

EDPS Formal comments on draft Commission Implementing Decision repealing and replacing SIRENE Manual - Borders and return

THE EUROPEAN DATA PROTECTION SUPERVISOR,

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

Having regard to Regulation (EU) No 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 ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 24 May 2024, the European Commission consulted the EDPS on the draft Commission Implementing Decision laying down detailed rules for the tasks of the SIRENE Bureaux and the exchange of supplementary information regarding alerts in the Schengen Information System in the field of border checks and return ('SIRENE Manual – Borders and return') and repealing Implementing Decision C(2021) 7900 final and Implementing Decision C(2024) 451 final ('the draft Implementing Decision').
2. The objective of the draft Implementing Decision is to introduce procedural changes related to the exchange of supplementary information between SIRENE Bureaux, resulting from the provisions of Regulation (EU) 2018/1240 establishing a European Travel Information and Authorisation System (Regulation ETIAS)² and Regulation (EU) 2021/1134 reforming the Visa Information System (Regulation VIS)³.
3. The draft Implementing Decision concerning SIRENE Manual - Borders and return is adopted pursuant to Article 8(4) of Regulation (EU) 2018/1861⁴.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

³ Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System (OJ L 248, 13.7.2021, p. 11).

⁴ Regulation (EU) 2018/1861 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 border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006, OJ L 312, 7.12.2018, p. 14–55.

4. The EDPS has previously issued formal comments of 2 October 2023 on three draft Commission Implementing Decisions amending SIRENE Manual – Borders and SIRENE Manual - Police with regard to information alerts into the Schengen Information System on third-country nationals in the interest of the Union⁵ and formal comments of 20 November 2020 on the draft Commission Implementing Decision amending 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)⁶.
5. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in recital 28 of the draft Implementing Decision.
6. These formal comments do not preclude any additional comments by the EDPS in the future, in particular if further issues are identified or new information becomes available, for example as a result of the adoption of other related Implementing or Delegated acts.
7. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of the EUDPR and are limited to the provisions of the draft Delegated Decision that are relevant from a data protection perspective.

2. Comments

8. The EDPS notes that the proposed changes in the SIRENE Manual - Borders and return are mainly of procedural and technical nature and aim to ensure the practical implementation of other Union legal acts, in particular Regulation ETIAS and Regulation VIS. Consequently, the EDPS considers that the draft Implementing Decision repealing and replacing SIRENE Manual - Borders and return does not raise any specific concerns as regards the right to the protection of personal data.

Brussels, 25 June 2024

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁵ [EDPS Formal comments on three draft Commission Implementing Decisions concerning information alerts into the Schengen Information System \(SIS\) on third country nationals in the interest of the Union](#), issued on 2 October 2023.

⁶ [EDPS Formal comments on the draft Commission Implementing Decision amending the Annex to Commission implementing Decision 2013/115/EU on the SIRENE Manual and other implementing measures for the second generation Schengen information System \(SIS II\)](#), issued on 20 November 2020.