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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters as regards the entry of alerts by Europol
- Outcome of the European Parliament's first reading
(Strasbourg, 6 to 9 June 2022)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs, Juan Fernando LOPEZ AGUILAR (S&D, ES), presented on behalf of the Committee a compromise amendment (amendment number 50) to the abovementioned proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 8 June 2022, the plenary adopted the compromise amendment (amendment number 50) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2022)0227

Strengthening Europol's mandate: entry of alerts in SIS *I**

European Parliament legislative resolution of 8 June 2022 on the proposal for a regulation of the European Parliament and of the Council Amending Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters as regards the entry of alerts by Europol (COM(2020)0791 – C9-0394/2020 –2020/0350(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0791),
 - having regard to Article 294(2) and Article 88(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0394/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 30 March 2022 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0287/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2020)0350

Position of the European Parliament adopted at first reading on 8 June 2022 with a view to the adoption of Regulation (EU) 2022/... of the European Parliament and of the Council amending Regulation (EU) 2018/1862 as regards the entry of *information* alerts into the Schengen Information System (SIS) on *third-country nationals in the interest of the Union*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 88(2), point (a), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 8 June 2022.

Whereas:

- (1) The Schengen Information System (SIS) constitutes an essential tool for maintaining a high level of security within the area of freedom, security and justice of the Union by supporting operational cooperation between national competent authorities, in particular border guards, the police, customs authorities, immigration authorities, and authorities responsible for the prevention, detection, investigation or prosecution of criminal offences or execution of criminal penalties. Regulation (EU) 2018/1862 of the European Parliament and of the Council² constitutes the legal basis for SIS in respect of matters falling within the scope of Chapters 4 and 5 of Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU).

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).

- (2) SIS alerts contain information about a particular person or object as well as instructions for the authorities on what to do when that person or object has been *located*. Alerts on persons and objects entered into SIS are made available, in real time, directly to all end-users of the competent national authorities of Member States *authorised to search* SIS pursuant to Regulation (EU) 2018/1862. *The European Union Agency for Law Enforcement Cooperation (Europol) established by Regulation (EU) 2016/794 of the European Parliament and of the Council³, national members of the European Union Agency for Criminal Justice Cooperation (Eurojust) established by Regulation (EU) 2018/1727 of the European Parliament and of the Council⁴, and the teams of the European Border and Coast Guard established by Regulation (EU) 2019/1896 of the European Parliament and of the Council⁵ are also authorised to access and search data in SIS pursuant to their respective mandates and in accordance with Regulation (EU) 2018/1862.*

³ *Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).*

⁴ *Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).*

⁵ *Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).*

- (3) **Europol** plays an important role in the fight against serious crime and terrorism by providing analyses and threat assessments to support the investigations by competent national authorities. Europol fulfils that role also by means of using SIS and in the exchange of supplementary information with Member States on SIS alerts. *The fight against serious crime and terrorism should be subject to continuous coordination among the Member States on the processing of data and on the entering of alerts into SIS*.
- (4) Given the global nature of serious crime and terrorism, the information that third countries and international organisations obtain about perpetrators of serious crime and terrorism and persons suspected of serious crime and terrorism is increasingly relevant for the Union's internal security. *Some of that information, in particular where the person concerned is a third-country national, is shared only with Europol, which processes the information and shares the result of its analyses with Member States*.

- (5) *The operational need to make verified information provided by a third country available to frontline officers, in particular to border guards and police officers, is widely acknowledged. However, the relevant end-users in the Member States do not always have access to that valuable information because, among other reasons, Member States are not always able to enter alerts into SIS on the basis of such information due to national law.*
- (6) In order to bridge the gap in sharing information on serious crime and terrorism, in particular on foreign terrorist fighters, where the monitoring of their movement is crucial, it is necessary to ensure *that, upon a proposal by Europol, Member States are able to enter information alerts into SIS on third-country nationals in the interest of the Union, in order to make that information provided by third countries and international organisations available*, directly and in real time, to front-line officers in Member States.

- (7) To that end, a specific category of *information alerts on third-country nationals in the interest of the Union ('information alerts')* should be created in SIS. Such information alerts should be entered into SIS *by the Member States at their discretion and subject to their verification and analysis of the proposal by Europol in the interest of the Union on third-country nationals*, in order to inform end-users carrying out a search in SIS that the person concerned is suspected of being involved in a criminal offence in respect of which Europol is competent, and in order for *Member States and* Europol to obtain confirmation that the person who is the subject of the *information* alert has been located *and to obtain further information in accordance with* Regulation (EU) 2018/1862, as amended by *this Regulation*.

