



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**SIRIS 98
VISA 199
COMIX 614**

NOTE

from: Presidency

to: Working Party for Schengen Matters (SIS-SIRENE) /Mixed Committee (EU-Iceland/Norway and Switzerland/ Liechtenstein)

Nos prev. docs: 12528/1/11 REV 1 SIRIS 67 VISA 128 COMIX 438
12528/11 SIRIS 67 VISA 128 COMIX 438
8918/11 SIRIS 26 COMIX 228

Subject: Draft Council conclusions on better use of SIS and SIRENE for the exchange of information on third-country nationals refused entry

Introduction

In the document "Analysis of practical problems connected with alerts issued pursuant to Art. 96 CISA, i.e. reservations regarding aliens" (12528/1/11 REV 1 SIRIS 67 VISA 128 COMIX 438), the Presidency drew Member States' attention to the quality of the data entered in SIS alerts pursuant to Art. 96 CISA, and particularly the quality and scope of the data supplementing those alerts as well as the quality and availability of identification material concerning third-country nationals refused entry. The Presidency also formulated recommendations, the endorsement of which will allow improvements to the exchange of information within the SIRENE Bureaux network and when communicating with the national authorities accessing alerts entered in SIS pursuant to Art. 96 CISA.

In order to ensure high, uniform standards in the application of the Schengen acquis in practice, and given the need to maintain a high level of mutual trust among those Member States which make up the area without internal borders, the Presidency invites the Working Party for Schengen Matters (SIS/SIRENE) to agree to the following draft Council conclusions which subsequently will be forwarded to COREPER/Council for adoption as an I/A item.

THE COUNCIL,

RECALLING that one of the fundamental aims of the European Union and the Schengen Area Member States is to ensure a high level of security in an area of freedom, security and justice without internal border controls;

CONFIRMING that it is the aim of the European Union and the Schengen Area Member States to facilitate free movement in the area in which internal borders have been removed, and at the same time guarantee security and protection within the Schengen Area and the EU, while ensuring openness and respect for fundamental rights;

STRESSING that the Schengen Area is based on mutual trust between Member States in respect of their ability to fully implement the compensatory measures allowing controls at internal borders to be removed, whilst controls at external borders are conducted by Member States not only to protect their own interests but also on behalf of all the other Member States which individuals may enter once the external border of the Schengen Area has been crossed;

STRESSING that in accordance with the Stockholm Programme, Member States should closely monitor implementation of the existing legal acquis, particularly the rules on controls at external borders, to ensure that this is done correctly and in full, and should combat possible abuse relating to the right of free movement of persons;

CONSIDERING that the right of free movement can be fully safeguarded only if Schengen acquis is applied effectively and consistently by Member States, with all Member States ensuring high, uniform standards for the practical application of the Schengen acquis;

BEARING IN MIND the rules of proportionality, necessity and adequacy and the obligation to respect fundamental rights, notably the right to privacy and the protection of personal data;

ACKNOWLEDGING that technology, and in particular large-scale IT systems such as Schengen Information System (SIS) and SIS II, play a key role in streamlining and reinforcing the external border control system;

NOTING WITH SATISFACTION the initiative proposed by the Polish Presidency to optimise the use of the SIS and the SIRENE Bureaux network with a view to taking appropriate effective action in respect of third-country nationals refused entry;

NOTING the statistical analysis indicating that the overall number of hits in SIS pursuant to Art. 96 CISA between 1997 and 2000 totalled 253 640, i.e. 40,56 %¹ of the total number of SIS hits, making Art. 96 hits concerning third-country nationals refused entry the data category most frequently recorded by SIRENE Bureaux;

ACKNOWLEDGING the key role of the SIRENE Bureaux in SIS queries and the need to provide the Bureaux with the competences and resources needed for them to be able to execute their tasks relating to the exchange of supplementary information;

WISHING to make a significant contribution to better cooperation between the Member States' competent authorities in the implementation of Art. 96 CISA, in particular based on SIS and SIRENE cooperation;

RECALLING the obligation imposed by the SIRENE Manual that in order to fulfil the requirement to provide supplementary information, the SIRENE staff shall have direct or indirect access to all relevant information and expert advice;

CONSIDERING the need for Member States to effectively fulfil the obligations imposed on them by the CISA;

¹ 9938/11 SIRIS 40 COMIX 309

CALLS UPON Member States to:

- use SIS and SIRENE cooperation more effectively to improve information exchange and the quality of the exchanged data concerning third-country nationals refused entry to the territory of the Schengen Area, and to this effect apply the recommendations presented in 12528/2/11 REV 2 SIRIS 67 VISA 128 COMIX 438 ("Analysis of practical problems connected with alerts issued pursuant to Art. 96 CISA, i.e. reservations regarding aliens");
- review national legislation for the introduction of solutions that will provide a basis for collecting and processing biometric data with a view not only to contributing to the national databases currently in use concerning third-country nationals refused entry, but also to feeding biometric data into alerts entered in SIS II for the purpose of refusing entry;
- review national systems, national databases and sources for collecting the biometric material of third-country nationals refused entry, as well as the scope for processing those data in national databases, in order to improve the quality of the data collected and the exchange of information concerning persons' identities;
- undertake actions aimed at ensuring that national SIRENE Bureaux have genuine round-the-clock access to supplementary information and identification material concerning alerts entered in SIS pursuant to Art. 96 CISA, in order to guarantee efficient handling of the Member States' own alerts and enable all Member State competent authorities to have access to the information, thereby ensuring that appropriate action is taken immediately in respect of each third-country national refused entry;
- develop automated, rapid national data exchange channels and strive to introduce solutions that will ensure efficient communication without unnecessary delay between the national SIRENE Bureaux and the competent SIS-user authorities accessing data concerning third-country nationals refused entry.