



**2016/0408(COD)**

26.7.2017

## **OPINION**

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 (COM(2016)0882 – C8-0533/2016 – 2016/0408(COD))

Rapporteur: Hilde Vautmans

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## AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) Highly sensitive biometric data will be collected. Given their sensitivity, their collection and use should be subject to a strict analysis before deciding to register them in the SIS. Biometric identifiers should be introduced and searched only under specific conditions meeting the proportionality requirement of the data protection legal framework.***

### Amendment 2

#### Proposal for a regulation

##### Recital 21

*Text proposed by the Commission*

*Amendment*

(21) This Regulation should set mandatory rules for the consultation of national authorities in case a third country national holds or may obtain a valid residence permit or other authorisation or right to stay granted in one Member State, and another Member State intends to issue or already entered an alert for refusal of entry and stay to the third country national concerned. Such situations create serious uncertainties for border guards, police and immigration authorities. Therefore, it is appropriate to provide for a mandatory timeframe for rapid consultation with a definite result in order to avoid that persons representing a threat may enter to the

(21) This Regulation should set mandatory rules for the consultation of national authorities in case a third country national holds or may obtain a valid residence permit or other authorisation or right to stay granted in one Member State, and another Member State intends to issue or already entered an alert for refusal of entry and stay to the third country national concerned. Such situations create serious uncertainties for border guards, police and immigration authorities. Therefore, it is appropriate to provide for ***clear guidelines and*** a mandatory timeframe for rapid consultation with a definite result in order to avoid that persons representing a threat

Schengen area.

may enter to the Schengen area.

### Amendment 3

#### Proposal for a regulation Recital 26

*Text proposed by the Commission*

(26) Data processed in SIS in application of this Regulation should not be transferred or made available to third countries or to international organisations.

*Amendment*

(26) Data processed **and stored** in SIS in application of this Regulation, **as well as SIS information already made available to authorised authorities**, should not be transferred or made available to third countries or to international organisations.

### Amendment 4

#### Proposal for a regulation Recital 42 a (new)

*Text proposed by the Commission*

*Amendment*

**(42a) Specific safeguards governing the treatment of personal data of vulnerable third-country nationals, such as children, should be required.**

### Amendment 5

#### Proposal for a regulation Recital 42 b (new)

*Text proposed by the Commission*

*Amendment*

**(42b) In cases concerning children, the best interests of the child should be a primary consideration when applying this Regulation. When data pertaining to a child are inserted in SIS, they should only be used for purposes relating to the prevention, detection and investigation of missing children cases and for the protection of the child's best interests, in**

*accordance with the UN Convention on the Rights of the Child.*

## **Amendment 6**

### **Proposal for a regulation Recital 42 c (new)**

*Text proposed by the Commission*

*Amendment*

***(42c) All measures taken in relation to the SIS should comply with the Charter of Fundamental Rights of the Union. Member States should apply guidelines, to be established and monitored jointly by the European Union Agency for Asylum and the European Union Agency for Fundamental Rights, for a common practice with regard to taking fingerprints and facial images of irregular third-country nationals, building upon the checklist prepared by the European Union Agency for Fundamental Rights. At all times Member States should respect the dignity and physical integrity of the minor during the fingerprinting procedure and when capturing a facial image. Member States should not use coercion to compel the taking of fingerprints of minors.***

#### *Justification*

*In accordance with the UN Convention on the rights of the Child, children shall be treated with humanity and respect, in a manner which takes into account the needs of their age. Therefore, particular attention shall be paid to the specific situation of minors. The best interest of the child shall always be a primary consideration.*

## **Amendment 7**

### **Proposal for a regulation Recital 53 a (new)**

*Text proposed by the Commission*

*Amendment*

***(53a) No amendment or new provision in this Regulation should create unnecessary obstacles for Member States***

*who will join or are in the process of joining the Schengen area*

## Amendment 8

### Proposal for a regulation Article 19 – paragraph 1

#### *Text proposed by the Commission*

The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall regularly carry out campaigns informing the public about the objectives of SIS, the data stored, the authorities having access to SIS and the rights of data subjects. Member States shall, in cooperation with their national supervisory authorities, devise and implement the necessary policies to inform their citizens about SIS generally.

