



Brussels, **XXX**
[...] (2015) **XXX** draft

COMMISSION IMPLEMENTING DECISION

of XXX

**replacing the Annex to Commission Implementing Decision 2013/115/EU on the
SIRENE Manual and other implementing measures for the second generation Schengen
Information System (SIS II)**

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replacing the Annex to Commission Implementing Decision 2013/115/EU on the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)¹, and in particular Article 8(4), Article 9(1), Article 20(3), point (a) of Article 22, Article 36(4) and Article 37(7) thereof,

Having regard to Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)², and in particular Article 8(4), Article 9(1), Article 20(4), point (a) of Article 22, Article 51(4) and Article 52(7) thereof,

Having consulted the European Data Protection Supervisor,

Whereas:

- (1) The second generation Schengen Information System (SIS II) entered into operation on 9 April 2013. It contains sufficient information allowing the identification of a person or an object and the necessary action to be taken. In addition, for SIS II to function effectively, Member States exchange supplementary information related to the alerts. This exchange of supplementary information is carried out by the SIRENE Bureaux.
- (2) To facilitate the work of the SIRENE Bureaux and of users of SIS II involved in SIRENE operations in their daily work, a SIRENE Manual was adopted in 2008 through a former first pillar legal instrument, Commission Decision 2008/333/EC³, as well as a former third pillar instrument, Commission Decision 2008/334/JHA⁴. Those Decisions were replaced by Commission Implementing Decision 2013/115/EU⁵ in order to better reflect the operational needs of users and staff involved in SIRENE operations, to improve consistency of working procedures and to ensure that technical rules correspond to the state of the art.
- (3) Following the first year of operation of SIS II it is appropriate to amend Implementing Decision 2013/115/EU in order to reflect new challenges and operational requirements

¹ OJ L 381, 28.12.2006, p. 4.

² OJ L 205, 7.8.2007, p. 63.

³ Commission Decision 2008/333/EC of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) (OJ L 123, 8.5.2008, p. 1).

⁴ Commission Implementing Decision 2013/115/EU of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II) (OJ L 71, 14.3.2013, p. 1).

⁵ OJ L 71, 14.3.2013, p. 1.

as well as to provide clearer provisions in some areas related to the processing of SIS II data. This should enhance legal certainty and further reinforce fundamental rights.

- (4) Pursuant to Article 29 (1) and Article 30 (1) of Regulation (EC) No 1987/2006 and Article 44 (1) and Article 45 (1) Decision 2007/533/JHA an alert entered in SIS II is to be kept only for the time required to achieve the purpose for which it was entered. Considering the diverging practices of Member States concerning the definition of the point in time when an alert fulfills its purpose it is appropriate to set out detailed criteria for each alert category to determine when it should be deleted from SIS II.
- (5) The United Kingdom does not take part in Regulation (EC) No 1987/2006 as a consequence of which it cannot search and enter alerts on refusal of entry or stay regarding third country nationals. It remains, nevertheless, bound by the rules on compatibility and priority of all alert categories since SIS II constitutes one single system. Therefore it is necessary to define the procedure of consultation in case there is an alleged incompatibility between an alert issued by the United Kingdom and an alert on refusal of entry or stay issued by another Member State.
- (6) It is indispensable to lay down a new accelerated procedure for information exchange on alerts on discreet and specific check in order to address a possible increased threat posed by some persons, involved in terrorism or in serious crime, which require immediate action of the competent authorities. It is necessary to indicate for end-users if a document used for travel purposes was invalidated by the issuing national authorities to ensure the seizure of such documents. In order to provide instructions to end-users on accelerated reporting and invalidated documents used for travel purposes Appendix 2 should be amended.
- (7) Certain detailed procedures should be revised in order to harmonize national practices. Taking into account that fingerprints and photographs are to be added to the alerts once they are available or they can be attached to forms to provide them to the issuing Member State the provision on the SIRPIT procedure and Appendix 5 should be deleted.
- (8) Statistics related to the interventions of the SIRENE Contact Person in each SIRENE Bureau should be collected in order to enable better assessment of their efficiency. To this end former Appendix 6 should be amended.
- (9) Provisions on the protection of personal data and security of data in SIS II are set out in Regulation (EC) No 1987/2006 and Decision 2007/533/JHA. In the absence of specific provisions in Regulation (EC) No 1987/2006, Directive 95/46/EC of the European Parliament and of the Council⁶ should apply to the exchange of supplementary information in relation to alerts based upon Article 24 of Regulation (EC) No 1987/2006. In the absence of specific provisions in Council Decision 2007/533/JHA, Council Framework Decision 2008/977/JHA⁷ should apply to the exchange of supplementary information relating to all other alerts.
- (10) Given that Regulation (EC) No 1987/2006 builds upon the *Schengen acquis*, Denmark, in accordance with Article 5 of the Protocol on the position of Denmark

⁶ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31.).

⁷ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60).

annexed to the Treaty on European Union and the Treaty establishing the European Community, notified by letter of 15 June 2007 the transposition of this *acquis* into its national law. Denmark participates in Decision 2007/533/JHA. It is therefore bound to implement this Decision.

- (11) The United Kingdom is taking part in this Decision to the extent that it does not concern the exchange of supplementary information in relation to Articles 24 and 25 of Regulation (EC) No 1987/2006, in accordance with Article 5 of the Protocol on the *Schengen acquis* integrated into the framework of the European Union annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC⁸.
- (12) Ireland is taking part in this Decision to the extent that it does not concern the exchange of supplementary information in relation to Articles 24 and 25 of Regulation (EC) No 1987/2006, in accordance with Article 5 of the Protocol on the *Schengen acquis* integrated into the framework of the European Union annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC⁹.
- (13) As regards Cyprus, this Decision constitutes an act building upon the *Schengen acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.
- (14) As regards Croatia, this Decision constitutes an act building upon the *Schengen acquis* or otherwise related to it within the meaning of Article 4(1) of the 2012 Act of Accession.
- (15) As regards Iceland and Norway, this Decision 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 association of those two States with the implementation, application and development of the *Schengen acquis*¹⁰, which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC¹¹.
- (16) As regards Switzerland, this Decision constitutes a development of provisions of the *Schengen acquis* within the meaning of the Agreement signed 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*¹², which falls within the area referred to in Article 1, point G of Council Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decision 2004/860/EC¹³.

⁸ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (OJ L 131, 1.6.2000, p. 43).

⁹ 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).
¹⁰ OJ L 176, 10.7.1999, p. 36.

¹¹ 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).
¹² OJ L 53, 27.2.2008, p. 52.

¹³ Council Decision 2004/860/EC of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation, concerning the Swiss

- (17) As regards Liechtenstein, this Decision constitutes a development of provisions of the *Schengen acquis* within the meaning of the Protocol signed 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*¹⁴, 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 2011/350/EU¹⁵.
- (18) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 51 of Regulation (EC) No 1987/2006 and Article 67 of Decision 2007/533/JHA,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2013/115/EU is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Article 3

Appendix 2 of the Annex to Decision 2013/115/EU shall apply until 31 January 2015.

Appendix 2 of the Annex in the Annex to this Decision shall apply on 1 February 2015.

Done at Brussels,

For the Commission

The President

Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 370, 17.12.2004, p. 78).

¹⁴ OJ L 160, 18.5.2011, p. 21.

¹⁵ Council Decision 2011/350/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 to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.5.2011, p. 19).