Council of the European Union

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NOTE

From:	General Secretariat of the Council
To:	National Parliaments
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of the Netherlands on the application of the Schengen acquis in the field of the Schengen Information System

In accordance with Article 15(3) of Council Regulation 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, the Council hereby transmits to national Parliaments the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of the Netherlands on the application of the Schengen acquis in the field of the Schengen Information System[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 14999/21

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2021 evaluation of the Netherlands on the application of the Schengen acquis in the field of 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 the field of the Schengen Information System (SIS) was carried out in respect of the Netherlands in April 2021. Following the evaluation, a report covering the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2021) 5640.

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

(2) The on-site team considered the active monitoring of 'atypical behaviour' from the end-users performing queries in the Netherlands, the possibility of re-using the information from the last search in the SIS-query applications used in the mobile devices and the automatic checks of the Advance Passenger Information data against the SIS-data as well as the procedures related to the management of this information at the Port of Rotterdam and at the Targeting Centre Borders of the Royal Netherlands Marechaussee, as best practices.

(3) Recommendations should be made on remedial action to be taken by the Netherlands in order to address deficiencies identified as part of evaluation. In light of the importance of complying with the Schengen acquis, in particular in line with the rule of equivalence of results, priority should be given to implementing recommendation number 9.

(4) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States. Within three months of its adoption, the Netherlands should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council.

RECOMMENDS:

that the Netherlands should

National Schengen Information System (N.SIS)

1. increase the frequency of synchronisation of the technical copy of the Schengen Information System with the national copy to minimise the risk of obtaining false positive or false negative matches;

SIRENE Bureau[1]

2. develop a more automated and integrated case-management system, which includes a clear procedure for the data quality check after inserting an alert, ensuring a higher level of internal control as regards the follow-up of cases;

Creation of links

3. ensure that the authorities having the right to link SIS-alerts can link SIS-alerts that have been created by other authorities, and that the Immigration and Naturalisation Service can link its 'person' alerts to its 'document' SIS-alerts;

National applications

4. enhance the police integrated search application to ensure that the first screen prioritises SIS-alerts over the rest in the way they are displayed and that in the list of potential hits the ranking rule of the alerts is respected;

5. ensure that the links in the police integrated search application are clearly visible on the screen, easily recognisable for the end-users and, when the alert contains several of them, that they are easily distinguishable from one another;

6. enhance the way in which the information is displayed in the police integrated search application by highlighting 'immediate action' for alerts on discreet or specific check by directly displaying the 'action to be taken' in the alert, making clear distinction on who is the victim and who is the perpetrator in case of alerts including the misused identity extension, making the information on 'suspicious of clone' more self-explanatory for the end-users, and by displaying warning markers of alerts on objects in the first screen and highlighting them in the second screen;

[1] SIRENE stands for Supplementary Information Request at the National Entries.

7. implement ‘partial’ queries and ensure integrated queries of persons and documents are selected by default in the police integrated search application;

8. ensure that warnings for alerts on objects are displayed in the second screen and warning markers for persons are highlighted in the mobile application used at the borders;

9. ensure that the border control application is able to retrieve all SIS-alerts in accordance with Article 9(2) of Regulation (EC) 1987/2006 and of Council Decision 2007/533/JHA concerning the equivalence of results;

Training

10. reinforce the training of the police officers on the notion and use of links, ‘misused identity’, ‘immediate reporting’, on how to interpret the alternative measure in case of a flagged alert and on the use and limitations of the ‘KENO key’ search and the alternative search possibilities. Also, reinforce the training of end-users in the Immigration and Naturalisation Service on the request for terrorism offences in the display of the alerts on persons for refusal of entry or stay.

Done at Brussels,

For the Council
The President