#### *Amendment*

The Commission, in cooperation with the national supervisory authorities and the European Data Protection Supervisor, shall regularly carry out campaigns informing the public, ***including third-country nationals***, about the objectives of SIS, the data stored, the authorities having access to SIS and the rights of data subjects. Member States shall, in cooperation with their national supervisory authorities, devise and implement the necessary policies to inform their citizens, ***including third-country nationals***, about SIS generally.

## Amendment 9

### Proposal for a regulation Article 20 – paragraph 2 – point s

#### *Text proposed by the Commission*

(s) the category of the person's identification ***document***;

#### *Amendment*

(s) the category of the person's ***current or past identification documents or other documents used so far under his or her aliases***;

## Amendment 10

### Proposal for a regulation Article 20 – paragraph 2 – point u

#### *Text proposed by the Commission*

(u) the number(s) of the person's

#### *Amendment*

(u) the number(s) of the person's

identification *document*;

*current or past identification documents or other documents used so far under his or her aliases*;

## Amendment 11

### Proposal for a regulation Article 24 – paragraph 1

*Text proposed by the Commission*

1. Data on third-country nationals in respect of whom an alert has been issued for the purposes of refusing entry and stay shall be entered in SIS on the basis of a national alert resulting from a decision taken by the competent administrative or judicial authorities in accordance with the rules of procedure laid down by national law taken on the basis of an individual assessment. *Appeals* against those decisions shall be *made in accordance with national law*.

*Amendment*

1. Data on third-country nationals in respect of whom an alert has been issued for the purposes of refusing entry and stay shall be entered in SIS on the basis of a national alert resulting from a decision, *respecting the “ne bis in idem” principle*, taken by the competent administrative or judicial authorities in accordance with the rules of procedure laid down by national law taken on the basis of an individual assessment. *In full compliance with Regulation 2016/679, effective remedies and appeals* against those decisions, *as well as the right to access their personal data and to erase, complete or ratify them*, shall be *guaranteed, including for third country nationals not present on the Union territory*

## Amendment 12

### Proposal for a regulation Article 29 – paragraph 2

*Text proposed by the Commission*

2. For the purposes of Article 24(2) and (3) and Article 27 the right to access data entered in SIS and the right to search such data directly may also be exercised by national judicial authorities, including those responsible for the initiation of public prosecutions in criminal proceedings and for judicial inquiries prior to charge, in the performance of their tasks, as provided for in national legislation, and

*Amendment*

2. *Only duly authorised staff of designated authorities shall have access to the SIS after following appropriate trainings on data security and data protection.* For the purposes of Article 24(2) and (3) and Article 27 the right to access data entered in SIS and the right to search such data directly may also be exercised by national judicial authorities, including those responsible for the

by their coordinating authorities.

initiation of public prosecutions in criminal proceedings and for judicial inquiries prior to charge, in the performance of their tasks, as provided for in national legislation, and by their coordinating authorities.

### Amendment 13

#### Proposal for a regulation Article 47 – paragraph 1

##### *Text proposed by the Commission*

1. The right of data subjects to have access to data relating to them entered in SIS and to have such data rectified or erased shall be exercised in accordance with the law of the Member State before which they invoke that right.

##### *Amendment*

1. The right of data subjects to have access to data relating to them entered in SIS and to have such data rectified or erased shall be exercised in accordance with the law of the Member State before which they invoke that right, ***regardless of whether the data subject is on Union territory.***

### Amendment 14

#### Proposal for a regulation Article 49 – paragraph 1

##### *Text proposed by the Commission*

1. Any person may bring an action before the courts or the authority competent under the law of any Member State to access, rectify, delete or erase information or to obtain compensation in connection with an alert relating to him.

