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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 2015 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by the Netherlands

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 2015 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by the Netherlands.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by the Netherlands

THE COUNCIL 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 Recommendation is to recommend to the Netherlands remedial actions to address deficiencies identified during the Schengen evaluation in the field of the Schengen Information System carried out in 2015. 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(2016)5101].
- (2) The high level of innovation and the development of handheld and vehicle-mounted devices within the Netherlands Police brings the Schengen Information System very close to the end-users and ensures that its use is integral to day-to-day working procedures.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) In view of the importance of complying with the Schengen acquis, in particular the obligation to ensure the systematic use and full development of the Schengen Information System at the external borders, the obligation to add available fingerprints to an alert and to ensure the completeness and quality of the data displayed to the end-users in the event of a hit, priority should be given to implementing recommendations 1, 2, 3, 4, 5 and 6.
- (4) This Recommendation should be transmitted to the European Parliament and the parliaments of the Member States. Within three months of its adoption, the evaluated Member State shall, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan to remedy the deficiencies identified in the evaluation report and send it to the Commission and the Council,

HEREBY RECOMMENDS

that the Netherlands should:

1. fully implement the systematic consultation of the Schengen Information System (SIS) when carrying out entry border checks of third-country nationals in accordance with Article 8(3) of the Schengen Borders Code ²;
2. ensure that the minimum border checks on persons include the verification of their travel documents against SIS data on stolen, misappropriated, lost and invalidated documents in accordance with Article 8(2) of the Schengen Borders Code;
3. fully integrate the instructions on the consultation of the SIS during border checks in border guards' working procedures and provide sufficient follow-up training to border guards;

² Regulation (EU) No 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) (codification) (OJ L 77, 23.3.2016, p. 1).

4. further develop the border control application so that binary data, links and the misused identity extension are displayed in the event of a hit in the SIS;
5. implement the obligation to attach fingerprint records, if available, to SIS alerts in the working procedures of the Immigration and Naturalisation Service;
6. take the appropriate measures to further develop the mobile devices used by the Netherlands Police in order to ensure that the quality and content of the data displayed in the event of a hit meet all the requirements set out in Appendix 2 to the SIRENE Manual³;
7. ensure that the records kept at national level in accordance with Article 12 of Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)⁴ and Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)⁵ also include the history of the alerts;
8. ensure that the *zeehaven uitbreidbaar informatie systeem* (ZUIS) application is only used for processing crew and passenger lists of incoming cargo and cruise ships and not for border checks on persons;
9. update the Public Prosecution Service's instructions on the use of the SIS in accordance with the SIRENE Manual;
10. improve the performance and efficiency of the SIRENE Bureau by developing a more automated and integrated case-management system ensuring a higher level of internal control as regards the follow-up of cases;

³ Commission Implementing Decision (EU) 2015/219 of 29 January 2015 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) (OJ L 44, 18.2.2015, p. 75).

⁴ OJ L 205, 7.8.2007, p. 63

⁵ OJ L 381, 28.12.2006, p. 4.

11. establish internal guidelines and deadlines ensuring that outgoing alerts that have to be validated by the SIRENE Bureau according to national procedures are validated or (where appropriate) corrected by the issuing unit in a timely manner;
12. implement tools in the SIRENE Bureau for automated collection of statistics;
13. provide the SIRENE Bureau with direct access to the immigration database;
14. strengthen and, where applicable, increase the use of all SIS alert categories;
15. develop and provide regular and follow-up training on SIS to police officers and border guards;
16. consider connecting the Automatic Number Plate Recognition System to SIS;
17. develop a standard procedure for reporting hits to the SIRENE Bureau;
18. further develop the border control application in order to highlight the warning markers in an alert;
19. harmonise the configuration of the passport readers, the biometric capture station and the border control application in order to ensure that all alert data is automatically displayed in the event of a hit;
20. develop a post-hit procedure concerning discreet check alerts at automated border control gates;
21. consider providing full access to SIS to the operators in the Advance Passenger Information centre.

Done at Brussels,

For the Council
The President