- (8) In order *for the Member State* to which Europol proposed the entry of information alert to assess whether a particular case is adequate, relevant and important enough to warrant the entry of an *information* alert into SIS, and in order to confirm the reliability of the source of information and the accuracy of the information on the person concerned, Europol should *share all of the information that it holds on the case, except for information which has clearly been obtained in obvious violation of human rights*. Europol should share, in particular, *the outcome of cross-checking the data against* ■ its databases, *information relating to* the accuracy *and reliability of the data and* its analysis of whether there are sufficient grounds for considering that the person concerned has committed, taken part in, or intends to commit a criminal offence in respect of which Europol is competent.

(9) *Europol should inform the Member States without delay where it has relevant additional or modified data in relation to its proposal to enter an information alert into SIS or evidence suggesting that data included in its proposal are factually incorrect or have been unlawfully stored, in order to ensure the lawfulness, completeness and accuracy of SIS data. Europol should also transmit to the issuing Member State without delay additional or modified data in relation to an information alert that was entered into SIS upon its proposal, in order to allow the issuing Member State to complete or modify the information alert. Europol should act, in particular, if it becomes aware that the information received from the **authorities of a** third country or international organisation was incorrect or was communicated to Europol for unlawful purposes, for example if sharing the information on the person was motivated by political reasons.*

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(10) Regulations (EU) 2018/1725⁶ and (EU) 2016/794 of the European Parliament and of the Council should apply to the processing of personal data by Europol when carrying out its responsibilities under this Regulation. █

⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (11) *The preparations for the implementation of information alerts should not have an impact on the use of SIS.*
- (12) Since the objectives of this Regulation, namely the establishment and regulation of a specific category of alerts entered into SIS by *Member States upon a proposal by* Europol in *the interest of the Union* in order to exchange information on persons *involved in serious crime or in terrorism*, cannot be sufficiently achieved by the Member States, but can rather, by reason of their nature, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (13) This Regulation *fully* respects fundamental rights and observes the principles ■ enshrined in the Charter of Fundamental Rights of the European Union (the ‘Charter’) *and in the TEU*. In particular, this Regulation fully respects the protection of personal data in accordance with Article *16 TFEU*, Article 8 of the Charter *and the applicable data protection rules*. *This Regulation also seeks* to ensure a safe environment for all persons residing on the territory of the Union.
- (14) In accordance with Articles 1 and 2 of Protocol No 22 on the Position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

- (15) Ireland is taking part in this Regulation in accordance with Article 5(1) of Protocol No 19 on the Schengen acquis integrated into the framework of the European Union, annexed to the TEU and to the TFEU, and Article 6(2) of Council Decision 2002/192/EC⁷ and Council Implementing Decision (EU) 2020/1745⁸.
- (16) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis⁹, which fall within the area referred to in Article 1, point (G), of Council Decision 1999/437/EC¹⁰.

⁷ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis (OJ L 64, 7.3.2002, p. 20).

⁸ Council Implementing Decision (EU) 2020/1745 of 18 November 2020 on the putting into effect of the provisions of the Schengen acquis on data protection and on the provisional putting into effect of certain provisions of the Schengen acquis in Ireland (OJ L 393, 23.11.2020, p. 3).

⁹ OJ L 176, 10.7.1999, p. 36.

¹⁰ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31).

- (17) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis¹¹, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA¹².
- (18) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis¹³, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU¹⁴.

¹¹ OJ L 53, 27.2.2008, p. 52.

¹² Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 53, 27.2.2008, p. 50).

¹³ OJ L 160, 18.6.2011, p. 21.

¹⁴ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

- (19) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession and should be read in conjunction with Council Decisions 2010/365/EU¹⁵ and (EU) 2018/934¹⁶.
- (20) As regards Croatia, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2011 Act of Accession and should be read in conjunction with Council Decision (EU) 2017/733¹⁷.

¹⁵ Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17).

¹⁶ Council Decision (EU) 2018/934 of 25 June 2018 on the putting into effect of the remaining provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 165, 2.7.2018, p. 37).

¹⁷ Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Croatia (OJ L 108, 26.4.2017, p. 31).

