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From:	General Secretariat of the Council
On:	19 October 2023
To:	Delegations
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Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of **Portugal** on the application of the Schengen *acquis* relating to the **Schengen Information System**

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2022 evaluation of Portugal on the application of the Schengen acquis relating to the Schengen Information System, adopted by the Council at its meeting held on 19 October 2023.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2022 evaluation of Portugal on the application of the Schengen *acquis* relating to the Schengen Information System

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen[1], and in particular Article 15(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) A Schengen evaluation in relation to the Schengen Information System was carried out in respect of Portugal in December 2022. Following the evaluation, a report containing the findings and assessments, listing best practices and deficiencies identified during the evaluation, was adopted by Commission Implementing Decision C(2023) 5600.

(2) Best practices were identified during the visit, in particular in the systematic check of all incoming customs declarations against the SIS centrally and via automated processes and, at the airports, the very efficient post-hit reporting and communication from the first-line border control to the second line.

[1] OJ L 295, 6.11.2013, p. 27.

(3) Recommendations should be made on remedial actions to be taken by Portugal in order to address deficiencies identified as part of the evaluation. In light of the importance of complying with the Schengen *acquis*, priority should be given to implementing recommendations 1, 4, 9, 11, 16, 18, 20, 22, 25, 26 and 29.

(4) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.

(5) Council Regulation (EU) 2022/922[1] applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with Regulation (EU) 2022/922.

(6) Within two months of the adoption of this Decision, Portugal should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Portugal should provide that action plan to the Commission and the Council.

[1] Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

RECOMMENDS that:

Portugal should :

1. draw up a written contract or agreement with RNSI (National Network of Internal Security) regarding the fulfilment of security and availability requirements of the SIS, in compliance with Article 10 of Regulation (EU) 2018/1861[1] and Article 10 of Regulation (EU) 2018/1862[2];

2. establish an adequate access control to the servers and network at the backup location for the datacentre;

3. establish a written procedure, including the execution of application tests, for the switchover to the backup site when the main site is unavailable;

4. implement the possibility of searching fingerprint data in the SIS Automated Fingerprint Identification System (AFIS) for all authorities concerned, in accordance with Article 33(2) of Regulation (EU) 2018/1861 and Article 43(2) of Regulation (EU) 2018/1862;

5. ensure that all the operators of the SIRENE Office have access to all the relevant national databases;

6. establish a procedure to follow up on the data quality reports from eu-LISA made available to the SIRENE Office via the SIS II application;

7. enhance the automation in the computerised management system (workflow system) at the SIRENE Office for the management of the daily workflow;

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[1] Regulation (EU) 2018/1861 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 border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

[2] 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 (OJ L 312, 7.12.2018, p. 56).

8. enhance the automation in the workflow related to the creation and deletion of alerts for the management of the daily work;

9. ensure that incoming A forms are checked against all available sources to locate the person and not only against the national systems when there is a relation to Portugal, in accordance with Article 35(1) of the SIRENE Manual - Police[1], and therefore with Article 8(1) of Regulation (EU) 2018/1862;

10. establish clear timeframes within which the SIRENE Office must ensure that processes such as the insertion or deletion of alerts are completed;

11. establish national procedure that requires end-users to attach photographs and fingerprints to the alerts when they are available, in accordance with Article 22(1) read in conjunction with Article 20(2)(w) and (x) of Regulation (EU) 2018/1861, and with Article 22(1) read in conjunction with Article 20(3)(w) and (y) of Regulation (EU) 2018/1862;

12. ensure that the functionality for linking alerts in the SIS is available to all the end-users;

13. establish an automatic procedure to check the compatibility of the alerts upon their creation;

14. provide the end-users with more training to ensure that the process for timely update and deletion of alerts issued by Portugal on persons sought to assist with a judicial procedure is followed;

[1] Commission Implementing Decision of 18 November 2021 laying down detailed rules for the tasks of the SIRENE Bureaux and the exchange of supplementary information regarding alerts in the Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters ('SIRENE Manual - Police').

15. further develop the SPO application in order to display the SIRENE contact details in case of a hit, to clearly display the immediate reporting action, to ensure that the 'any name' search possibility is available in the general search option and that the end-users are able to retrieve alerts;

16. ensure that the SPO application display the misused identity extension, in accordance with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1861, and with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1862;

17. further develop the SIIOP-P application in order to display all the warning markers in the first screen returning the list of results and the date of birth of the persons in the hit list, and to clearly display the immediate reporting action;

18. ensure that the SIIOP-P application display the identity extensions, the SIRENE contact details in the event of a hit, European arrest warrants, links, and information on cloned vehicles, and that it is possible to perform searches on any of the newer categories of SIS alerts such as firearms, industrial equipment, boats, boat engines and containers, on vehicles with the vehicle identification number (VIN), and on persons with both birthdate and name or with two first names, in accordance with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1861, and with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1862;

19. further develop the SEI application in order to reduce the response time for queries, display the SIRENE contact details to the end-users in all cases of hits, make possible searches performed with both name and date of birth, 'multicategory', 'any name' and 'any number' searches functionalities, display photographs in a more user-friendly way, and in order for the end-users to access links directly via hyperlink;

20. ensure that in the SEI application searches in the SIS are carried out by default, the SIS hit is clearly visible in case of a simultaneous hit in the SIS and in the national database, the warning markers are visible also in the second screen when the alert is opened, it is possible to query industrial equipment, boats and boat engines, it is possible to query vehicles also with the number plate, alert data on firearms and documents are available to the end-users, and the type of offence and the misused identity extensions are displayed, in accordance with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1861, and with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1862;

21. further develop the SIS II application in order to display photographs in the correct aspect ratio and to make available to the end-users 'multicategory', 'any number' and 'partial' search functionalities on objects;

22. ensure that in the SIS II application all of the alert data are displayed, in accordance with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1861, and with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1862;

23. further develop the applications PASSE and SIISEF in order to make available for the end-users the searches for persons with many first and last names, and to display warning markers on the first page together with search results in all installed versions of PASSE;

24. prevent the information from the screens of the border guards at Lisbon Airport from being visible to passengers;

25. ensure that in the applications PASSE and SIISEF pictures and links can be opened, the information and picture of the victim of a misused identity are displayed, the new transliteration rules for searches are implemented, 'any name' search is implemented, and, in the application SIISEF, the type of offence is displayed, in accordance with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1861, and with Article 9(1) and (3) read in conjunction with Article 3(1) of Regulation (EU) 2018/1862;

26. ensure that the SIISEF application display the full list of 'actions to be taken' for Article 36 alerts (discreet and specific checks), in accordance with the requirements of Annex I, Part A of Commission Implementing Decision of 15 January 2021[1], and therefore with Article 8(1) of Regulation (EU) 2018/1862;

27. further develop the application SEF Mobile in order for the end-users to be always fully aware of possible connection issues when performing queries against the SIS in order to avoid false-negative results, and to be displayed links, the category of identity, photographs, the existence of European Arrest Warrants and misused identity extensions;

28. establish a procedure for the Maritime Police to systematically check the SIS;

29. ensure that the vehicle registration authority consults the SIS, in accordance with Article 45 of Regulation (EU) 2018/1862;

30. connect the Automated Number Plate Recognition system (ANPR) to the SIS;

31. provide the end-users with more training on SIS procedures.

Done at Brussels,

For the Council
The President

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[1] Commission Implementing Decision laying down the technical rules necessary for entering, updating, deleting and searching data in the Schengen Information System (SIS) and other implementing measures in the field of police cooperation and judicial cooperation in criminal matter of 15 January 2021 (C(2021) 92 final).