



EDPS Formal comments on draft Commission Implementing Decision laying down the content of the logs of automated scanned searches of the number plates of motor vehicles using Automatic Number Plate Recognition systems in the Schengen Information System (SIS)

1. Introduction and background

On 28 November 2018, three new Regulations were adopted concerning the Schengen Information System (SIS) to operationally and technically update and strengthen the system and to extend its scope of application: Regulation (EU) 2018/1860¹ (“SIS-return”), Regulation (EU) 2018/1861² (“SIS-border checks”), Regulation (EU) 2018/1862³ (“SIS-police”). These Regulations will enter into full application in the end of 2021 and will repeal and replace the legal framework applicable to the SIS at present.

Certain aspects of SIS are not covered exhaustively by the regulations, given their technical, highly detailed and frequently changing nature. In accordance with Regulation (EU) 2018/1862, it is necessary to lay down implementing measures to ensure uniform conditions for the operation of SIS, including the adoption of rules to establish the content of the logs of automated scanned searches of the number plates of motor vehicles, using Automatic Number Plate Recognition (ANPR) systems, in SIS. Given that numerous ANPR sites are not constantly manned and the ANPR systems carry out searches in an automated way in the SIS, the general rules on logging need to be adapted for such searches. It is therefore necessary to define the content of the logs for the searches carried out by ANPR systems.

The present formal comments of the EDPS are issued in response to the legislative consultation by the European Commission of 17 December 2020, pursuant to Article 42(1) of Regulation 2018/1725⁴. In this regard, the EDPS welcomes the reference to this consultation in Recital 13 of the draft Implementing Decision.

¹ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals.

² 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.

³ 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.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons 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, OJ, 21.11.2018, L.295, p.39 (Regulation 2018/1725).

2. Comments

The EDPS welcomes the introduction in the draft Implementing Decision of the minimum content of the logs of automated scanned searches carried out by ANPR systems with the purpose of allowing the competent national authorities to verify the lawfulness of those searches, in line with Article 12(8) of the Regulation (EU) 2018/1862.

At the same time, in accordance with Article 12(7) of the aforementioned Regulation, in case an ANPR search results in a match for a number plate searched, the end-user can also carry out a full search in the SIS in order to verify whether a hit has been achieved. Having this in mind and in order to allow the complete check of the lawfulness of the further full search, based on a potential hit, the EDPS recommends adding the hit results of the automated scanned search as another element of the minimum content of the logs of automated scanned searches carried out by ANPR systems.

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(*e-signed*)