

REPORT

ARTICLE 98 INSPECTION

Report of the Schengen Joint Supervisory Authority on an inspection of the use of Article 98 alerts
in the Schengen Information System

Brussels, 13 October 2009

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I. INTRODUCTION

In March 2008, the JSA decided to start an inspection of the use of Article 98 alerts and to collect information on the national procedures involved in entering an Article 98 alert in the Schengen Information System (SIS).

This inspection, together with the inspection of the use of Article 97 alerts that took place at the same time, are the concluding stages of an overall inspection of the use of alerts in the SIS starting in 2005. The JSA has now checked how the Schengen States have implemented the necessary conditions for using alerts pursuant to Articles 96 to 99 of the Schengen Convention.

The present legal basis for Article 98 alerts, *the Schengen Convention*, will in the future be replaced by the Council Decision on the establishment, operation and use of the second generation Schengen Information System (SIS II)¹. Since that Council Decision defines these alerts and the conditions for their use in a way similar to that in the Schengen Convention, the results of the present inspection will also be valuable when the new legal basis of SIS II is applied.

This report presents the findings and an evaluation of the latest JSA inspection of Article 98.

II. DATA PROTECTION SUPERVISION

Under the provisions of the Schengen Convention, personal data are processed in the SIS by 25 participating States (the Schengen States). The Schengen Convention divides the data protection supervision of the content and functioning of the SIS between national data protection authorities and the JSA. The Schengen State entering data in the system is responsible for the processing of those personal data in the SIS in accordance with the Schengen Convention and the national data protection authority is the supervisory body. On the other hand, the JSA has the overall task of supervising the technical support function of the SIS. This function is responsible for distributing the data entered in the SIS to all Schengen States.

¹ OJ L 205, 7.8.2007.

Article 115 of the Schengen Convention describes the tasks of the JSA. Apart from checking the technical support function of the SIS, the JSA is charged with examining any difficulties of application or interpretation that may arise with the operation of the SIS, as well as drawing up harmonised proposals for joint solutions to existing problems. The last two are the basic legal grounds for initiating a set of systematic surveys on the implementation of specific articles of the Schengen Convention.

III. REASON FOR INSPECTION

Article 98 alerts are divided into three categories of subjects:

- 1) witnesses;
- 2) persons summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted;
- 3) persons who are to be served with a criminal judgment or a summons to report in order to serve a penalty involving deprivation of liberty at the request of the competent judicial authorities, for the purpose of communicating their place of residence or domicile.

The action required under an Article 98 alert is the communication of their place of residence or domicile in order to locate or trace witnesses, persons summoned to appear before a judicial authority in criminal proceedings or to serve a penalty involving deprivation of liberty. The statistics received from the CSIS on the number of alerts entered in the SIS pursuant to Article 98 vary from country to country. With a view to better understanding of the use of these alerts, it would be interesting to explore the reasons which are given for Article 98 alerts. The other issue which should be taken into consideration is the requirements in Article 98(2) to communicate information requested to the requesting party in accordance with national legislation and with the Conventions in force concerning mutual judicial assistance in criminal matters.

When comparing Article 98 alerts with Article 95 alerts, certain similarities can be identified (e.g. in both cases alerts could be entered at the request of the judicial authority, the person is wanted for the criminal offence committed, etc). However, the main difference is that in the case of Article 98 no coercive measures (e.g. arrest) are requested in respect of the alerted person: the purpose is to provide the requesting State with information on the place of residence or domicile of the wanted person.

Based on the figures of 1 March 2008, the SIS contained the following numbers of Article 98 alerts:

Country								
	AT	BE	CZ	DE	DK	EE	ES	FI
<i>Article 98</i>	5892	588	326	1843	76	439	4110	6
Country								
	FR	GR	HU	IS	IT	LT	LU	LV
<i>Article 98</i>	23872	0	1371	1	15782	86	306	124
Country								
	MT	NL	NO	PL	PT	SE	SL	SK
<i>Article 98</i>	5	78	156	0	6040	0	142	5016

These figures¹ basically justify the purpose of the inspection: to see whether the variations in the number of Article 98 alerts entered by the different Schengen States may be a result of Article 98 being applied in a different manner by the Schengen States. Factors that might explain this are the variations in national law and the way the competent national authorities operate in practice.² Nonetheless, the possibility that Article 98 is being interpreted differently throughout the Schengen area should not be ruled out. In view of this, the JSA decided to request the national data protection supervisors to inspect the national SIS in a joint action.

¹ The figures at the beginning of 2009 present a similar overview.

² However, it should also be noted that, although in some Schengen States the number of these alerts was low or there were no alerts, the numbers due to access by the judicial authorities and prosecutors to Article 98 alerts are increasing.

IV. SCOPE AND METHOD OF INSPECTION

The objective of the inspection was to ensure that Article 98 data are processed in accordance with Article 98, the data protection principles in the Schengen Convention, the SIRENE Manual and the applicable national legislation. Information was collected on the procedures followed by the competent authorities before and after entering an alert under Article 98.

A questionnaire (see annexes) was developed for collecting the information concerning the procedures followed by the competent authorities before and after entering an alert under Article 98.

V. REACTIONS RECEIVED

The secretariat received twenty five answers from the following Schengen States: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Italy, Hungary, Lithuania, Latvia, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Sweden, Slovakia, Slovenia, Spain and Switzerland.

I. RESULTS

The JSA has assessed the answers received. In the presentation of the first assessment, the JSA emphasises some guiding principles for the use of Article 98 alerts. It should be stressed that, although the national data protection authorities used the same model of questionnaire, in some cases there were differences in the way the results were reported. The fact that some Schengen States conducted inspections *in situ* while others used a written procedure also influenced the results.

A. Decision on an Article 98 Alert

1. Which competent authorities may decide on an Article 98 alert?

While public prosecutors and judicial authorities obviously play a major role in the decision leading to Article 98 alerts, in some Schengen States the police, security police, tax and customs authorities,

border guard authorities and other authorities competent for criminal investigations are also competent to decide on Article 98 alerts.

2. Has a specific procedure been established for this category of alert?

In 16 Schengen States a specific procedure has been established. There is however a great difference between these procedures. In the Netherlands extensive instructions have been established describing the cases in which an alert is allowed, other States only mention a formal decision by an authority as a requirement for alerting. Other States refer to the SIRENE Manual, various internal police rules or administrative regulations.

In nine (9) Schengen States (Czech Republic, Greece, Hungary, Italy, Latvia, Luxembourg, Portugal, Slovak Republic, Spain) no specific procedure has been developed for this kind of alert

3. Is the need to locate or trace witnesses and persons summoned to appear before a judicial authority in connection with criminal proceedings or to serve a penalty involving deprivation of liberty a prerequisite for issuing an alert pursuant Article 98?

All answers confirm that the need to locate or trace witnesses and persons summoned to appear before a judicial authority in connection with criminal proceedings or to serve a penalty involving deprivation of liberty is the prerequisite for issuing an alert pursuant Article 98. In Poland, these alerts are only issued when the locating or tracing of persons enumerated in this article were unsuccessful in Poland.

4. Are alerts only processed when the person involved has no permanent address?

The term "permanent address" covers both the place of residence and domicile (Article 98(1) of the Schengen Convention)¹.

In nine (9) Schengen States, Article 98 alerts are only used when the person involved has no permanent address. In other States having a permanent address or not is not a condition for the alert. For example, when an address is not confirmed as the correct address or when it is impossible to determine the actual whereabouts of the person, despite their having a permanent address, an Article 98 alert is possible.

¹ Domicile is usually considered to be the person's relationship with the State or part of its territory, in which he permanently or ordinarily resides with the intention of making it the seat of his personal, social and economic interests; place of residence is the place where the person in fact mostly resides.

