Deprez (ALDE, Belgium), Marie-Christine Vergiat (GUE/NGL, France), Eva Joy (Greens/EFA, France), Jörg Meuthen (EFDD, Germany), Lorenzo Fontana (ENF, Italy)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	First-reading vote in plenary	



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 SIS – 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.

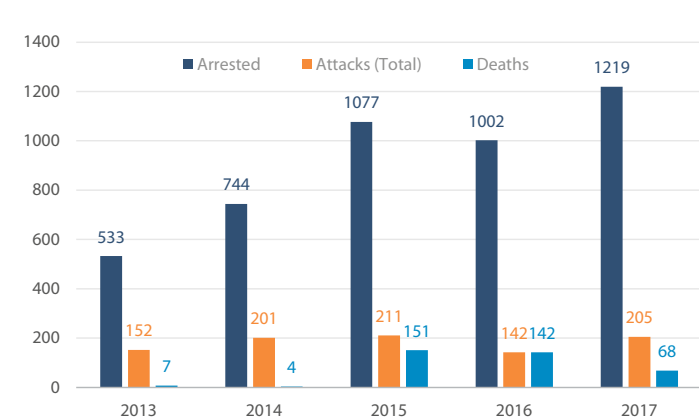
To respond more effectively to new migration and security challenges in recent years, the European Union (EU) has decided to implement a set of measures aimed at strengthening its external borders, and enhancing cooperation and information exchange between Member States. One such measure was the proposal for a [European Border and Coast Guard Agency](#) in 2015 which resulted in the [guard](#) being launched 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, and put forward a [proposal for a directive](#) on combating terrorism. In January 2016, the European Commission launched a [proposal for a directive](#) on the European criminal records information system. In May 2016, the European Commission proposed a revision of the [Eurodac Regulation](#) to allow the Eurodac database to be used for identifying illegally staying third-country nationals who do not claim asylum in the EU. The proposal for a [European travel information and authorisation system](#), put forward in November 2016, is aimed at introducing a mechanism requiring visa-exempt third-country nationals to obtain authorisation to travel to the Schengen area. In December 2016, the European Commission launched a proposal to establish an [EU entry/exit system](#) for recording data on the entry and exit of third-country nationals crossing the EU's external borders.

The [proposal](#) on the revision of the SIS in the field of police cooperation and judicial cooperation is part of a legislative package along with a [proposal](#) to revise the SIS in the field of border checks and a [proposal](#) to use the SIS for the return of illegally staying third-country nationals.

Context

In 2015, [Frontex](#) recorded 1.8 million detections of irregular crossings of the EU's external borders (about 1 million irregular migrants). Despite EU efforts to stop the flow of irregular migrants, about [half a million](#) detections are estimated to have been made in 2016. The number of terrorist attacks in the EU – foiled, failed and completed attacks – increased from 152 in 2013 to 205 in 2017, while the number of persons arrested on terrorism-related charges increased significantly in the same period (see Figure 1). At least 151 persons were killed in terrorist attacks in 2015 and the number of deaths caused by such attacks remained [high](#) in 2017. Although the

Figure 1– Terrorism-related arrests, attacks and deaths



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

majority of perpetrators were EU citizens, many had links with terrorist organisations from outside the EU, and some entered the EU irregularly by exploiting weaknesses of the EU external borders. According to [Europol](#), the perpetrators of the [Charlie Hebdo attacks](#) in Paris had links to Al-Qaeda in the Arabian Peninsula (AQAP) in Yemen, while a number of the suspects involved in the [November 2015 Paris attacks](#) had previously travelled to and been trained in Syria. The phenomenon of [foreign fighters](#) (EU citizens travelling to conflict zones abroad to engage in fighting) reveals another dimension of the complex relationship between migration and cross-border crime. By 2015, about 5 000 EU citizens had [travelled abroad](#) to engage in terrorist activities. The reverses of the self-proclaimed 'Islamic State' in Iraq and Syria (ISIL/Da'esh) have raised serious concerns about the [return](#) to Europe of many of these foreign fighters.

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 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 an 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. 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 the 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 total number of alerts inserted in the SIS increased between 2013 and 2017 (see Figure 2). These alerts were distributed unevenly across Member States. In 2017, three countries had more than half of the total number of alerts: Italy (19.9 million), Germany (10 million) and France (11 million). Despite an increase in the total number of SIS alerts between 2013 and 2017, the number of alerts on persons remained more or less stable. The number of searches in the SIS increased from 1.2 billion to 5.1 billion between April 2013 and December 2017. Member States

