



Council of the  
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LIMITE

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**NOTE**

From:	Presidency
To:	Delegations
No. prev. doc.:	13037/20; 5153/2/23 REV 2
Subject:	Revised coordinated approach – Evaluating information on third-country nationals suspected to be jihadist terrorists received from third parties or a Member State for possible processing in the Schengen Information System

**DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (31.10.2023)**

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### **RECENT LEGISLATIVE CHANGES**

7. The recent legislative changes referred to below that have, or will have, a potential impact on the coordinated approach need to be recognised and taken into account when fully applicable. It remains up to the Member States to decide on which alert to issue. In this regard, and with reference to what is described in step 4 of Annex 1, Member States are encouraged to primarily issue entry bans and exclusion orders or issue European Arrest Warrants.

8. The co-legislators decided to amend both the Europol Regulation<sup>1</sup>, which entered into force and became applicable on 28 June 2022, and the SIS Police Regulation<sup>2</sup> as regards the entry of information alerts into the SIS on third-country nationals in the interest of the Union. Although the amendment to the SIS Police Regulation entered into force in August 2022, its actual implementation will take longer due to the need to establish the legal, technical and procedural prerequisites for the new alert category. In particular, there is a need to adopt amendments to the relevant Commission implementing decisions governing the SIS, to make technical changes in the Central SIS and in the national applications of Member States, and to have new procedures that should be defined by Europol.
9. Europol's role in supporting Member States with processing data it has received from third countries or international organisations on persons involved in terrorism has been described in Article 4, points (t) and (v) of the amended Europol Regulation, according to which Europol can propose the possible entry by Member States, at their discretion and subject to their verification and analysis of that data, of information alerts on third-country nationals in the interest of the Union ("information alerts") in the SIS in accordance with Regulation (EU) 2018/1862. The modalities for Member States' cooperation on the processing of such data and the entry of alerts in SIS, in particular as regards the fight against terrorism, should be subject to continuous coordination between the Member States.

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<sup>1</sup> Regulation (EU) 2022/991 of 8 June 2022 amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation (OJ L 169, 27.6.2022, p. 1).

<sup>2</sup> Regulation (EU) 2022/1190 amending Regulation (EU) 2018/1862 as regards the entry of information alerts into the SIS on third-country nationals in the interest of the Union (OJ L185, 12.7.2022, p. 1).

10. Article 37a of the amended SIS Police Regulation sets out the objectives and conditions for entering alerts on third-country nationals in the interest of the Union ('information alerts') into the SIS, as referred to in Article 4(1), point (t), of Regulation (EU) 2016/794, further to a proposal by Europol to enter such an alert on the basis of information it has received from the authorities of third countries or international organisations. According to the Regulation, Europol will propose that Member States enter information alerts into the SIS where there is a factual indication that a person intends to commit, or is committing any of the offences mentioned, or where an overall assessment of a person, in particular on the basis of past criminal offences, gives reason to believe that that person may commit a terrorist offence. In addition, Europol must ensure that the information received is reliable and accurate and that no other alert on the person concerned already exists in SIS<sup>3</sup>. However, as stated above, it remains up to the Member States to decide on which alert is the most appropriate in any given case.
11. In addition to the recently adopted legislation, the management of the EU's external borders will be modernised through new and upgraded large-scale EU information systems, and notably by the deployment of the EES (Entry-Exit System) expected in 2023, with reinforced support from Frontex and eu-LISA.

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<sup>3</sup> As regards the proposed process, it remains up to Member States to decide which alert is the most appropriate one on a case-by-case basis. However, Member States are encouraged to primarily issue decisions to refuse entry and stay or to issue European Arrest Warrants, if appropriate.

