Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Data Protection and Information Commissioner
FDPIC

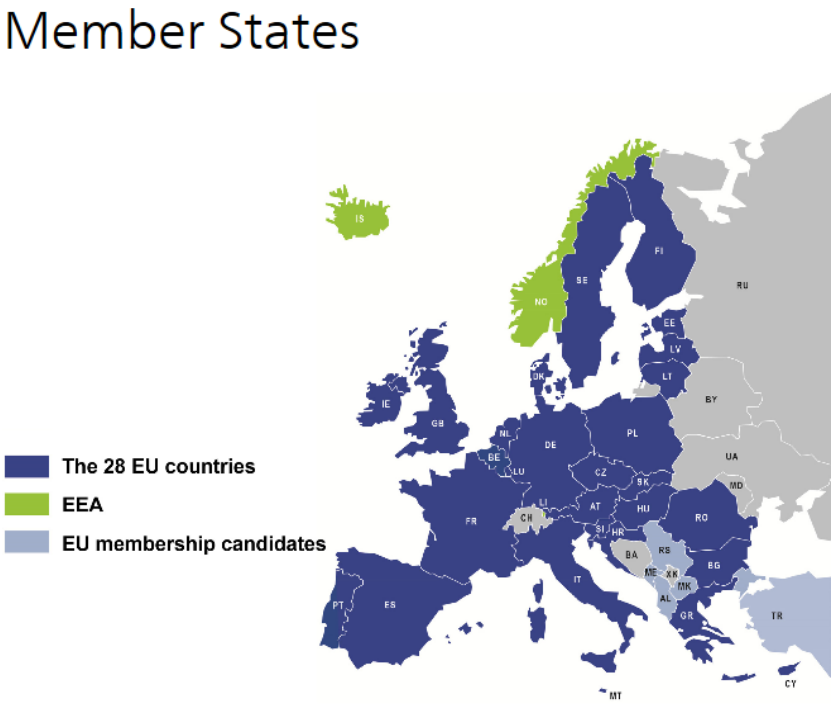
SCHENGEN AND YOUR PERSONAL DATA

➢ What is the Schengen Information System (SIS)?

The SIS is a Europe-wide computerised person and object alerting system operated jointly by the Schengen States. It contains information on persons wanted by the police or the courts, persons subject to a ban on entry or missing persons, and also on stolen items (e.g. cars, weapons). The SIS is the core of police and judicial cooperation in the Schengen area.

Under Schengen, the systematic controls of persons at the internal borders between the Schengen States are removed in order to improve traffic flows. At the same time, by improving cross-border police cooperation, security and public order in the Schengen area should be guaranteed and increased.

The second-generation Schengen Information System (SIS II), which offers enhanced functionalities, replaced the SIS one4all on 9 April 2013. To provide an idea of size, it is estimated that currently (June 2017), SIS II contains around 53 million records on stolen or missing objects for seizure or use as evidence and over 1.5 million alerts on persons. Over 80% of the data held consists of alerts on stolen or lost goods. Wanted persons represent around 2.5% of the cases entered in the system. The authorities authorised to access SIS such as the police, the Swiss Border Guard or the border inspection posts in airports make numerous searches and this contribute to the Swiss security.



Feldeggweg 1, 3003 Bern
Tel. 058 463 74 84, Fax 058 465 99 96
www.edoeb.admin.ch

➢ What sort of personal data can be held in the SIS?

The SIS contains person and item data alerts, allowing the authorities to identify a particular person or item and take necessary action.

SIS alerts are issued on:

- third state nationals (nationals from non-Schengen states) who are refused entry into or permission to stay in the Schengen area
- people subject to an arrest warrant prior to handing over or extradition;
- missing persons (who may need to be taken into custody);
- people wanted by the courts as a party to proceedings;
- people or items for discreet surveillance or specific check;
- issued identity papers such as passports, identity cards, etc., which have been lost, misappropriated or invalidated;
- vehicle paper, vehicle number plates, banknotes securities and means of payment, weapons, outboard engines, camping-cars, trailers, industrial equipment, containers;
- items for seizure or use as evidence in a criminal court.

The maximum data on any one individual that may be held in the SIS is as follows:

- surnames, first names, names at birth, former names and aliases;
- permanent distinguishing features;
- date and place of birth;
- sex;
- photographs and fingerprints;
- nationalities;
- document number, date of issue, issuing authority;
- indication of whether the person is “armed”, “violent” or “on the run”;
- the reason for the alert, the alerting authority, reference to the decision which led to the alert being issued and action taken (by the authorities concerned);
- links to other alerts held in the SIS;
- type of criminal offence.

➢ Which authorities may have access to SIS data?

The following Schengen state authorities are allowed to access the SIS:

- the authorities responsible for border controls, in order to identify third country nationals and other police and customs checks within the country (in Switzerland: the Federal Customs Administration, in particular the border guards);
- the authorities responsible for issuing and checking residence permits and visas (in Switzerland: Swiss diplomatic representations abroad, federal and cantonal migration authorities);
- national judicial authorities including authorities responsible for prosecutions and for judicial investigations (in Switzerland: the federal and cantonal police authorities, the Federal Office of Justice, the Office of the Attorney General of Switzerland (OAG), the cantonal prosecution, investigation, judicial and enforcement authorities);
- services issuing vehicle registration certificates (in Switzerland: road traffic offices).

➢ What are a person's rights regarding data processed in the SIS?