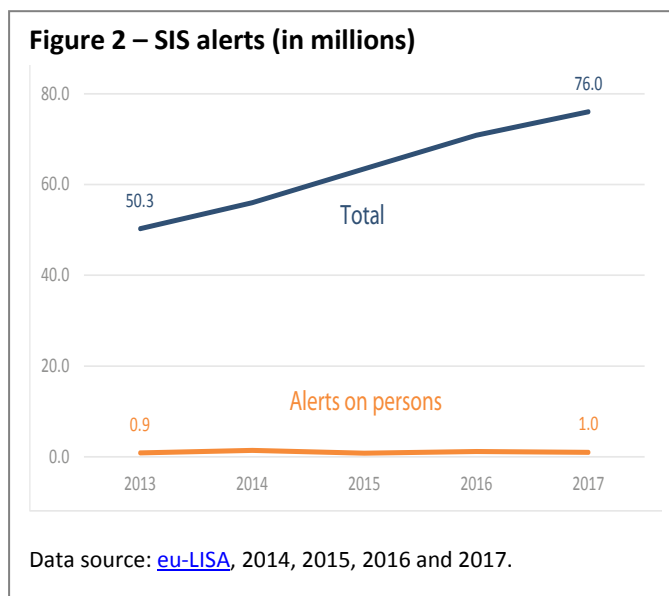
do not use the SIS equally: in 2017, four Member States conducted about half of the searches: France (991 million), Spain (584 million), the UK (541 million) and Germany (497 million).

Currently, identity checks in the SIS are based on alphanumeric searches (name and date of birth). Fingerprints can be used only in order to verify and confirm the identity of a person who has already been identified by name. The SIS legal framework allows the use of facial images and fingerprints in order to verify identity, provided that the necessary technology is available. In 2016, the European Commission asked eu-LISA to start working on implementing the fingerprint functionality in the SIS. In its March 2016 [report](#), the European Counter-terrorism Coordinator ([ECTC](#)) pointed to problems related to the absence of common standards for inserting alerts, interpreting and reporting information in SIS. With regard to using SIS to combat terrorism, the ECTC noted that Member States continue to apply different standards and did not enter systematically in SIS identified foreign terrorist fighters.

The different European information systems in the areas of borders and law enforcement are currently not interoperable, which means that relevant information cannot be effectively linked or shared. The ECTC [reported](#) a discrepancy between the numbers of SIS alerts on national security grounds and the number of entries on foreign terrorist fighters in the Europol's European information system ([EIS](#)). However, all SIS alerts related to terrorism should, by default, also be recorded in the EIS.

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



17 December 2014 on renewing the EU internal security strategy, the Parliament called on the Member States to make better use of valuable existing instruments, including through 'more expeditious and efficient sharing of relevant data and information'. 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 July 2016 on the strategic priorities for the Commission work programme 2017, the Parliament called on the Commission to present proposals to improve and develop existing information systems, address information gaps and move towards interoperability.

Council and European Council starting positions

The **European Council** has repeatedly called to reinforce 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.

The **Council** also called for 'reinforc[ing] 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' in its [conclusions](#) of 10 June 2015 on the renewed European Union internal security strategy 2015-2020. 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 a [note](#) on IT measures related to border management, presented on 3 October 2016, the Council Presidency maintained that well-functioning information architecture constituted a prerequisite for effective border management.

Preparation of the proposal

In April 2016, the European Commission adopted a [communication on stronger and smarter information systems for borders and security](#), in which it identified a number of key shortcomings in the existing information systems and explored options on how existing and future information systems could enhance external border management and internal security. With regard to the SIS, the communication outlined several possible developments: the creation of SIS alerts on irregular migrants subject to return decisions; the use of facial images for biometric identification; the automatised transmission of information on a hit following a check; and the creation of a new alert category on 'wanted unknown persons'. 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 information systems interoperability.

The comprehensive [evaluation](#) of the SIS II, finalised by the Commission in December 2016, found that, despite the 'obvious success' of the system, changes were needed in order to provide a better response to ongoing security and migration challenges. The report emphasised the need to reinforce the use of the SIS for counter-terrorism purposes, to clarify the situation of children who are under threat of parental abduction, to extend the use of biometric identifiers and to enhance security standards, data quality and the transparency of SIS. In the preparation of the proposal, the Commission took into account the results of consultations with relevant stakeholders, such as the SISVIS committee, the [SIS II 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 three independent studies.

The changes the proposal would bring

New alerts and checks

The proposal introduces a new alert category of 'unknown wanted persons' who are connected to a crime, for example persons whose fingerprints are found on a weapon used in a crime. The scope of the existing alert on missing persons is extended to allow national authorities to issue preventive alerts for children who are at high risk of parental abduction. The proposal establishes the obligation for Member States to create SIS alerts for cases related to terrorist offences. A new 'inquiry check' will allow authorities to question a person more thoroughly than in the case of a discreet check, in order to gather more information about the person and to decide on whether further action should be taken. This new type of check is intended to support measures to counter terrorism and serious crime.