5. If a person has a permanent address what is the reason for a Schengen alert?

In most cases such an alert is processed when the person in question is not found at the address in question (or multiple addresses). No information is available about the basis on which such a conclusion is reached. One State also referred to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of May 29 2000. Judicial authorities may serve court documents, summons, etc., directly by mail to the person concerned. For this purpose, however, the searching authority requires an official address at which a summons can be served, and an alert under Article 98 may make it possible to establish such an address.

6. Statistics on Article 98 alerts

Article 98 may concern three categories of subject:

- 1) witnesses;
- 2) persons summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted;
- 3) persons who are to be served with a criminal judgment or a summons to report in order to serve a penalty involving deprivation of liberty at the request of the competent judicial authorities.

The action which is required under an Article 98 alert is the communication of the person's place of residence or domicile in order to locate witnesses and persons summoned to appear before a judicial authority in connection with criminal proceedings or to serve a penalty involving deprivation of liberty.

In eight (8) Schengen States, statistics were not available on how many Article 98 alerts had been issued for the different categories of subject.

The statistics presented by the other Schengen States show that most of the alerts concern persons summoned to appear before the judicial authorities in connection with criminal proceedings. Few alerts concern witnesses with the exception of Luxembourg (45% - 60% of the alerts).

7. Is there a specific procedure concerning the communication of data to the requesting party?

Various Schengen States report that the procedures are based on the SIRENE Manual and Handbook, internal police rules/instructions. In most cases the communication of data information under Article 98 to the requesting party is done via SIRENE bureaux if there is a hit.

The SIRENE Manual establishes common rules for creating and entering the alerts and the forms to be used for information exchanged between SIRENE bureaux. During the survey, answers were received from Belgium, the Czech Republic, Denmark, Hungary, Finland, Germany, Italy, Lithuania, Latvia, Malta, Slovenia, Spain and the Netherlands on the use of the G form for the exchange of information in the case of an Article 98 alert. This G form is used to inform the alerting State in the case of a hit. According to the answers, the G form is used when the requested action can be carried out or has been carried out. Spain even provided statistics on use of the G form in 2008: sent – 102; received – 76. Slovenia indicated that the G form is used to inform the alerting authority of the address given by the person who is the subject of the alert. Italy answered that information on an alert is exchanged between the country entering the alert and the country where the person concerned was traced, by sending the forms that provided for within the framework of the SIRENE procedure.

VI. CONTENT

A. Content of the file

In this part of the questionnaire, national data protection authorities were asked to provide information on the files supporting the Article 98 alert and related procedures. 24 Schengen States answered these questions.

1. Is there a file at the SIRENE bureau?

Most of the answers indicated that in the case of a national Article 98 alert, a file is kept at the SIRENE bureau. Some States indicated that a file is stored at the SIRENE bureau only in the case of a hit. In Germany, a file is kept at the SIRENE bureau only in the case of a hit and when information is exchanged. Four Schengen States (Denmark, France, Italy, Poland) answered that the file is not kept at the SIRENE bureau but elsewhere; the SIRENE bureau has access to that file. In Italy and Poland, a file is not kept by the SIRENE bureau, but is created whenever there is a need to send additional information between the SIRENE bureaux in connection with the processing of the alert in the SIS or in connection with a hit.

1a. Does further information communicated after a hit fall within the scope of mutual judicial assistance?

In 11 Schengen States, further information is communicated within the scope of mutual judicial assistance. One State (Germany) refers to the exchange between police authorities pursuant to Article 39 CISA. In Hungary the information is communicated within the scope of mutual judicial assistance only where so requested.

The Slovenian SIRENE bureau pointed out that the accuracy of alerts presented a problem as some Schengen States did not delete alerts that had already expired.

1b. Is the Sirpit procedure (Sirene Picture Transfer) exchanging pictures and fingerprints used for the purpose of the person's identification?

According to the answers received, the Sirpit procedure for exchanging pictures and fingerprints is not widely used. Only 12 States report the use of Sirpit. In Italy, the Sirpit procedure is used whenever it is necessary to identify the person concerned, subject to domestic legislation. In some Schengen State, Sirpit is not yet implemented (Poland, Estonia, Slovenia). Fingerprints and pictures may also be exchanged via SISNET.

- 1c. Is there a procedure for further use of the data exchanged via the Sirpit procedure (including archiving)?

According to the information provided, half of the States have a procedure for further use of the data exchanged via the Sirpit procedure (including archiving). In some States the further use of such data falls under national legislation (Austria, Denmark). Germany reports that the exchange of information via Sirpit is governed by Article 98 CISA in conjunction with Article 39 CISA. The information provided will be stored no longer than is necessary for the intended purpose. Notwithstanding Article 112 A(2) CISA, the documents are as a rule and pursuant to Article 112 A(1) CISA deleted no later than one year after the cancellation of the alert from the SIS. Italy reported the same situation. In Hungary, this information will be stored as supplementary information. Some States indicated that this information would be archived in order to be able to check any disclosure during the existence of the file (Slovakia) afterwards. It appears that the same storage and archiving procedures will be applied in some States in relation to the data exchanged via the Sirpit procedure.

- 1d. Is there a periodic review as to the necessity of the storage of the transmitted information?

Sixteen Schengen States report that they perform periodic reviews as to the necessity of the storage of the transmitted information. For example, in Italy such a periodic review is performed by another administrative body – Archivio Affari Generali [Archiving Department for General Matters] at the Central Criminal Police Directorate in accordance with domestic legislation. The answers do not reveal whether this concerns the three-year periodical review under Article 112, or that other periodical reviews take place or what body is responsible for performing such a review.

- 1e. Is the obligation for periodic review laid down in an official policy document?

Half of the answers indicated that the obligation for periodic review was laid down in an official document. The answers also indicated that the provisions of Article 112 CISA were being followed. In Germany, for the duration of the SIS alert, archiving is governed by Article 112 A(1) CISA.

It should be noted that the reason for an Article 98 alert is the request of the judicial authority in order to serve judicial documents to a person during proceedings at court. The answers received did not mention the cooperation between judicial authorities and e.g. SIRENE bureaux in relation to the continued storage of the alert. Since the decision to enter an Article 98 alert is taken on the basis of the request from the judicial authority, the decision to continue the storage of an alert should be taken in cooperation with the judicial authority. The provisions of Article 112(1) CISA provide that personal data entered in the SIS shall be kept only for the time required to meet the purposes for which they were supplied. Therefore, after the location of the person has been established and the data on whereabouts communicated to the requesting State, the alert should be deleted from the system.

1f. Which authorities in your country have access to SIS Article 98?

According to the answers, the number of authorities having access to SIS Article 98 varies from State to State. All answers mention police and judicial authorities. However, the list is quite broad and also includes border guard authorities, tax and customs authorities, security police, Ministry of Justice, authorities in charge of prevention and combating corruption, migration authorities, military police, the prison administration and a constitutional security bureau. As Article 98 explicitly mentions that the alert shall be entered at the request of a judicial authority in connection with criminal proceedings, the JSA questions the compliance with CISA provisions, especially Article 101 CISA, of the extensive access given to a wide range of authorities for the purpose of an Article 98 alert.

2. Are there any additional procedures that are applied concerning the checking of the data involved in Article 98 alerts?

Only three Schengen States reported the existence of additional procedures for checking the Article 98 data. In Italy, if there is an exchange of correspondence concerning a given alert, the SIRENE operator performs an additional check on the quality of the data at issue.

VII. CONSIDERATIONS AND RECOMMENDATIONS

One of the characteristic features of the SIS is the shared responsibility for using such a system in accordance with the provisions set out in the Schengen *acquis* and national laws. The *acquis* is also the first common legal instrument with specific data protection provisions on the use of the SIS.

The results of the overview of the answers show various differences in the implementation of Article 98 alerts. These differences concern not only the national prerequisites for such an alert but also the procedures following such an alert. As regards sending further information after a hit, the use of Sirpit and the categories of authorities having access to these alerts, the answers from the Schengen States demonstrate clear differences, which are sometimes due to national laws and judicial procedures.

