

Regulation (EU) 2018/1862 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 police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU

CHAPTER XVI

Data protection

Article 66

Applicable legislation

1 Regulation (EU) 2018/1725 shall apply to the processing of personal data by eu-LISA, by the European Border and Coast Guard Agency and by Eurojust under this Regulation. Regulation (EU) 2016/794 shall apply to the processing of personal data by Europol under this Regulation.

2 Directive (EU) 2016/680 shall apply to the processing of personal data under this Regulation by the national competent authorities and services for the purposes of the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

3 Regulation (EU) 2016/679 shall apply to the processing of personal data under this Regulation by the national competent authorities and services with the exception of processing for the purposes of the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Article 67

Right of access, rectification of inaccurate data and erasure of unlawfully stored data

1 Data subjects shall be able to exercise the rights laid down in Articles 15, 16 and 17 of Regulation (EU) 2016/679 and in Article 14 and Article 16 (1) and (2) of Directive (EU) 2016/680.

2 A Member State other than the issuing Member State may provide to the data subject information concerning any of the data subject's personal data that are being processed only if it first gives the issuing Member State an opportunity to state its position. The communication between those Member States shall be done through the exchange of supplementary information.

3 A Member State shall take a decision not to provide information to the data subject, in whole or in part, in accordance with national law, to the extent that, and for as long as such a partial or complete restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the data subject concerned, in order to:

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- a avoid obstructing official or legal inquiries, investigations or procedures;
- b avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- c protect public security;
- d protect national security; or
- e protect the rights and freedoms of others.

In cases referred to in the first subparagraph, the Member State shall inform the data subject in writing, without undue delay, of any refusal or restriction of access and of the reasons for the refusal or restriction. Such information may be omitted where its provision would undermine any of the reasons set out in points (a) to (e) of the first subparagraph. The Member State shall inform the data subject of the possibility of lodging a complaint with a supervisory authority or of seeking a judicial remedy.

The Member State shall document the factual or legal reasons on which the decision not to provide information to the data subject is based. That information shall be made available to the supervisory authorities.

For such cases, the data subject shall also be able to exercise his or her rights through the competent supervisory authorities.

4 Following an application for access, rectification or erasure, the Member State shall inform the data subject as soon as possible and in any event within the deadlines referred to in Article 12(3) of Regulation (EU) 2016/679 about the follow-up given to the exercise of the rights under this Article.

Article 68

Remedies

1 Without prejudice to the provisions on remedies of Regulation (EU) 2016/679 and of Directive (EU) 2016/680, any person may bring an action before any competent authority, including a court, under the law of any Member State to access, rectify, erase, obtain information or obtain compensation in connection with an alert relating to him or her.

2 The Member States undertake mutually to enforce final decisions handed down by the courts or authorities referred to in paragraph 1 of this Article, without prejudice to Article 72.

3 Member States shall report annually to the European Data Protection Board on:

- a the number of access requests submitted to the data controller and the number of cases where access to the data was granted;
- b the number of access requests submitted to the supervisory authority and the number of cases where access to the data was granted;
- c the number of requests for the rectification of inaccurate data and for the erasure of unlawfully stored data to the data controller and the number of cases where the data were rectified or erased;
- d the number of requests for the rectification of inaccurate data and the erasure of unlawfully stored data submitted to the supervisory authority;
- e the number of court proceedings initiated;
- f the number of cases where the court ruled in favour of the applicant;

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- g any observations on cases of mutual recognition of final decisions handed down by the courts or authorities of other Member States on alerts entered by the issuing Member State.

A template for the reporting referred to in this paragraph shall be developed by the Commission.

- 4 The reports from the Member States shall be included in the joint report referred to in Article 71(4).

Article 69

Supervision of N.SIS

1 Member States shall ensure that the independent supervisory authorities designated in each Member State and endowed with the powers referred to in Chapter VI of Regulation (EU) 2016/679 or Chapter VI of Directive (EU) 2016/680 monitor the lawfulness of the processing of personal data in SIS on their territory, its transmission from their territory and the exchange and further processing of supplementary information on their territory.

2 The supervisory authorities shall ensure that an audit of the data processing operations in its N.SIS is carried out in accordance with international auditing standards at least every four years. The audit shall either be carried out by the supervisory authorities, or the supervisory authorities shall directly order the audit from an independent data protection auditor. The supervisory authorities shall at all times retain control over and undertake the responsibilities of the independent auditor.

3 Member States shall ensure that their supervisory authorities have sufficient resources to fulfil the tasks entrusted to them under this Regulation and have access to advice from persons with sufficient knowledge of biometric data.

Article 70

Supervision of eu-LISA

1 The European Data Protection Supervisor shall be responsible for monitoring the processing of personal data by eu-LISA and for ensuring that it is carried out in accordance with this Regulation. The tasks and powers referred to in Articles 57 and 58 of Regulation (EU) 2018/1725 shall apply accordingly.

2 The European Data Protection Supervisor shall carry out an audit of the processing of personal data by eu-LISA in accordance with international auditing standards at least every four years. A report on that audit shall be sent to the European Parliament, to the Council, to eu-LISA, to the Commission and to the supervisory authorities. eu-LISA shall be given an opportunity to make comments before the report is adopted.

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Article 71

Cooperation between supervisory authorities and the European Data Protection Supervisor

1 The supervisory authorities and the European Data Protection Supervisor, each acting within the scope of their respective competences, shall actively cooperate within the framework of their responsibilities and shall ensure coordinated supervision of SIS.

2 The supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties in the interpretation or application of this Regulation and other applicable Union legal acts, study problems that are revealed through the exercise of independent supervision or through the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

3 For the purposes laid down in paragraph 2, the supervisory authorities and the European Data Protection Supervisor shall meet at least twice a year as part of the European Data Protection Board. The costs and servicing of these meetings shall be borne by the European Data Protection Board. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

4 A joint report of activities as regards coordinated supervision shall be sent annually by the European Data Protection Board to the European Parliament, to the Council, and to the Commission.

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Changes and effects yet to be applied to :

- Regulation revoked in part by S.I. 2019/742, reg. 119(2)(h) (as inserted) by [S.I. 2020/1408 reg. 35\(b\)](#)