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THE EUROPEAN UNION**

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**NOTE**

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Subject : Conclusions of the Council on the new requirements for the SIS

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1. The conclusions set out in annex reflect the outcome of the experts discussions on the new requirements for the SIS during the Spanish Presidency.
2. All delegations of the SIS Working Group and of the Article 36 Committee have endorsed these conclusions, in the meetings of 30 May and 7 June respectively. The Dutch delegation asked, however, that a parliamentary scrutiny reservation be noted. The French delegation had a reservation, with respect to a legal issue, on the incorporation of fingerprints.
3. Subject to the lifting of these reservations, Coreper is invited to submit the conclusions set out in annex to the Council for approval.

After the terrorist attacks of 11 September 2001, the Council met on 20 September to adopt measures to maintain the highest level of security and ensure greater effectiveness in combating terrorism.

Some of these measures have a direct bearing on the Schengen Information System (SIS).

Furthermore, on 7 December 2001 the Council examined the list of requirements to be met by the SIS. After an in-depth discussion, the Council urged the working parties to continue examining some of these requirements and to present proposals for subsequent adoption.

Taking into account the work done during the last months in the relevant Council Working Groups, and notably the draft Decision and draft Regulation presented by the Kingdom of Spain in this matter,

considering the need to both improve the current system and ensure that the new system has enhanced capability compared to the current system to allow for the integration of the candidate countries and the introduction of new functionalities,

the Council agrees:

1. that the SIS II should include:
  - the possibility of running searches on the basis of incomplete data;
  - the use of general and easily applicable transliteration rules;
  - more specific search criteria concerning issued documents;
  
2. that the SIRENE Manual should be amended by the Council, in accordance with the provisions of the appropriate legislative instruments, in order to provide for:

- a simpler procedure, in the context of combating terrorism, for entering alerts pursuant to Article 99(3) of the Schengen Convention, consisting merely of an exchange of information on the fact that such an alert is entered instead of a preliminary consultation; this is subject to an amendment of the provisions of Article 99(3) of the Schengen Convention to allow this more simple procedure;
  - the possibility for a single State to enter multiple alerts pursuant to Article 95 of the Schengen Convention on a single person;
3. that there should be no extension of the duration of alerts and replacement of the maximum deadlines by review deadlines and it is recommended that, where domestic law so allows, any extensions be done via national technical procedures;
4. to proceed with a legislative initiative concerning access for public vehicle registration authorities to SIS data concerning stolen vehicles and related documents<sup>1</sup>;
5. that, in view of the general agreement of the experts on these issues, the following requirements should be implemented through the adoption, in due time, of legislative initiatives concerning the current system, including the draft Decision and draft Regulation submitted by the Kingdom of Spain. These initiatives should allow for further examination and clarification of the legal, technical and practical consequences of providing for:
- extended access for authorities issuing residence permits to alerts on documents;
  - access for Europol to consult such SIS data as it needs to fulfil its mandate, while ensuring that adequate data protection rules be complied with;
  - access for judicial authorities in accordance with national legislation; individual States should therefore decide on the type and extent of access that is necessary for these authorities to fulfil their functions;
  - access for the national members of Eurojust to consult certain SIS data, as set out in the Council statement included in the minutes of the Council when adopting the Council Decision of 28 February 2002 setting up Eurojust;

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<sup>1</sup> The European Commission's services are already working on the possibility of a future initiative on this issue.

- the inclusion of new categories of readily identifiable objects in the SIS, both for purposes of discreet surveillance or specific checks and for seizure or use as evidence in criminal proceedings. The new categories to be added to Article 100 include ships, aircrafts, containers, additional issued documents (such as residency permits and vehicle registration certificates), credit documents and works of art. A final decision on these categories will also depend on the outcome of the technical feasibility study for SIS II. Article 99 should also be extended to include ships, aircrafts and containers. Together with the possibility of interlinking alerts, this would allow for an improved search capability in respect of wanted persons by the introduction of alerts for the purposes of discreet surveillance or specific checks on objects owned and/or used by wanted persons;
- the addition of certain particulars concerning wanted persons with a view to enhancing the effectiveness and security of officials when performing controls;
- the full recording of searches in the system;

6. that, in view of the general agreement of the experts on these issues, the following requirements should be implemented through the adoption, in due time, of legislative initiatives concerning the future SIS II:

- the incorporation of identification material in alerts on persons, notably photographs and fingerprints; a final decision on these requirements will also depend on the outcome of the technical feasibility study for SIS II;
- the interlinking of any type of alert, ensuring that this does not change the existing access rights to the different categories of alerts;

7. that the Joint Supervisory Authority be fully involved in the work on the new requirements for the SIS, to ensure that all necessary and appropriate data protection measures are provided for.

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