The inspection also showed the considerable differences in the way Schengen States apply the provisions of Article 101(1) CISA concerning access to SIS data by competent authorities. The JSA questions whether some of the authorities having access belong to the category of such authorities as are referred to in Article 101(1) of the Schengen Convention. This is particularly important, bearing in mind the purpose and nature of an Article 98 alert.

Although the Schengen *acquis* does not aim to harmonise national practices, the implementation of Schengen provisions - and certainly when they concern the processing of personal data - does require a more or less uniform approach. Ensuring the quality of data as well as the control and management of alerts is of such importance that where necessary similar procedures or other safeguards should be implemented.

In this respect and also taking into account the inducations received from the answers that alerts which have expired are not always deleted, a more harmonised approach to periodic reviews apart from the three-year review under Article 112 of the Schengen Convention should be developed. The role of the judicial authorities in relation to the necessity to store the alert in SIS should also be stressed. The alerts pursuant Article 98 are to be inserted only for the purpose of communicating the place of residence or domicile of the person in question for the needs of judicial authorities. Once this objective is achieved, the continuation of the storage of the alert should be reviewed and the necessary actions taken. Such a procedure should also encompass the internal procedures leading to the issuing of Article 98 alerts.

Another aspect that needs attention is the use of the retention periods for additional data exchanged via the SIRENE bureaux. The survey demonstrates that the Schengen States use different retention periods whereas the CISA provides for strict rules. Article 112 applies to the alert and Article 112A to the data processed by the SIRENE bureaux.

In view of the findings of Article 98 inspection, the JSA would make the following recommendations:

1. In all Schengen States formal written procedures should be in place for all authorities involved with entering Article 98 alerts.
2. In cases where various authorities are involved with entering Article 98 alerts, the procedures should be consistent and applied in a uniform manner.
3. Compliance of the review of data and the retention periods with Article 112 and Article 112A CISA should be improved.
4. The G form should be used by all Schengen States.
5. All Schengen States should check whether the national authorities having access to Article 98 alerts are considered to be authorities as referred to in Article 101(1) CISA.

VIII. ANNEXES

Article 98

1. Data relating to witnesses, to persons summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted, or to persons who are to be notified of a criminal judgment or of a summons to appear in order to serve a custodial sentence, shall be included, at the request of the competent judicial authorities, for the purposes of communicating their place of residence or domicile.
2. Information requested shall be communicated to the requesting Party in accordance with national legislation and with the Conventions in force concerning mutual judicial assistance in criminal matters.

Article 101 B

1. The national members of Eurojust and their assistants shall have the right to have access to, and search, data entered in accordance with Articles 95 and 98 into the Schengen Information System.
2. The national members of Eurojust and their assistants may only search data which they require for the performance of their tasks.
3. Where a search by a national member of Eurojust reveals the existence of an alert in the Schengen Information System, he or she shall inform the Member State having issued the alert thereof. Any communication of information obtained from such a search may only be communicated to the third States and third bodies with the consent of the Member State having issued the alert.
4. Nothing in this article shall be interpreted as affecting the provisions of the Council Decision setting up Eurojust concerning data protection and the liability for any unauthorised or incorrect processing of such data by national members of Eurojust or their assistants, or as affecting the powers of the Joint Supervisory Body set up pursuant to Article 23 of that Council Decision.
5. Every search made by a national member of Eurojust or an assistant shall be recorded in accordance with the provisions of Article 103 and every use made by them of data to which they have acceded shall be registered.
6. No parts of the Schengen Information System shall be connected nor shall the data contained therein to which the national members or their assistants have access be transferred to any computer

system for data collection and processing in operation by or at Eurojust nor shall any parts of the Schengen Information System be downloaded.

7. The access to data entered into the Schengen Information System shall be limited to the national members and their assistants and not be extended to Eurojust staff.

8. Measures as provided for in Article 118 shall be adopted and applied.

Article 105

The Contracting Party issuing the alert shall be responsible for ensuring that the data entered into the Schengen Information System is accurate, up-to-date and lawful.

Article 112

1. Personal data entered into the Schengen Information System for the purposes of tracing persons shall be kept only for the time required to meet the purposes for which they were supplied. The Contracting Party which issued the alert must review the need for continued storage of such data not later than three years after they were entered. The period shall be one year in the case of the alerts referred to in Article 99.

2. Each Contracting Party shall, where appropriate, set shorter review periods in accordance with its national law.

3. The technical support function of the Schengen Information System shall automatically inform the Contracting Parties of scheduled deletion of data from the system one month in advance.

4. The Contracting Party issuing the alert may, within the review period, decide to keep the alert should this prove necessary for the purposes for which the alert was issued. Any extension of the alert must be communicated to the technical support function. The provisions of paragraph 1 shall apply to the extended alert.

A. DECISION ON AN ARTICLE 98 ALERT

1. Which competent authorities may decide on an Article 98 alert?

2. Is there a specific procedure established for this category of alerts?

Yes No

If the answer is yes, please describe the procedure:

3. Is the purpose of locating or tracing witnesses and persons summoned to appear before a judicial authority in connection with criminal proceedings or to serve a custodial sentence a prerequisite for issuing an alert pursuant to Article 98?

Yes No

4. Are alerts only processed when the person involved has no permanent address?

Yes No

5. If a person has a permanent address what is the reason for a Schengen alert?

6. In your country, how many Article 98 alerts have been issued for each of the following cases:

(a) witnesses

0% - 15% 15% - 30% 30% - 45% 45% - 60% 60% - 75% 75% - 100%;

(b) when persons are summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted

0% - 15% 15% - 30% 30% - 45% 45% - 60% 60% - 75% 75% - 100 %;

(c) when persons are to be notified of a criminal judgment or of a summons to appear in order to serve a custodial sentence

0% - 15% 15% - 30% 30% - 45% 45% - 60% 60% - 75% 75% - 100%.

7. Is there a specific procedure concerning the communication of data to the requesting party?

Yes No

If the answer is yes, please explain:

B. CONTENT OF THE FILE

1. Is there a file at the SIRENE bureau?

Yes No

1a. Does further information communicated after a hit fall within the scope of mutual judicial assistance?

Yes No

1b. Is the Sirpit procedure (Sirene Picture Transfer) exchanging pictures and fingerprints used for the purpose of the person's identification?

Yes No

1c. Is there a procedure for further use of the data exchanged via the Sirpit procedure (including archiving)?

Yes No

If the answer is yes, please explain:

1d. Is there a periodic review as to the necessity of the storage of the transmitted information?

Yes No

1e. Is the obligation for periodic review laid down in an official policy document?

Yes No

1f. Which authorities in your country have access to SIS Article 98?

2. Are there any additional procedures that are applied concerning the checking of the data involved in Article 98 alerts?

Yes No

If the answer is yes, please explain:

