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From:	General Secretariat of the Council
On:	11 June 2020
To:	Delegations
No. prev. doc.:	8004/20
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of France on the application of the Schengen acquis in the field of the Schengen Information System

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2019 evaluation of France on the application of the Schengen acquis in the field of the Schengen Information System, adopted by written procedure on 11 June 2020.

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 2019 evaluation of France on the application of the Schengen acquis in the field of 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 Schengen¹, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision is to recommend to France remedial actions to address deficiencies identified during the Schengen evaluation in the field of the Schengen Information System (SIS) carried out in 2019. 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(2020) 45.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) The onsite team considered the extensive roll-out of the ‘NEO’ mobile devices throughout the territory allowing the gendarmerie end-users, and in some areas the national police end-users, to perform integrated queries in national databases and SIS, the local IT support team available at Lyon Saint-Exupery International Airport and the scale of improvements achieved by the N.SIS Office since the last evaluation as best practices.
- (3) In light of the importance of complying with the Schengen acquis, in particular the obligation to display all information included in the alerts, to align search requirements in national systems and SIS in order to retrieve the alerts, to ascertain whether an alert constitutes a multiple or incompatible entry, to issue alerts for refusal of entry and stay only on third-country nationals, to add all available information to the alerts, to ensure that the visa issuing authorities and the authorities responsible for issuing residence permits have access to alerts on lost, stolen and invalidated documents and to ensure the synchronisation between national copy and the technical copies, priority should be given to implementing recommendations 1 to 13 and 22 to 25.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, France 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 France should

1. display the ‘action to be taken’ of alerts on discreet and specific checks in full in the FPR2 application (used by police and gendarmerie), the COVADIS/CTF and the CTF2 applications (used for queries at the border), as required in accordance with section 2.1.5. of Appendix II to the SIRENE Manual²;
2. display the document details of the victim of the misused identity cases in the FPR2 application (used by police and gendarmerie), as required in accordance with Article 9(2) read in conjunction with Article 3(a) and 3(c) of Regulation (EC) 1987/2006 and Article 9(2) read in conjunction with Article 3(1)(a) and 3(1)(c) of Council Decision 2007/533/JHA;
3. modify the algorithm used for queries at the N.SIS level, in order to retrieve an alert via the FPR2 application (used by police and gendarmerie) when the search is performed using the name at birth, as required in accordance with Article 9(2) read in conjunction with Article 3(a) and 3(c) of Regulation (EC) 1987/2006 and Article 9(2) read in conjunction with Article 3(1)(a) and 3(1)(c) of Council Decision 2007/533/JHA;
4. introduce a procedure to ascertain when attempting to create an alert in SIS whether the alert constitutes a multiple or incompatible entry in accordance with section 2.2 of the SIRENE Manual;

² Commission Implementing Decision (EU) 2017/1528 of 31 August 2017 replacing the Annex to Implementing Decision 2013/115/EU on the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) (notified under document C(2017) 5893) (OJ L 231, 07.09.2017, p.6).

5. ensure that alerts for refusal of entry and stay are issued only on third-country nationals in accordance with the provisions laid down in Regulation (EC) 1987/2006 and insert the nationality of those persons to SIS alerts as required by Article 23 read in conjunction with Article 20 of Regulation (EC) 1987/2006, when it is available to the authorities; also identify those cases where SIS alerts for refusal of entry and stay on EU citizens were issued and ensure the deletion of such alerts as soon as possible;
6. ensure that it is possible to add type of offence ‘terrorism related activity’ to all the alerts, not only the alerts which are ‘judicial cases’, as required in accordance with Article 20 of Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA;
7. ensure that the visa issuing authorities have access to alerts on documents in accordance with Article 27(3) of Regulation (EC) 1987/2006;
8. ensure that the authorities responsible for issuing residence permits have access to alerts on documents in accordance with Article 27(3) of Regulation (EC) 1987/2006;
9. further develop the ‘AGDREF’ application (used by authorities issuing residence permits), namely to enable it to display photographs, links, ‘type of offence’ in accordance with Article 9(2) read in conjunction with Article 3(a) and 3(c) of Regulation (EC) 1987/2006 and Article 9(2) read in conjunction with Article 3(1)(a) and 3(1)(c) of Council Decision 2007/533/JHA;
10. further develop the NEO mobile application (mobile phone and tablet), namely to enable it to display pictures attached to SIS alert and links in accordance with Article 9(2) read in conjunction with Article 3(a) and 3(c) of Regulation (EC) 1987/2006 and Article 9(2) read in conjunction with Article 3(1)(a) and 3(1)(c) of Council Decision 2007/533/JHA;

11. always insert the additional data of the victim of a misused identity ('misused identity extension') to the French alerts in accordance with Article 3(a) and 3(c) of Regulation (EC) 1987/2006 and Article 3(1)(a) and 3(1)(c) of Council Decision 2007/533/JHA read in a conjunction with Article 36 of Regulation (EC) 1987/2006 and Article 51 of the Council Decision 2007/533/JHA;
12. ensure that the COVADIS/CTF application (used for queries at the border) always returns a hit on alerts on documents when a document is checked against the SIS in accordance with Article 9(2) of Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA and Article 8(2) of the Schengen Borders Code³;
13. increase the effectiveness of the data synchronisation mechanism (iDCC) between the national copy and the technical copies in accordance with Article 9(2) of Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA;
14. finalise without delay the accreditation procedure for the N.SIS security plan;
15. introduce monitoring of the availability of the chain of national applications in order to ensure better availability of the SIS for the end-users;
16. further develop the solution for attaching fingerprints to SIS alerts in order to ensure that the fingerprints are always added when available and without delay;
17. establish a written follow-up post-hit procedure for the end-users;

³ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1-52)-

18. render the FPR2 application (used by police and gendarmerie) to:
 - a) enable the end-users to access the linked alert directly via a hyperlink without the need to copy the information and to carry out another search in order to retrieve the linked alert;
 - b) enable the end-users to access the different identities via a hyperlink;
 - c) review the search algorithm used;
 - d) perform a multi-category query;
19. introduce an automated tool for managing SIS statistics;
20. provide regular follow-up training on SIS to all end-users and provide information on SIS related matters on an intranet platform or in paper format;
21. provide further training on SIS procedures and actions to be taken related to SIS alerts to the officers at Charles De Gaulle airport;
22. provide further means and tools to the N.SIS Office to ensure that it can secure smooth operation and security of N.SIS, the access of the competent authorities to the SIS and ensure compliance of the French N.SIS and its user authorities with the legislation in accordance with Article 7(1) of Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA;
23. further develop the SIRENE case management system so as to reduce the amount of manual processes in the management of the daily workflow and increase the use of automation;

24. enhance the effectiveness of coordination in the area of international police co-operation by integrating the SIRENE workflow system with other international police co-operation channels;
25. ensure the effective integration of the national systems at SIRENE level.

Done at Brussels,

For the Council
The President