- (21) Concerning Cyprus, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 3(2) of the 2003 Act of Accession.
- (22) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725.
- (23) Regulation (EU) 2018/1862 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2018/1862 is amended as follows:

(1) Article 3 is amended as follows:

(a) point 8 is replaced by the following:

“(8) ‘flag’ means a suspension of the validity of an alert at the national level that may be added to alerts for arrest, alerts on missing and vulnerable persons, alerts for discreet, inquiry and specific checks and to information alerts;”;

(b) the following point is added:

“(22) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU ■ with the exception of persons who are beneficiaries of the right of free movement within the Union in accordance with Directive 2004/38/EC or in accordance with an agreement between the Union or the Union and its Member States on the one hand, and a third country on the other hand;”;

(2) *Article 20 is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

"1. Without prejudice to Article 8(1) or to the provisions of this Regulation providing for the storage of additional data, SIS shall contain only those categories of data which are supplied by each Member State, as required for the purposes laid down in Articles 26, 32, 34, 36, 37a, 38 and 40."

(b) *in paragraph 2, point (b) is replaced by the following:*

"(b) information on objects referred to in Articles 26, 32, 34, 36, 37a, and 38."

(3) in Article 24, paragraph 1 is replaced by the following:

"1. Where a Member State considers that to give effect to an alert entered in accordance with Article 26, 32, 36 or 37a is incompatible with its national law, its international obligations or essential national interests, it may require that a flag be added to the alert to the effect that the action to be taken on the basis of the alert will not be taken in its territory. *The flag* shall be added by the SIRENE Bureau of the issuing Member State. █ "

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(4) the following Chapter is inserted:

"CHAPTER IXa

Information alerts on third-country nationals in the interest of the Union

Article 37a

Objectives and conditions for entering alerts

1. ***Member States*** may enter ***information alerts*** on third-country nationals in the interest of the Union ('information alerts') into SIS, ***as referred to in Article 4(1), point (t), of Regulation (EU) 2016/794, upon a proposal by Europol to enter an information alert on the basis of information received from the authorities of third countries or international organisations. Europol shall notify its Data Protection Officer where it makes such a proposal.***

2. ***Information alerts shall be entered into SIS for the purpose of informing end-users carrying out a search in SIS of the suspected involvement of third-country nationals in terrorist offences or in other serious crime listed in Annex I to Regulation (EU) 2016/794, with a view to obtaining the information set out in Article 37b of this Regulation.***

3. ***Europol shall propose that information alerts be entered into SIS only in the following cases and provided that it has verified that the conditions set out in paragraph 4 are fulfilled:***
 - (a) ***where there is a factual indication that a person intends to commit or is committing any of the offences referred to in paragraph 2;***

 - (b) ***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 an offence referred to in paragraph 2.***

4. Europol *shall propose that information alerts be entered into SIS only after it has established that the information alert is necessary and justified, by ensuring that both of the following conditions are fulfilled:*
- (a) *an analysis of the information provided in accordance with Article 17(1)(b) of Regulation (EU) 2016/794 confirmed the reliability of the source of information as well as the accuracy of the information on the person concerned, permitting Europol to determine, where necessary, after having carried out further exchanges of information with the data provider in accordance with Article 25 of Regulation (EU) 2016/794, that at least one of the cases set out in paragraph 3 applies;*
 - (b) *a search in SIS, carried out in accordance with Article 48 of this Regulation, did not disclose the existence of an alert on the person concerned.*

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5. Europol shall *make available the information it holds on the particular case and the results of the assessment referred to in paragraphs 3 and 4 to the Member States and propose that one or more Member States enter an information alert into SIS.*

Where Europol has relevant additional or modified data in relation to its proposal to enter an information alert, or where Europol has evidence suggesting that the data included in its proposal to enter an information alert are factually incorrect or have been unlawfully stored, it shall inform the Member States without delay.

6. The proposal by Europol to enter information alerts shall be subject to the verification and analysis by the Member State to which Europol proposed the entry of such alerts. Such information alerts shall be entered into SIS at the discretion of that Member State.
7. *Where information alerts are entered into SIS in accordance with this Article, the issuing Member State shall inform the other Member States and Europol about that entry through the exchange of supplementary information.*

8. *Where Member States decide not to enter the information alert upon the proposal by Europol and where the respective conditions are met, they may decide to enter another type of alert on the same person.*
9. *Member States shall inform the other Member States and Europol on the outcome of the verification and analysis of the data in Europol's proposal, as referred to in paragraph 6, and on whether data has been entered into SIS, within a period of 12 months after Europol has proposed the entry of an information alert.*

For the purposes of the first subparagraph, Member States shall put in place a periodic reporting mechanism.