IX. ANSWERS

A. DECISION OF ARTICLE 98 ALERT

1. Which competent authorities may decide for Article 98 alert?

Austria	In Austria the public prosecutors are competent to issue Article 98 alerts (Section 169 paragraph 1 Strafprozeßordnung 1975, Federal Law Gazette No. 631/1975, abbr. <i>StPO</i>).
Belgium	In Belgium it is only judicial authority.
Czech Republic	Judicial or prosecution authorities might decide for such an alert only.
Denmark	In Denmark the local police district that is in charge of the investigation decides for Article 98 alert. (The Danish Police is organised with a central unit – The National Police – and 14 local police districts.)
Estonia	In Estonia, on entry the alert decide Security Police Board; Tax and Customs Board; Border Guard authorities; Police authorities; Prosecutor’s Office; courts in cases on which proceedings are being conducted in court.
Finland	The public courts and public prosecutors.
France	The judicial authorities may register witnesses and the persons summoned to appear in connection with a judicial case.
Germany	In Germany, the decision (instruction) to issue an SIS-alert under Article 98 of the CIS lies exclusively with the judicial authorities.
Greece	All competent judicial authorities.
Italy	These alerts are entered at the request of judicial authorities.
Hungary	In Hungary, competent are police, public prosecutors and courts.
Iceland	The National Police Commissioner.
Latvia	In Latvia, the decision can be taken by any competent authority in the frame of criminal investigation. If there is an need to enter alerts into SIS the authority in charge of the criminal proceedings takes the decision and enters mentioned information in Latvian national data base, but the copy of the decision sends to SIRENE Bureau. SIRENE Bureau receiving the copy of decision verifies it and accepts the entry of the data into SIS.
Lithuania	In Lithuania, the alerts are prepared by the territorial and specialised police institutions and State Border Guard Service and its structural units. SIRENE National unit of International Liaison Office of Lithuanian Criminal Police Bureau of Police Department (hereinafter – SIRENE National unit), having checked the alerts for their legitimacy and expediency is responsible for issuing of alerts in SIS 1+.
Luxembourg	In Luxembourg, Prosecutor (Procureur d’Etat) and General Attorney (Procureur général d’Etat).
Malta	In Malta, only the Police may submit Article 98 alerts. However, the Office of the Attorney General and Law Courts may request an alert under Article 98. This has never happened so far.
The Netherlands	The public prosecutors.
Norway	The competent authority (the police) can decide to issue a SIS alert in pursuance of Art. 98.
Poland	In Poland, pursuant to Art. 3 paragraph 1 item 3 of the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and Visa Information System courts and units of the public prosecutor’s office are the institutions in Poland which are entitled to enter data on persons referred to in Art. 98 of the Schengen Convention. This provision implements in the Polish legal regime Art. 98 of the Schengen Convention.
Portugal	All competent judicial authorities.
Slovakia	In Slovak Republic, an alert according Article 98 is inserted into SIS through the national police information system for wanted persons by competent office of judicial and criminal police following the request of judicial authority (court, prosecutor, and investigator).
Slovenia	In Slovenia, only SIRENE office has the authority to make the final decision on issuing any alert. Requesting authorities in the case of Art. 98 alerts are only courts.
Spain	In Spain, only judicial authorities may decide for Article 98 alert.
Sweden	The public courts and public prosecutors.
Switzerland	In Switzerland, judicial authority or prosecution authorities.

2. Is there a specific procedure established for this category of alerts? If yes, please, explain.

Austria	Yes. In Austria, the specific procedure depends on the SIRENE manual and various internal police rules on procedure, in particular the “ <i>Fahndungs- und Informationsvorschrift</i> ”, abbr. <i>FIV</i> and the “ <i>Fahndungsvorschrift für die Bundesministerin für Justiz, Finanzen und Inneres</i> ”, abbr. <i>FaV</i> .
Belgium	Yes. In Belgium, the magistrate requests a police service that will be in charge of circulating a national alert and sending a request for international alert to the SIRENE bureau.
Czech Republic	No. Personal data concerning persons summoned to appear before the judicial authorities are stored in a national information system for searched or missing persons that is a source system for this category of alerts in the SIS.
Denmark	Yes. In Denmark, the local police districts register a request for an alert in the case management system (POLCAS). The requests are automatically forwarded to the Sirene Bureau which tests the legality and completeness of the alerts. The Sirene Bureau enters the final record in SIS. Alerts are deleted via POLCAS by the police district.

Estonia	Yes. In Estonia, a degree issued by the investigating authority for declaring the person wanted, a court order or judgement shall serve the bases for entry of the information.
Finland	Yes. In Finland, city court or public prosecutor sends a demand for executive assistance to police in order to make an alert on category 98. Police enters the alert into national police data file. SIRENE-office checks the alert and enters the alert into SIS.
France	Yes. The article 98 alert is required by the judicial authorities.
Germany	Yes. In Germany, a specific procedure for placing an alert is not provided for by law. In accordance with the relevant administrative regulations (cf. item 39 et seq. of the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine), alerts under Article 98 are placed by the competent public prosecutor's office.
Greece	No.
Italy	Alerts are entered by a police office following the input given by judicial authorities, which have exclusive jurisdiction over deciding on the alert. The head of the police office records issuance of the alert in an internal document and has no discretion in terms of the relevant assessment. The police office only checks that the data to be entered are accurate and consistent with those contained in the judicial order.
Hungary	No.
Iceland	Yes. A request in writing from a police authority is a prerequisite for an Article 98 alert.
Latvia	No.
Lithuania	<p>Yes. In Lithuania, the International search announcement procedure has been regulated by the Order of 16th July 2003 of the Minister of the Interior of the Republic of Lithuania (a new wording of Order of 26th June 2007) adopted Instruction for Persons' Search and by the Order of 6th August 2007 of the Lithuanian Police Commissioner General adopted Description of Procedure Regarding the Alerts on Persons Enforcement and Data Processing.</p> <p>In order to issue the international search of the suspect, defendant, convicted person or witness for detection their whereabouts in abroad according to Article 98 of the Schengen Convention, the search executor must fill in the established form of request to issue the international alert on SIS 1+ in the data base of the Departmental Register of the Persons Sought, Unidentified Corpses and Unknown Helpless Persons, that is, he fills in all the necessary areas for the international alert on SIS 1+ (surname and forename, all aliases (if possible, registered separately), any exceptional objective permanent physical features, the first letter of the second forename, date and place of birth, sex, nationality (citizenship), whether the person concerned is armed, whether the person concerned is violent, reasons for alert, actions to be taken).</p> <p>After the established form of request for the international alert issuing is filled in, the search executor sends by post the search documents necessary for the issuing of the international alert to SIRENE National unit no later when the next working day.</p> <p>The international alerts are confirmed by SIRENE National unit after the national alert was inserted and after receiving the request of the alert initiator and the search documents, which imply the particulars of the person's sought, particular features, the probable whereabouts.</p> <p>SIRENE National unit assesses the lawfulness of the search issuing on the grounds of the transmitted search documents and inspects and checks the data quality of the requests to issue the person's search on SIS 1+ in a specific software application. The alert on SIS 1+ is confirmed within 24 hours.</p> <p>The alert initiator checks the forwarded request in the Departmental Register of Persons Sought, Unidentified Corpses and Unknown Helpless Persons within the seven days period after the international alert documents were sent, which may be: 1. rejected; 2. confirmed; 3. sending.</p> <p>In cases where the request for the issuing of international alert presented by the alert initiator in the Departmental Register of Persons Sought, Unidentified Corpses and Unknown Helpless Persons is not properly completed or not comprehensive, the SIRENE National unit in such request underlines the reasons for rejecting the request. The alert initiator must correct and properly fill the request for the international alert and to repeatedly refer for inserting the international alert.</p> <p>If the international alert is not confirmed or rejected within seven days period and the request state is in "sending" position, the alert initiator refers to the SIRENE National unit and in such way the reasons for failing to check the alert are found out.</p> <p>Having received the request to confirm the person's sought international alert in SIS 1+, which has already been inserted by the other search initiator both on national and international level, the SIRENE National unit, in comply with the alert priority, decides which alert is to be forwarded to SIS 1+. If the SIRENE National unit makes decision to cancel the inserted alert and replace it by the more significant international alert inserted by other search initiator, on this the alert initiator of the cancellable alert is notified in writing.</p> <p>Having detected a person sought in Lithuania or having received the report on person's whereabouts detection abroad, inserted by SIRENE National unit, the search executor, on whose request the international search has been declared, cancels the national search and fills in the appropriate areas in the Departmental Register of the Persons Sought, Unidentified Corpses and Unknown Helpless Persons. SIRENE National unit reviews the received report in a special software application regarding the suspended search on national level and confirms on the same day that the person's search has been cancelled in SIS 1+.</p>
Luxembourg	No.
Malta	Yes. In Malta, a mail is sent from the Police Inspector carrying out prosecution and the alert is generated first in the National Stop List. This is evaluated by SIRENE Office and if the criteria demanding an alert under Article 98 are satisfied, the data is uploaded in NSIS and the alert is generated.
The Netherlands	Yes. In the Netherlands, the Head of the Public Prosecution Service issued extensive NSIS instructions which give a detailed description of the cases in a which a SIS alert is allowed, who makes the decision, who sees to it that the appropriate criteria have been met, and which authorities involved in alert notices are to carry out which