##### *Amendment*

1. Any person may bring an action before the courts or the authority competent under the law of any Member State to access, rectify, delete or erase information or to obtain compensation in connection with an alert relating to him ***or her, regardless of whether he or she is present on the Union territory when taking such action***



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishment, operation and use of the Schengen Information System (SIS) in the field of border checks
<b>References</b>	COM(2016)0882 – C8-0533/2016 – 2016/0408(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 6.4.2017
<b>Opinion by</b> Date announced in plenary	AFET 6.4.2017
<b>Rapporteur</b> Date appointed	Hilde Vautmans 15.5.2017
<b>Date adopted</b>	11.7.2017
<b>Result of final vote</b>	+: 27 –: 14 0: 21
<b>Members present for the final vote</b>	Lars Adaktusson, Michèle Alliot-Marie, Francisco Assis, Petras Auštrevičius, Bas Belder, Mario Borghezio, Victor Boștinăru, Elmar Brok, Klaus Buchner, James Carver, Fabio Massimo Castaldo, Lorenzo Cesa, Aymeric Chauprade, Javier Couso Permuy, Andi Cristea, Arnaud Danjean, Knut Fleckenstein, Eugen Freund, Michael Gahler, Iveta Grigule, Sandra Kalniete, Tunne Kelam, Janusz Korwin-Mikke, Andrey Kovatchev, Eduard Kukan, Ryszard Antoni Legutko, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Andrejs Mamikins, Alex Mayer, David McAllister, Tamás Meszerics, Francisco José Millán Mon, Javier Nart, Demetris Papadakis, Ioan Mircea Pașcu, Alojz Peterle, Tonino Picula, Julia Pitera, Cristian Dan Preda, Jozo Radoš, Sofia Sakorafa, Jordi Solé, Jaromír Štětina, Charles Tannock, László Tőkés, Miguel Urbán Crespo, Ivo Vajgl, Elena Valenciano, Hilde Vautmans, Boris Zala
<b>Substitutes present for the final vote</b>	Brando Benifei, Luis de Grandes Pascual, Javi López, Eleni Theocharous, Ernest Urtasun, Bodil Valero, Paavo Väyrynen, Marie-Christine Vergiat, Željana Zovko
<b>Substitutes under Rule 200(2) present for the final vote</b>	Frank Engel

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

27	+
ALDE	Petras Auštrevičius, Iveta Grigule, Javier Nart, Jozo Radoš, Ivo Vajgl, Hilde Vautmans, Paavo Väyrynen
ECR	Bas Belder, Ryszard Antoni Legutko, Charles Tannock, Eleni Theodorou
EFDD	Fabio Massimo Castaldo
S&D	Francisco Assis, Brando Benifei, Victor Boştinaru, Andi Cristea, Knut Fleckenstein, Eugen Freund, Arne Lietz, Javi López, Andrejs Mamikins, Alex Mayer, Demetris Papadakis, Ioan Mircea Paşcu, Tonino Picula, Elena Valenciano, Boris Zala

14	-
EFDD	James Carver
ENF	Mario Borghezio
GUE/NGL	Javier Couso Permuy, Sabine Lösing, Sofia Sakorafa, Miguel Urbán Crespo, Marie-Christine Vergiat
NI	Janusz Korwin-Mikke
Verts/ALE	Klaus Buchner, Barbara Lochbihler, Tamás Meszerics, Jordi Solé, Ernest Urtezar, Bodil Valero

21	0
NI	Aymeric Chauprade
PPE	Lars Adaktusson, Michèle Alliot-Marie, Elmar Brok, Lorenzo Cesa, Arnaud Danjean, Frank Engel, Michael Gahler, Sandra Kalniete, Tunne Kelam, Andrey Kovatchev, Eduard Kukan, David McAllister, Francisco José Millán Mon, Alojz Peterle, Julia Pitera, Cristian Dan Preda, Jaromír Štětina, László Tőkés, Željana Zovko, Luis de Grandes Pascual

Key to symbols:

+ : in favour

- : against

0 : abstention