10. *Where Europol has relevant additional or modified data in relation to an information alert, it shall transmit those data without delay, through the exchange of supplementary information, to the issuing Member State to enable the latter to complete, modify or delete the information alert.*

- 11. Where Europol has evidence suggesting that data entered into SIS in accordance with paragraph 1 are factually incorrect or have been unlawfully stored, it shall, through the exchange of supplementary information, inform the issuing Member State as soon as possible and not later than two working days after that evidence has come to its attention. The issuing Member State shall check the information and, if necessary, correct or delete the data in question without delay.**
- 12. Where there is a clear indication that the objects referred to in Article 38(2), points (a), (b), (c), (e), (g), (h), (j) and (k), or non-cash means of payment are connected with a person who is the subject of an information alert pursuant to paragraph 1 of this Article, alerts on those objects may be entered in order to locate the person. In such cases, the information alert and the alert on the object shall be linked in accordance with Article 63.**

- 13. Member States shall put in place the necessary procedures for entering, updating and deleting information alerts in SIS in accordance with this Regulation.*
- 14. Europol shall keep records relating to its proposals for entering information alerts into SIS under this Article and provide reports to Member States every six months on the information alerts entered into SIS and on the cases where Member States did not enter the information alerts.*
- 15. The Commission shall adopt implementing acts to lay down and develop rules necessary for entering, updating, deleting and searching the data referred to in paragraph 11 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).*

Article 37b

Execution of the action based on an *information* alert

1. In the event of a hit on an *information alert*, the executing Member State shall ***collect and communicate to the issuing Member State all or some of the following information:***
 - (a) the fact that the person who is the subject of an *information* alert has been located;
 - (b) the place, time and reason for the check;
 - (c) ***the route of the journey and destination;***
 - (d) ***the persons accompanying the subject of the information alert who can reasonably be expected to be associated with the subject of the information alert;***
 - (e) ***objects carried, including travel documents;***
 - (f) ***the circumstances in which the person was located.***

2. The executing Member State shall communicate the information referred to in paragraph *1 to the issuing Member State* through the exchange of supplementary information.
3. *Paragraph 1 of this Article shall apply also where the person who is the subject of an information alert is located in the territory of the Member State that entered into SIS the information alert for the purpose of informing Europol in accordance with Article 48(8), point (b).*
4. *The executing Member State shall ensure the discreet collection of as much information described in paragraph 1 as possible during routine activities carried out by its national competent authorities. The collection of such information shall not jeopardise the discreet nature of the checks and the subject of the information alert shall in no way be made aware of the existence of such alert."*

(5) *in Article 43, paragraph 3 is replaced by the following:*

"3. Dactyloscopic data in SIS in relation to alerts entered in accordance with Articles 26, 32, 36, 37a, and 40 may also be searched using complete or incomplete sets of fingerprints or palm prints discovered at the scenes of serious crimes or terrorist offences under investigation, where it can be established to a high degree of probability that those sets of prints belong to a perpetrator of the offence and provided that the search is carried out simultaneously in the Member State's relevant national fingerprints databases.";

(6) Article 48 is amended as follows:

(a) *paragraph 8 is replaced by the following:*

"8. Member States shall inform Europol through the exchange of supplementary information of:

(a) any hit on information alerts entered into SIS under Article 37a;

(b) when the person who is the subject of the information alert has been located in the territory of the issuing Member State in accordance with Article 37b(3); and

(c) any hit on alerts related to terrorist offences which are not entered into SIS under Article 37a.

Member States may exceptionally not inform Europol of hits on alerts under point (c) of this paragraph if doing so would jeopardise current investigations, the safety of an individual or be contrary to essential interests of the security of the issuing Member State."