	tasks.
Norway	Yes. The local police will enter the alert in Norway's national police circulation database. In the event that the person is to be the subject of a SIS alert, the alert is forwarded to the SIRENE bureau for processing and quality assurance before being entered in the SIS.
Poland	Yes. In Poland, these alerts are optional, after the courts or public prosecutor's offices have considered, whether importance and character of the case justify issuing such alerts and whether there is a suspicion that persons enumerated in Art. 3 paragraph 1 item 3 of the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and Visa Information System stay or may stay on the territory of the Schengen Area member states. This issue is regulated by the provisions of draft regulations by the Minister of Justice introducing amendments to the regulations governing the performance of duties of common courts and public prosecutor's office.
Portugal	No.
Slovakia	No.
Slovenia	Yes. In Slovenia, courts send request for issuing of alert either to local police or directly to SIRENE bureau. Usually when it is expected to find the person in Slovenia, the request is first sent to the local police unit.
Spain	No.
Sweden	Yes. In Sweden, there has to be a national alert before the Sirene bureau can make an international one.
Switzerland	Yes. In Switzerland, first of all the competent cantonal or national authorities have to establish a written decision. Then the police has to file a national alert in RIPOL, our national data base for searched persons and objects. The police will then send a Swiss form and the copies of the said judicial decision to the SIRENE office. The SIRENE office will then insert the alert into the SIS.

3. Is the purpose to locate or trace witnesses, persons summoned to appear before a judicial authority in criminal proceedings or to serve a penalty involving deprivation of liberty a prerequisite for issuing alert pursuant Article 98?

	YES	NO
Austria	x	
Belgium	x	
Czech Republic	x	
Denmark	x	
Estonia	x	
Finland	x	
France	x	
Germany	x	
Greece	x	
Italy	x	
Hungary	x	
Iceland ¹	x	
Latvia	x	
Lithuania	x	
Luxembourg	x	
Malta	x	
The Netherlands	x	
Norway	x	
Poland ²	x	
Portugal	x	
Slovakia ³	x	
Slovenia	x	
Spain	x	
Sweden	x	
Switzerland	x	

4. Are alerts only processed when the person involved has no permanent address?

	YES	NO
Austria	x	
Belgium		x

¹ The National Police Commissioner states that the purposes of Article 98 alerts registered in Iceland are the same as described in that provision of the Schengen Agreement.

² In Poland, Art. 98 alerts are issued only in case, when the activities consisting in locating or tracing persons enumerated in this article were unsuccessful in the country.

³ In Slovak Republic inserting of an alert according article 97 of Schengen convention is decided by judicial and criminal police in the long run.

Czech Republic		x
Denmark		x
Estonia		x
Finland	x	
France		x
Germany		x
Greece	x	
Italy ¹	x	
Hungary		x
Iceland		x
Latvia		x
Lithuania	x	
Luxembourg		x
Malta ²	x	
The Netherlands		x
Norway	x	
Poland ³		x
Portugal		x
Slovakia		x
Slovenia		x
Spain	x	
Sweden	x	
Switzerland		x

5. If a person has a permanent address what is the reason for a Schengen alert?

Austria	See question 4.
Belgium	The reason is that the person in question is not found at the address in question (or multiple addresses).
Czech Republic	The reason is that the person concerned was not found on the permanent address.
Denmark	Denmark - for example if the person is not met at the permanent address and is assumed to be abroad.
Estonia	In Estonia, a suspect, accused, victim, civil defendant or witness can be declared as a fugitive if she or he has failed without a good reason to appear when summoned and his or her whereabouts are unknown (also if he or she is not reachable on his or her permanent address), also a convicted offender may be declared a fugitive if she or he absconds from the execution of the court judgement.
Finland	The reason is that the person in question is not found at the address in question (or multiple addresses).
France	The article 98 alert may be decided on the grounds that the person doesn't reside at this address.
Germany	In Germany, the searching authorities will issue an alert under Article 98 CIS also in cases where the address at which a summons can be served differs from the known current abode of the person concerned. Pursuant to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of May 29, 2000, the judicial authorities may serve court documents, summons etc. directly by mail to the person concerned. For this purpose, however, the searching authority requires an official address at which a summons can be served, and an alert under Article 98 CIS serves to establish such an address. The following two examples may serve to illustrate this: Example no. 1 An individual searched by a judicial authority works onboard a ship which regularly runs on the North European sea routes. Although the person is known to be onboard the ship, it is not possible to serve mail to the person. By issuing an alert under Article 98 CIS the judicial authorities try to establish an address within the European Union at which a summons may be served so that e. g. an official document can be served to the person concerned. Example no. 2 It is standard practise for the German judicial authorities to place Article 98 alert to establish the whereabouts of persons with a known address outside the EU. The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of May 29, 2000, however, is not effective when it comes to serving judicial documents in states outside the European Union. Since the persons concerned are involved in a German judicial proceeding, there is a certain likelihood that they may have another address within the EU at which summons may be served. By placing an alert under Article 98 CIS the judicial authorities attempt to

¹ In Italy, however, alerts are also processed if the person has a permanent address (domicile/residence) but cannot be located at that address.

² In Malta, there might be the possibility to generate an alert on a person with a permanent address only in cases where such address is not confirmed as the correct address.

³ In Poland, alerts may be processed, if it is impossible to determine the actual whereabouts of the person, despite of having a permanent address by him/her, e.g. in case of the person's hiding or lack of information on his/her changed or other place of residence. This question is not precise, it is unclear, what type of place of residence is meant, is it place of residence in the meaning of Art. 25 of the Civil Code?

	establish such an address.
Greece	The reason is that the person in question is not found at the address in question (or multiple addresses).
Italy	An alert is entered if the person cannot be located at her permanent address.
Hungary	In Hungary, the reason is that the person does not appear before judicial authorities when summoned/can't be found on the permanent address.
Iceland	According to the National Police Commissioner, the reason would be that the individual's permanent address abroad is not known.
Latvia	In Latvia, there is a possibility that the person is not located in a permanent or stated address. The subject may not know that is being traced as a witness or should appear before the judicial authority or even to serve a penalty.
Lithuania	In Lithuania, if the person's sought permanent place of residence is known for certain, the alert in comply with Article 98 of Schengen Convention is not issued. Only in the case where the whereabouts of the person sought is unknown, the alert is issued in comply with Article 98 of the Schengen Convention.
Luxembourg	The reason is that the person in question is not found at the address in question (or multiple addresses).
Malta	-
The Netherlands	In the Netherlands, an alert concerning an individual whose address in the Netherlands is known may only be issued after attempts to serve a summons at the address in question have failed.
Norway	The police might, for example, have the permanent address of the person in question, and notice has been served on that person by post, but it is returned unopened. The permanent address may also have been checked, and the subject does not live there.
Poland	The reason is that the person in question is not found at the address in question (or multiple addresses).
Portugal	The reason is that the person in question is not found at the address in question (or multiple addresses).
Slovakia	The reason is that the person in question is not found at the address in question (or multiple addresses).
Slovenia	In Slovenia, an alert is in such case issued if real address is different from registered permanent address and the person who is subject of alert is not residing at the registered address as the court needs real address.
Spain	The reason for a Schengen alert in this case would be that the person is not found at his/her permanent address after having tried unsuccessfully the legal attempts laid down in criminal and civil procedural regulations.
Sweden	The reason is that the person in question is not found at the address in question (or multiple addresses).
Switzerland	The reason is that the person in question is not found at the address in question (or multiple addresses).