You have the following rights:

- **right to information** on SIS data about you;
- **right of correction** of inaccurate data **and right of deletion** of unlawfully held data about you;
- **right to compensation** following inadmissible processing of data about them;
- **right to institute legal proceedings** in order to follow up a request for information, correction, deletion or compensation submitted in one of the Schengen states.

➢ What is the right to information?

Everyone has the **right to be given information on whether data concerning them is being stored in the SIS** and, if applicable, **to have** access to this data.

In Switzerland anyone can ask whether any data about them is being processed and where this data comes from. The information can be restricted or refused, particularly if this information is required to protect overriding public interests or the internal or external security of Switzerland or if the information jeopardises a criminal investigation or other investigation proceedings.

The request for information on data held in the SIS can be submitted to the appropriate authority in the Schengen state of your choice.

In Switzerland, the request can be submitted directly to the authority responsible for SIS matters: the **Federal Office of Police**. Applicants must prove their identity (copy of passport or identity card). The response is given in writing and is free of charge. Exceptionally, an appropriate share of the costs may be requested under the provisions of Article 2 of the Ordinance to the Federal Act on Data Protection (DPO).

Address:

Federal Office of Police (fedpol)
Legal department / Data protection
Data protection adviser
Guisanplatz 1A
3003 Bern

www.fedpol.ch

The procedure for dealing with requests for information is governed by the national law of the Schengen state where the request was submitted. In Switzerland the response is normally given within thirty (30) days, at the latest however within sixty (60) days following the correct submission of the request (i.e. in writing and enclosing a copy of the identity document).

A model letter is available for download under the following link:

https://www.edoeb.admin.ch/edoeb/en/home/data-protection/dokumentation/model-letters/schengen-and-your-personal-data.html

However, under Article 18 of the Schengen Data Protection Act (SDPA), the Federal Office of Police (fedpol) may refuse, restrict or defer the communication of information where the request for access is manifestly unfounded or vexatious. A request for access is potentially improper if its purpose is completely unrelated to data protection, such as avoiding costs associated with obtaining evidence or obtaining information about a possible opponent in litigation. A request for access is clearly vexatious in nature when the right to information is repeatedly exercised without a valid reason, or when a person addresses a request to a federal body in the knowledge that it does not process data concerning him or her.

➢ What is the right to correction and deletion of data?

Everyone has the **right to have** any SIS data about them which is factually inaccurate **corrected or** unlawfully processed data **deleted**.

The request for correction of inaccurate data held in the SIS can be submitted to the appropriate authority in the Schengen state of your choice.

In Switzerland requests for correction or deletion and requests for information should be submitted to the **Federal Office of Police** (see address above). Exceptionally, an appropriate share of the costs may be requested under the provisions of Article 2 of the Ordinance to the Federal Act on Data Protection (DPO).

The procedure for dealing with correction and deletion requests is governed by the national law of the Schengen state where the request was made. In Switzerland the person concerned must be informed of the measures taken at the latest within three months after the correct submission of the request (i.e. in writing and enclosing a copy of an identity document).

A model-letter is available for download under the following link:

https://www.edoeb.admin.ch/edoeb/en/home/data-protection/dokumentation/model-letters/schengen-and-your-personal-data.html

➢ Who should be contacted if the authority responsible rejects or does not allow a request for information, correction or deletion?

Each Schengen state has an authority that deals with appeals in connection with requests on the processing of data in the SIS.

If a request for information, correction or deletion is rejected, the authority concerned (**Federal Office of Police in Switzerland**) will issue the person concerned with a decision. An appeal may be filed against this decision at the **Federal Administration Court** (1st instance) or, if necessary, at the **Supreme Federal Court** (2nd instance).

If the appropriate authority (Federal Office of Police) does not provide a response within 60 days to a request for information, correction, deletion or if the person considers that data is being unlawfully processed, the person concerned may address himself in writing to the **Office of the Federal Data Protection and Information Commissioner**.

Address:

Office of the Federal Data Protection and Information Commissioner FDPIC
Feldeggweg 1, 3003 Bern
Tel. +41-(0)58 462 43 95, Fax +41-(0)58 465 99 96

E-form: www.edoeb.admin.ch

➢ What is the right to compensation?

The person concerned may file a **request for compensation** with the court or authorities responsible under the national law of the Schengen state where the request is made, provided that an alert relating to them has been processed unlawfully in the SIS.

In Switzerland, the request for compensation must be submitted in writing to the **Federal Department of Finance**.

Address:
Federal Department of Finance
Bundesgasse 3
3003 Bern
Email: info@gs-efd.admin.ch

➢ Who monitors the processing of data in the SIS?

Each Schengen state has a **national** supervisory authority which checks the lawfulness of the processing of personal data in the SIS on its national territory and its transmission from this area.

In Switzerland, the **Office of the Federal Data Protection and Information Commissioner** (FDPIC) is responsible for verifying the processing of SIS data on national territories. Federal bodies **using the SIS** are monitored by the **FDPIC,** and the cantonal and communal users are monitored by the **cantonal data protection authorities**.

Further questions in connection with data protection matters will be answered by the FDPIC and the cantonal data protection authorities:

Office of the Federal Data Protection and Information Commissioner
https://www.edoeb.admin.ch/edoeb/en/home.html

Cantonal data protection authorities
http://www.privatim.ch (in German or French)

Further information on the Schengen area can be found on the following links:

Swiss Federal Administration:
https://www.eda.admin.ch/dea/en/home/dienstleistungen-publikationen/faq/faq-schengen-dublin.html

European Data Protection Commissioner:
https://edps.europa.eu/edps-homepage_en

Data protection authorities in the Schengen states:

https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/data-protection_en

Last modification: September 2019