(b) paragraph 9 is deleted;

(7) Article 53 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. A Member State may enter an alert on a person for the purposes of Article 32 (1), points (c), (d) and (e), of Article 36, and of Article 37a, for a period of one year. The issuing Member State shall review the need to retain the alert within that one-year period.";

(b) paragraphs 6 and 7 are replaced by the following:

"6. Within the review period referred to in paragraphs 2, 3, 4 **and** 5, the issuing Member State **■** may, following a comprehensive individual assessment, which shall be recorded, decide to retain the alert on a person for longer than the review period, where this proves necessary and proportionate for the purposes for which the alert was entered. In such cases, paragraph 2, 3, 4 **and** 5 shall also apply to the extension. Any such extension shall be communicated to CS-SIS.

7. Alerts on persons shall be deleted automatically after the review period referred to in paragraphs 2, 3, 4 **and 5** of this Article has expired, except where the issuing Member State ■ has informed CS-SIS of an extension pursuant to paragraph 6 of this Article. CS-SIS shall automatically inform the issuing Member State **and, for information alerts entered into SIS in accordance with Article 37a, also** Europol, of the scheduled deletion of data four months in advance. **For information alerts entered into SIS in accordance with Article 37a, Europol shall assist the issuing Member State without delay with its comprehensive individual assessment referred to in paragraph 6 of this Article.**";

(8) *in Article 54, paragraph 3 is replaced by the following:*

"3. Alerts on objects entered in accordance with Articles 26, 32, 34, 36 and 37a shall be reviewed pursuant to Article 53 where they are linked to an alert on a person. Such alerts shall only be kept for as long as the alert on the person is kept."

(9) **█** *Article 55 is amended as follows:*

(a) *the following paragraph is inserted:*

"4a. Information alerts pursuant to Article 37a shall be deleted upon:

(a) the expiry of the alert in accordance with Article 53; or

(b) a decision to delete them by the competent authority of the issuing Member State, including where appropriate upon a proposal by Europol;"

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(b) paragraph 7 is replaced by the following:

"7. Where it is linked to an alert on a person, an alert on an object entered in accordance with Articles 26, 32, 34, 36 and 37a shall be deleted when the alert on the person is deleted in accordance with this Article.";

(10) Article 56 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The Member States shall only process the data referred to in Article 20 for the purposes laid down for each category of alert referred to in Articles 26, 32, 34, 36, 37a, 38 and 40.";

(b) paragraph 5 is replaced by the following:

"5. With regard to the alerts laid down in Articles 26, 32, 34, 36, 37a, 38 and 40, any processing of information in SIS for purposes other than those for which it was entered into SIS has to be linked with a specific case and justified by the need to prevent an imminent and serious threat to public policy and to public security, on serious grounds of national security or for the purposes of preventing a serious crime. Prior authorisation from the issuing Member State shall be obtained for this purpose.";

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(11) in Article 74, █ *the following paragraph is inserted:*

"5a. Member States, Europol, and eu-LISA shall provide the Commission with the information necessary to contribute to the evaluation and the reports referred to in Article 68 of Regulation (EU) 2016/794.";

(12) in Article 79, the following paragraph is added:

"7. The Commission shall adopt a decision setting the date *from* which *Member States may* start entering, updating and deleting *information alerts* in SIS *in accordance with Article 37a of* this Regulation, after verification that the following conditions have been met:

- (a) the implementing acts adopted pursuant to this Regulation have been amended to the extent necessary for the application of this Regulation as amended by Regulation (EU) 2022/ ... of the European Parliament and of the Council*+;
- (b) *Member States and* Europol *have* notified the Commission that *they have* made the necessary technical and procedural arrangements to process SIS data and exchange supplementary information pursuant to this Regulation as amended by Regulation (EU) 2022/ ...+;

+ OJ: Please insert the serial number of this amending Regulation.

- (c) eu-LISA has notified the Commission of the successful completion of all testing activities with regard to CS-SIS and to the interaction between CS-SIS and *N.SIS*.

That Commission decision shall be published in the *Official Journal of the European Union*.

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- * Regulation (EU) 2022/... of the European Parliament and of the Council of ... amending Regulation (EU) 2018/1862 as regards the entry of information alerts into the Schengen Information System (SIS) on third-country nationals in the interest of the Union (EE L ...) +".

+ OJ: Please insert the serial number and the date of this amending Regulation.

Article 2

Entry into force *and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from the date determined in accordance with Article 79(7) of Regulation (EU) 2018/1862 *with the exception of Article 1, point 12, of this Regulation which shall apply from ... [the date of entry into force of this Regulation]*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament
The President

For the Council
The President