6. In your country, how many Article 98 alerts have been issued for each of the above cases:

	(a) on witnesses	(b) when persons are summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted	(c) when persons are to be served with a criminal judgment or a summons to report in order to serve a penalty involving deprivation of liberty
Austria	0% - 15%	75% - 100%	0% - 15%
Belgium	0% - 15%	60% - 75%	0% - 15%
Czech Republic	30% - 45%	60% - 75% ¹	60% - 75%
Denmark	no statistics available	no statistics available	no statistics available
Estonia	15% - 30%	60% - 75%	15% - 30%
Finland	0% - 15%	75% - 100%	0% - 15%
France	-	-	75% - 100% ²
Germany	15% - 30%	60% - 75%	0% - 15%
Greece	0% - 15%	0% - 15%	0% - 15%
Italy ³	-	-	-
Hungary	no statistics available	no statistics available	no statistics available
Iceland ⁴	75% - 100%	-	-
Latvia ⁵	-	-	-
Lithuania	0% - 15%	60% - 75%	30% - 45%
Luxembourg	45% - 60%	45% - 60%	0% - 15%
Malta	15% - 30%	75% - 100%	0% - 15%
The Netherlands ⁶	-	-	-

¹ These two categories (b) and (c) are not distinguished.

² People who are to be served with a criminal judgment or a summons to report in order to serve a penalty involving deprivation of liberty.

³ In Italy, there are 15,910 alerts in total, from them 10,922 - persons to be traced; 4,988 - persons to be apprehended.

⁴ An Article 98 Schengen alert has only once been registered in Iceland.

⁵ In Latvia, there is only general statistics on the number of art. 98 alerts: 117.

⁶ In the Netherlands, currently, a total of 80 Dutch article 98 alerts are included in the system. It is not possible to discern the categories below by means of a query. An exact answer to this question will only be possible after each alert has been studied separately.

Norway	no statistics available	no statistics available	no statistics available
Poland ¹	-	-	-
Portugal	0% - 15%	60% - 75%	15% - 30%
Slovakia	0% - 15%	30% - 45%	45% - 60%
Slovenia ²	0% - 15%	60% - 75%	0% - 15%
Spain ³			
Sweden ⁴	-	-	-
Switzerland	0% - 15%	0% - 15%	0% - 15%

7. Is there a specific procedure concerning the communication of data to the requesting Party?

Austria	Yes. In Austria, the specific procedure depends on the SIRENE manual and various internal police rules on procedure, in particular the “ <i>Fahndungs- und Informationsvorschrift</i> ”, abbr. <i>FIV</i> and the “ <i>Fahndungsvorschrift für die Bundesministerin für Justiz, Finanzen und Inneres</i> ”, abbr. <i>FaV</i> .
Belgium	No.
Czech Republic	No.
Denmark	No.
Estonia	Yes. In Estonia, the communication to the requesting party takes place through electronic channels, in case of a hit there is drawn up special form to inform the requesting party about the hit.
Finland	No.
France	Yes. For the moment the person is found, follows an exchange of forms with requesting Party.
Germany	Yes. In Germany, pursuant to the current SIRENE Handbook (version dated July 11, 2007), chapter 6, the information obtained in case of a hit is communicated by means of a Schengen form (G-form) and via a secure network to the state who has issued the alert.
Greece	Yes. In Greece, the requesting party is being notified on the address of the person and also from where he/she comes from and where he/she is going to. The measure is also communicated to the person.
Italy	No. Information on an alert is exchanged between the country entering the alert and the country where the given person was traced, by sending the forms that are envisaged within the framework of the SIRENE procedure.
Hungary	No.
Iceland	Yes. The National Police Commissioner states that communication of data is in accordance with Article 98 of the Schengen Agreement.
Latvia	No.
Lithuania	Yes. In Lithuania, SIRENE National unit is receiving requests from Schengen countries to serve with a judgments or summons to persons, for whom alerts are entered in comply with Article 98 of Schengen Convention. The received documents (In Lithuanian language) are transmitted to the police unit of the person’s sought permanent (registered) place of residence with request to serve with the document. On the request of the alert issuing state, the copy of document with a person’s signature is sent back. If the person is not found at the place of residence declared by him, on this the alert issuing country is notified. In this case when the person’s sought whereabouts have been detected due to the alert inserted by Lithuania according to Article 98 of Schengen Convention Schengen country detected the person’s sought whereabouts is requested to inform the person orally that the latter is called to appear concerning pre-trial or judicial investigation. Judgements of the Republic of Lithuania are transmitted to the Schengen countries by the aid of legal assistance requests.
Luxembourg	No. General police procedure to judicial authorities.
Malta	Yes. In Malta, a formal request is submitted by the requesting party. This may be usually submitted by email or an official letter. The information is then communicated accordingly if there is a hit.
The Netherlands	Yes. In the Netherlands, the NSIS instructions describe how to act when a Dutch alert leads to a hit in the Netherlands, a Dutch alert to a hit abroad, and a foreign alert to a hit the Netherlands.
Norway	Yes. The SIRENE bureau receives information about the basis for an Art. 98 alert from the local police. Upon request, this information may be sent to the requesting party.
Poland	No.
Portugal	No.
Slovakia	Yes. In Slovakia, if it is necessary to provide abroad with important information about witnesses or persons summoned to appear before a judicial authority in criminal proceedings or to serve a penalty involving deprivation of liberty, this information is exchanged by SIRENE bureau, which received request for information from competent authority responsible for searching on national territory.
Slovenia	Yes. In Slovenia, the procedure is described in detail in Practical policy regarding Schengen information system (SIS) for SIRENE bureau officials and final users (<i>Praktične usmeritve glede Schengenskega informacijskega sistema (SIS) za delavce Oddelka SIRENE in končne uporabnike</i>) – the document is not available in English.
Spain	Yes. The communication to the requesting party takes place through electronics channels (usually via fax). Once

¹ In Poland, the Ministry of Justice has neither record facilities not technical possibilities allowing answering this question.

² In Slovenia in total 395 alerts (175 already deleted by October 2008) have been issued based on Art. 98.

³ According to the contribution from Spain, it is impossible to know how many Article 98 alerts have been issued for each of the above cases as far as the SIS only take into account one entry: address searches. The only information that SIS has in relation to article 98 is that 5.572 alerts have been issued requesting the address of one person concerning the three cases aforementioned (a) (b) and (c).

⁴ The Sirene bureau in Sweden does not have any alerts according to Article 98.

	the Spanish police finds the place of residence or address of this person, the SIRENE bureau communicate this information to the SIRENE bureau of the requesting party in order to inform the Court or Tribunal which entered the alert in the system.
Sweden	-
Switzerland	Yes. In Switzerland, the SIRENE office transmits the information received in written form to the requesting Party, informing at the same time, that the alert will be deleted in the SIS.

B. CONTENT OF THE FILE

1. Is there a file at the SIRENE bureau?

Austria	Yes.
Belgium	Yes.
Czech Republic	Yes.
Denmark	No, however the Sirene Bureau has access to the relevant files issued by the police districts in the police case management system.
Estonia	Yes.
Finland	Yes.
France	No.
Germany	Yes. In Germany, only in case of a hit is the information exchanged stored in a file with SIRENE Germany.
Greece	Yes.
Italy	No. The SIRENE Bureau creates a file that is kept at the computerised filing system of the Central Criminal Police Directorate whenever an alert gives rise to correspondence, either because of a Hit or following an exchange of information. There is no dedicated filing system at the SIRENE Bureau.
Hungary	Yes.
Iceland	Yes.
Latvia	Yes.
Lithuania	Yes.
Luxembourg	Yes.
Malta	In Malta, a file is not always being opened. To date only 1 file has been opened and this happened further to an alert generated by another Schengen State which involved a hit in the National System and therefore further communication with the requesting party and in relation to the particular case was stored in this file.
The Netherlands	No.
Norway	Yes.
Poland	No. In Poland, the file is not at the SIRENE bureau, with the reservation of the right of the SIRENE bureau to access the contents of the alert processed in SIS. The case shall be initiated in the SIRENE bureau only at the moment when the need arises for international exchange of complementary information between SIRENE bureaus in connection with the processing of the alert in SIS or in connection with a hit.
Portugal	Yes.
Slovakia	Yes.
Slovenia	Yes.
Spain	No.
Sweden	-
Switzerland	Yes.