Extended use of biometrics

The proposal provides for more effective use of existing biometrics: facial images, fingerprints, palm prints and DNA profiles. It makes it mandatory to carry out a fingerprint search if the identity of the person cannot be ascertained in other ways. The system will allow for the storage of the fingerprints of 'unknown wanted persons' and, if necessary, to use DNA profiles when dealing with missing persons who need to be placed under protection.

Wider access for law enforcement authorities

The proposal grants access to the SIS to national authorities responsible for examining conditions, and taking decisions, relating to the entry, stay and return of third-country nationals. This will allow immigration authorities to consult the SIS in relation to irregular migrants who have not been checked at a regular border control. Europol will receive full access rights to SIS, including to alerts on missing persons. The European Border and Coast Guard Agency and its teams will be allowed to access SIS when carrying out operations in support of Member States.

Enhanced data protection and security

The proposal makes possible to enter more detailed information in alerts, such as whether a person is involved in terrorism-related activities, details of a person's identity or travel documents, and other person-related remarks. It expands the list of personal data to be entered and processed in SIS for the purpose of dealing with misused identities. It provides for the recording of the details of data subjects' personal

identification documents and makes it possible to categorise missing children according to the circumstances of their disappearance. The proposal introduces additional safeguards to ensure that the collection and processing of, and access to, data is limited to what is strictly necessary, in full respect of EU legislation and fundamental rights. It provides for specific alert-deletion rules and reduces the retention period for object alerts. It establishes a uniform set of rules and obligations for end-users on how to access and process SIS data in a secure way. eu-LISA will provide regular statistics on the SIS.

Budgetary implications

The estimated costs related to the proposal amount to €64.3 million for the 2018-2020 period, which should also cover implementing the changes provided for in the [proposal](#) on the use of SIS in the field of border checks. Each Member State will receive a lump sum of €1.2 million to upgrade its national system. The budget would be secured through a re-programming of the smart borders envelope of the Internal Security Fund.

Advisory committees

The advisory committees are not mandatorily consulted 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' views

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'.

In his [opinion](#) of May 2017, the **European Data Protection Supervisor** (EDPS) praised the proposal for the attention paid to data protection, but considered that it should be 'complemented with the impact assessment of the right to privacy and the right to data protection'. The EDPS 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. The FRA [project](#) on biometrics in large-scale EU databases further analysed the fundamental rights implications of collecting, storing and using biometric and other data in EU IT systems.

Legislative process

The legislative proposal ([COM\(2016\) 883](#)) was presented on 21 December 2016, and falls under the ordinary legislative procedure ([2016/0409\(COD\)](#)).

In the European Parliament, the LIBE committee (rapporteur: Carlos Coelho, EPP, Portugal) adopted its [final report](#) on 10 November 2017, with the plenary subsequently confirming 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; and 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. The Council opposed the obligation for Member States to establish national copies of the SIS. It suggested the possibility for two or more Member States to establish a shared copy of a SIS national system. It also sought to extend the scope of the new alert on missing persons to cover 'vulnerable persons who need to be prevented from travelling for their own protection'. The Council also expanded the scope of SIS searches related to prevention, detection, and investigation or prosecution of criminal offences, to include 'the safeguarding against and the prevention of threats to public or national security'. Other amendments concerned provisions on checks, data retention and rules of access for national authorities and EU agencies.

After a series of trilogues, on 12 June 2018, the EP and the Council negotiators announced an [informal agreement](#) which requires Member States to share details on a terrorist act with all other Member States, to create immediately applicable alerts on terrorism, and immediately exchange information in cases of missing children or terrorist suspects. It provides for increased use of biometrics (fingerprints, palm prints, facial images and DNA) by 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 on irregular migrants into SIS, introduce a new alert in the system on the expiry of the voluntary leaving period and inform the Member State which launched the alert that a non-EU national has left the EU. The LIBE committee voted to endorse the provisional agreement on 20 June 2018, and a vote in plenary is expected during the October II session.

EP supporting analysis

Bakowski, P., Puccio, L., [Foreign fighters – Member State responses and EU action](#), EPRS, March 2016.

Dumbrava, C., [Revision of the Schengen Information System for border checks](#), EPRS, February 2018.

Dumbrava, C., [Use of the Schengen Information System for the return of illegally staying third-country nationals](#), EPRS, February 2018.

Dumbrava, C., [Interoperability of European information systems for border management and security](#), June 2017.

Gatto, A., Carmona, J., [European Border and Coast Guard System](#), EPRS, October 2016.

van Ballegooij, W., [The cost of non-Schengen: Civil liberties, justice and home affairs aspects](#), EPRS, September 2016.

Voronova, S., [Combating terrorism](#), EPRS, European Parliament, September 2017.

Other sources

[Schengen Information System \(SIS\) in the field of police cooperation and judicial cooperation in criminal matters](#), European Parliament, Legislative Observatory (OEIL).

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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.