1a. Whether further information communicated after a hit falls within the scope of mutual judicial assistance?

Austria	No.
Belgium	No.
Czech Republic	No.
Denmark	Yes.
Estonia	Yes.
Finland	Yes.
France	Yes.
Germany	No. In Germany, as a rule, the information exchange following a hit falls under the international information exchange between police authorities pursuant to Article 39 CIS. Only in rare cases does this fall under the scope of mutual judicial assistance.
Greece	Yes.
Italy	No.
Hungary	No. Only in case if so requested.
Iceland	Yes. According to answers from the National Police Commissioner, this depends on the nature of a request for information.
Latvia	No.
Lithuania	Yes.
Luxembourg	Yes.
Malta	Yes.

The Netherlands	No.
Norway	-
Poland	No.
Portugal	No.
Slovakia	Yes.
Slovenia	Yes. In Slovenia, the procedure after a hit is conducted by the courts which communicate directly with the judicial bodies in relevant Schengen states. The SIRENE bureau pointed out that accuracy of alerts presents a problem as some Schengen states do not delete alerts which have already expired. In Slovenia SIRENE bureau regularly communicates with the courts to review state of Art. 98 alerts issued by Slovenia.
Spain	-
Sweden	-
Switzerland	Yes.

1b. Whether the Sirpit procedure (Sirene Picture Transfer) exchanging pictures and fingerprints are used for the purpose of the person's identification?

Austria	Yes.
Belgium	No.
Czech Republic	Yes.
Denmark	Yes.
Estonia	No. In Estonia, at present the SISNET has been used for exchanging pictures and fingerprints, as Sirpit is not connected yet. In future the Sirpit procedure will be used.
Finland	No.
France	No.
Germany	Yes.
Greece	Yes.
Italy	Yes. The SIRPIT procedure is implemented whenever it is necessary to identify the given person, subject to domestic legislation.
Hungary	Yes (if so requested).
Iceland	Yes. According to answers from the National Police Commissioner, the Sirpit procedure is used if needed.
Latvia	No.
Lithuania	No.
Luxembourg	No.
Malta	No.
The Netherlands	Only in very rare cases, normally No.
Norway	Yes.
Poland	No. The Polish SIRENE Bureau has not implemented SIRPIT.
Portugal	Yes.
Slovakia	Yes.
Slovenia	No. In Slovenia, Sirpit procedure is not being used yet as the technical implementation for use of standardized format and software has not been finalised yet. It is planned to launch the use of Sirpit by the end of 2008.
Spain	Yes.
Sweden	-
Switzerland	No.

1 c. Whether there is a procedure on the further use of the data exchanged via the Sirpit procedure (including archiving)?

Austria	Yes. In Austria, the proceedings fall within the Security Police Act (<i>Sicherheitspolizeigesetz</i> , abbr. <i>SPG</i>) and the Data Protection Act (<i>Datenschutzgesetz 2000</i> , abbr. <i>DSG 2000</i>).
Belgium	No.
Czech Republic	Yes. Further use of the data exchanged via the Sirpit falls under rules for personal data processing given in the police act.
Denmark	Yes. In Denmark, further use of data is subject to the relevant Danish legislation.
Estonia	Yes. In Estonia, the pictures exchanged via Sirpit procedure will be recorded in our national police information system and added to the personal data already existing in the system.
Finland	No.
France	No.
Germany	Yes. In Germany, the exchange of information via SIRPIT is governed by Article 98 CIS in conjunction with Article 39 CIS. The information provided will be stored no longer than is necessary for the intended purpose. Article 112 A (2) CIS notwithstanding, the documents are as a rule and pursuant to Article 112 (1) CIS deleted no later than one year after the cancellation of the alert from the SIS.
Greece	No.
Italy	No. At national level, the picture and fingerprint data are only used in connection with the specific case for which the data were requested. Their archiving arrangements are the same as those applying to the respective file.
Hungary	Yes. In Hungary, this information is stored as supplementary information.
Iceland	No. According to the National Police Commissioner, data transmitted via the Sirpit procedure are kept by the

	receiving police authority. The National Police Commissioner states that the data – not applicable.
Latvia	No.
Lithuania	No.
Luxembourg	No.
Malta	Yes. In Malta, although further use of data exchanged via Sirpit has never happened under Article 98, in the eventuality that a Sirpit exchange occurs, the printed version will be evaluated, checked for any hits, and then archived in put-away section.
The Netherlands	No.
Norway	Yes. Procedures have been designed for Sirpit use. If a foreign SIRENE bureau stipulates that storing is not allowed, the material will be destroyed.
Poland	No.
Portugal	Yes. In Portugal, the data stays annexed to the proceeding.
Slovakia	Yes. In Slovakia, any disclosure of information to other offices is automatically archived as a part of file and it is possible to check such disclosure backward anytime during existence of file.
Slovenia	No. In Slovenia, the procedure to be applied when the use of Sirpit is launched will be similar as for other documents and in accordance with the Decree on administrative operations. Active and permanent files will be stored separately, after two years of storage in archives files are permanently deleted or destroyed.
Spain	No.
Sweden	-
Switzerland	No.

1 d. Whether there is a periodic review as to the necessity of the storage of the transmitted information?

Austria	Yes.
Belgium	Yes.
Czech Republic	Yes. A general obligation for check of necessity of all personal data processed by the Police applies (the Police are obliged to process personal data for necessary period only and review the necessity each 3 year at least).
Denmark	Yes.
Estonia	Yes.
Finland	No, but the general national rules on storing the information sets requirements for storage and applies to the storage of information transmitted pursuant to Article 98.
France	No.
Germany	Yes.
Greece	No.
Italy	Yes, but this review is performed by the Archivio Affari Generali [Archiving Department for General Matters] at the Central Criminal Police Directorate in accordance with domestic legislation (New Arrangements Applying to the Archives of Public Security Offices – Instructions Issued on 20.12.1971). The SIRENE Bureau does not keep the relevant file.
Hungary	Yes.
Iceland	No.
Latvia	Yes.
Lithuania	Yes.
Luxembourg	No.
Malta	Yes.
The Netherlands	No.
Norway	Yes.
Poland	No. The rules of data storage referred to in Art. 98 of the Schengen Convention are provided for in adequate provisions regarding criminal proceedings. Whereas the rules regarding the storage of information by the SIRENE bureau are the same as for the remaining organisational units and divisions of the Police and were set forth in the Regulation no. 28 of 22 September 2000 by the Minister of Internal Affairs and Administration as regards organisation and scope of activity of works archives and files storehouses as well as rule of handling archival materials and non-archival documentation in the Ministry of Internal Affairs and Administration, and in the Regulation no. 5 of 2 February 2001 by the Police Commander in Chief as regards the methods and forms of chancellery work in the General Police Headquarters, Higher Police School and police schools. These provisions lay down the rules regarding the review as to the necessity of further data processing. Furthermore, on the basis of the special provisions to documentation of the SIRENE bureau the provisions of Art. 112A and 113A of the Schengen Convention shall apply directly.
Portugal	Yes.
Slovakia	Yes.
Slovenia	Yes.
Spain	No.
Sweden	-
Switzerland	Yes.

1 e. Whether the obligation for periodic review is laid down in an official policy document?

Austria	No.
Belgium	No.

Czech Republic	Yes. The obligation is laid down in the police act and in internal rules as well.
Denmark	No.
Estonia	Yes.
Finland	No.
France	No.
Germany	Yes. In Germany, for the duration of the SIS alert, archiving is governed by Article 112 A (1) CIS. In the event that the documents are transferred to the national archives upon cancellation of the SIS-alert, archiving will be governed by the Federal Data Protection Act, the BKA Law and the Directives for the Maintenance of person-related CID Data Collections.
Greece	No.
Italy	Yes. New Arrangements Applying to the Archives of Public Security Offices – Instructions Issued on 20.12.1971.
Hungary	No.
Iceland	No.
Latvia	Yes.
Lithuania	No. In Lithuania the regular survey of the information received in SIRENE National unit is ensured on the bases of good practice. From National Schengen Information System by automatic means are provided reports regarding the dismissal of alerts stored in SIS 1+. These reports with the aid of SIRENE software application are checked in the internal SIRENE documentation. The SIRENE forms received at the SIRENE National unit with the aid of SIRENE software application, for which no information cases are started, are deleted automatically. If the report is received on the cancellation of alert on SIS 1+ for the reasons of conducted information cases by SIRENE, in such event the cases executors on their discretion resolve the issue of closing the case. Further, the information case is submitted for finalizing. The right to finalize the cases at the International Liaison Office of Lithuanian Criminal Police Bureau have the Chief of the International Liaison Office of Lithuanian Criminal Police Bureau, his Deputy or the Chief of the SIRENE National unit. Further, the closed case is stored in the archive. Such information survey is performed pursuant to the internal instruction of the Chief of the International Liaison Office of Lithuanian Criminal Police Bureau. The written official document specifying the referred procedure does not exist.
Luxembourg	No.
Malta	In Malta, Sirene Manual and Schengen Convention are being followed.
The Netherlands	No.
Norway	-
Poland	No.
Portugal	Yes.
Slovakia	No.
Slovenia	Yes. In Slovenia, the review procedure is similar as in other documents. Each alert is reviewed and followed up by SIRENE bureau when changes of data, circumstances occur.
Spain	No.
Sweden	-
Switzerland	Yes.

1 f. Which authorities in your country have access to SIS Article 98?

Austria	In Austria, all federal prosecutors and police authorities.
Belgium	In Belgium, the federal and local police service as well as the magistrates.
Czech Republic	The Police and Customs authorities have direct access.
Denmark	In Denmark, The Danish Police Force. (The Danish Police is organised with a central unit – The National Police – and 14 local police districts and have the responsibility for the border control).
Estonia	In Estonia, an access have: police authorities for exercising police control through the police information system; border guard authorities for exercising police and border control through the SISone4ALL information system or the border guard information system; Tax and Customs Board for existing police and customs control through the police information system; Security Police Board for existing police control through the SISone4ALL information system.
Finland	In Finland, police, public prosecutors, border control and customs have access.
France	Judicial authorities, the SIRENE office, and any other authority authorized to consult the Searched Persons File/Database (FPR).
Germany	In Germany, access to Article 98 CIS is granted to the police authorities of the Federation and the federal states, the Federal Police and the customs authorities.
Greece	In Greece, the Judicial authorities (only the 15 Public Prosecutor's Offices at the Courts of Appeals) and the Central Authority (Section of Special Penal Cases and International Judicial Cooperation in Penal Cases – Ministry of Justice): limited access to the NSIS (only searching data related to their tasks). Also the Police and Coast Guard Authorities.
Italy	All police authorities.
Hungary	In Hungary, the police, public prosecutors, courts, investigation units of the Customs and Finance Guard have access.
Iceland	The National Prosecutor and the police have access to data so that they can be used for border control and law enforcement according to the Act on the Schengen Information System in Iceland, No. 16/2000, cf. Articles 6-8 of that Act, which correspond to provisions in Articles 94-100 in the Schengen Agreement.

Latvia	In Latvia, the access is given to: the State Police; the Security Police; the Financial Police; the Criminal investigation department of Customs; the Corruption Prevention and Combating Bureau; the State Border guard; the Department of Citizenship and Migration Affairs; the Military Police; the Prosecutor's Office; the Court; the Prison Administration; the Constitutional Security Bureau.
Lithuania	In conformity with the Regulations of the Lithuanian National Schengen Information System, approved by the Order of 17 th September 2007 of the Minister of the Interior of the Republic of Lithuania, the right of access to data concerning the alerts of Article 98 of Schengen Convention, processed by the National Schengen Information System are entitled: Police Department, specialized and territorial police institutions, State Border Guard Service and its structural units, Migration Department, Customs Criminal Service and territorial customs offices, Courts of the Republic of Lithuania, Prosecutor General's Office of the Republic of Lithuania and territorial prosecutor's offices. At present, the direct access to the Lithuanian National Schengen Information System have Police Department, specialized and territorial police institutions, State Border Guard Service and its structural units, Migration Department. After the performed inspections of logs on control of data review records regarding the receiving of data related to alerts of Article 98 of Schengen Convention, it turned out that only Police Department, specialized and territorial police institutions, State Border Guard Service and its structural units perform searches on receiving of data related to alerts of Article 98 of Schengen Convention. For the present Customs Criminal Service and its territorial customs offices have no right of direct access to National Schengen Information System, as the Data disclosure agreement is under coordination. The Courts of the Republic of Lithuania and also Prosecutor General's Office of the Republic of Lithuania and territorial prosecutor's offices have no direct access to the National Schengen Information System and no requests (queries) of the said institutions were received for obtaining the data related to the alerts of Article 98 of Schengen Convention.
Luxembourg	In Luxembourg, Ministry of Justice, Prosecutors, Police Grand-Ducale have an access.
Malta	In Malta, only SIRENE Unit at the Police has access to SIS Article 98. IT support personnel at NSIS Office may have access to anonymised information for technical support purposes.
The Netherlands	<ul style="list-style-type: none"> - Police Forces - Royal Netherlands Marechaussee - National Police Internal Investigation Department - Departmental Intelligence and Investigation Services (Ministry of Finance, Ministry of Social Affairs) - Public Prosecutor via IRC (Centre for International Assistance) - Customs - Ministry of Foreign Affairs - Immigration and Naturalisation Service
Norway	The police and border control officers with limited police powers.
Poland	In Poland, pursuant to Art. 4 paragraph 1 item 3 of the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and Visa Information System the institutions which are entitled to have direct access to National Information System in order to consult the data of persons referred to in Art. 98 of the Schengen Convention with a view to determining their whereabouts include: Border Guard, Police, Internal Security Agency, Military Police, Central Anticorruption Bureau, Customs Service, fiscal control authorities, courts and public prosecutor's offices.
Portugal	In Portugal, some law enforcement authorities (Aliens and Borders Office, Public Security Police, Republican National Guard, Criminal Police) and the judiciary authorities have the access.
Slovakia	In Slovakia the access have: Ministry of Interior; Ministry of Justice; Ministry of foreign affairs; Court, Prosecution; Railway police; Customs administration.
Slovenia	In Slovenia, at the moment only police has access and in future also the courts will have access.
Spain	Law enforcement authorities have a direct access while judicial authorities have an indirect access.
Sweden	-
Switzerland	In Switzerland, police, judicial authorities, border guard corps have the access.

2. Are any additional procedures that are applied concerning the checking of the data under Article 98 alerts?

Austria	No.
Belgium	No.
Czech Republic	No.
Denmark	No.
Estonia	No.
Finland	No.
France	No. France disposes of an automatic file cancellation system when the alert reaches the end of its validity period, or when the person is found. In that last case, the authorities whom entered the alert are informed and cancel this alert.
Germany	No.
Greece	No.
Italy	Yes. If there is an exchange of correspondence concerning a given alert, the SIRENE operator performs an additional check on quality of the data at issue.
Hungary	No.
Iceland	No , not applicable.

Latvia	Yes. In Latvia, in case of alert the competent authority makes following procedure: they establish his identity, his place of residence (in case if the person does not have permanent residence in our country, the competent authority asks to write the address by genuine handwriting), explain the purpose of the check. The gathered information is sent to local SIRENE bureau and the bureau forward the information to the requesting Party.
Lithuania	No.
Luxembourg	No.
Malta	Yes. In Malta, prior to upload data to NSIS, this always verified by the SIRENE Unit.
The Netherlands	No.
Norway	No.
Poland	No.
Portugal	No.
Slovakia	No.
Slovenia	No.
Spain	No.
Sweden	-
Switzerland	No.