

LAW no. 141/2010
on setting up, organizing and functioning of National Information System for Alerts
and participation of Romania to the Schengen Information System

In order to create the legal framework necessary for applying Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), published in the Official Journal of the European Union no. L 205 of 7 August 2007 and in order to create the legal framework necessary for directly applying Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II), published in the Official Journal of the European Union no. L 381 of 28 December 2006 and Regulation (EC) No 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the second generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates, published in the Official Journal of the European Union no. L 381 of 28 December 2006,

The Romanian Parliament approves the following law.

CHAPTER I
General provisions

Art.1 – This law stipulates the setting up, organizing and functioning of the National Information System of Alerts and ensures the legal framework necessary to use the second generation Schengen Information System by Romanian authorities.

Art.2 - For the purpose of the present law, the terms and the expressions are defined as follows:

- a) **National Information System for Alerts, hereinafter named NISA**- information system compatible with the second generation Schengen Information System, which contains national alerts and Schengen alerts entered by national competent authorities;
- b) **Schengen Information System, hereinafter named SIS** – common information system established at the level of the European Union and used by the Member States to cooperate, by exchanging information, in order to maintain public order and national security on their territories;
- c) **National copy of SIS** – the complete or partial copy of the database of SIS, accessible in order to perform a search by the national competent authorities;
- d) **National component of SIS, hereinafter named N.SIS** - information system made up of NISA and national copy of central database of SIS, which allows automated searches by Romanian authorities;
- e) **alert** – set of data entered in the NISA related to persons or goods in relation to which certain measures were decided, under the law, with a view to accomplish a public interest, to observe the regime of the free movement of persons and goods or to ensure the order and public safety and prevent threats to national security;
- f) **national alert** - alert entered by a national competent authority in the NISA;

- g) **Schengen alert** - alert sent from NISA to SIS;
- h) **national competent authorities** - Romanian public authorities with rights of access to SINS established according to art. 5;
- i) **member state** - state which uses SIS;
- j) **associated state** - states with which the European Union concluded agreements based on art 24 and 38 of the Treaty on the European Union with a view to surrender of persons based on an arrest warrant and which mention the sending of such a warrant through SIS;
- k) **transaction** - any operation consisting of entering, modifying, deleting or querying the data in NISA;
- l) **additional data** – data stored in N.SIS related to the alerts of the N.SIS and which is immediately available after identifying the persons as a result of a search performed in this system;
- m) **supplementary information** – information which is not stored in SIS, but is related to SIS alerts and is going to be sent within the supplementary information exchange;
- n) **hit** - result obtained following a search in the N.SIS, materialized in identification of a person or a good that were the subject of an alert;
- o) **national SIRENE Bureau** – authority at the level of the Ministry of Administration and Interior, which ensures the supplementary information exchange with SIRENE Bureaus of other Member States;
- p) **regulation applicable at the level of central SIS** – provisions foreseen in the normative acts of the European Union on the basis of which Member States cooperate through SIS.
- q) **SIRENE Manual** – document adopted at the level of the European Union which includes the norms for the exchange of supplementary information among Member States;
- r) **discreet check** – obtaining data and information regarding persons or goods in relation to whom an alert was entered in NISA or SIS, when Romanian authorities who performs checks at the state border or other types of police or customs checks, without informing the respective persons about the existence of that alert, for the purpose of communicating the data and information to the authority that entered the alert;
- s) **flag** – set of information attached to a SIS alert that annuls the action to be taken based on that alert or performing alternative actions mentioned by the law.

CHAPTER II

National Information System for Alerts

Section 1

Establishment and the general objective of NISA

Art.3 – (1) NISA is established observing the protocols and technical procedures established for the second generation of SIS according to article 9 para (1) Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II),), published in the Official Journal of the European Union no. L 205 of 7 August 2007, so that the two information systems should be compatible.

(2) NISA is designed to ensure the possibility for the national competent authorities that through an automated search procedure to carry out transactions regarding the contained alerts, in order to fulfill their legal competences.

(3) NISA contains alerts entered by the national competent authorities related to persons or goods according to the types stipulated in the present law.

(4) Starting with the date when Romania applies in full the Schengen acquis provisions based on the Council decision issued to this end, NISA will ensure the transmission of Schengen alerts in the SIS.

Section 2

Managing and using NISA

Art. 4 – (1) Ministry of Administration and Interior, through the SIS National Center, is responsible for implementing, operating, maintaining and securing the NISA as well as for ensuring the access of the Romanian competent authorities to NISA.

(2) The Technical Committee is established under the coordination of the Ministry of Administration and Interior, as a body with competences in analyzing and solving the technical problems that might appear in the functioning of NISA, made up of representatives at expert level from all the national competent authorities, which have the right of access to NISA.

(3) The president of Technical Committee is head of the SIS National Center.

(4) The Technical Committee has the following main tasks:

- a) analyzes the updating of the IT&C systems participating in NISA, with a view to ensure the compatibility between these and NISA;
- b) analyzes the technical problems notified by the national competent authorities which rose while implementing and functioning of NISA and proposes the solving modalities;
- c) informs the national competent authorities regarding the decisions taken within the technical working groups of the European Union in the field of the Schengen Information System.

(5) The Technical Committee meets once every trimester or as needed, at the request of the committee president.

(6) The Technical Committee Secretariat is ensured by the SIS National Center.

Art.5 – (1) In 60 days after the present law enters into force, through Government decision, at the proposal of the Ministry of Administration and Interior, the national competent authorities and their rights of access to NISA will be established.

(2) The rights of access to NISA are established in accordance with para (1) for the Romanian public authorities which transmit data specific to the types of alerts mentioned in article 6 from their own data bases to NISA.

(3) Judicial institutions must supply the data specific to the types of alerts mentioned in article 6 when their information systems will allow for their automated transmission.

(4) The access right to NISA for querying the data is established according to para (1) for:

- a) the Romanian public authorities which have competence for performing border control, according to Regulation (EC) No 562/2006 of the European Parliament and the Council of 15 March 2006 on Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), published in the Official Journal of the European Union no. L 105 of April 13, 2006;
 - b) the Romanian public authorities with competence to carry out police and customs checks on Romanian territory or the coordination of such checks;
 - c) the Romanian public authorities with competences in enforcing the legislation regarding the regime of aliens in Romania, including by examining visa applications and granting visas;
 - d) the Romanian public authorities responsible for issuing vehicle registration certificates for the alerts foreseen in the Regulation (EC) No 1986/2006 of the European Parliament and the Council regarding access to the Second Generation Schengen Information System (SIS II) by services in the Member States responsible for issuing vehicle registration certificates, published in the Official Journal of the European Union no. L 381 of 28 December 2006;
 - e) bodies responsible for criminal pursuit and judicial courts.
- (5) The national competent authorities use the data included in the alerts to which they have access by observing article 49.

Section 3

The alerts entered in NISA

§ 1. Types of alerts and data categories

Art.6 The following types of alerts are entered in the NISA:

- a) alerts on persons wanted for surrender based on an European Arrest Warrant or for extradition;
- b) alerts on missing persons;
- c) alerts on wanted persons in order to take part at a judiciary procedure;
- d) alerts on persons or goods in order to perform a discreet checks;
- e) alerts on searched goods in order to be seized or used as evidence during criminal procedures;
- f) alerts on third country nationals for refusal of entry on the Romanian territory or for the purpose of executing a measure for forbidding stay on Romanian territory.

Art.7 – (1) The NISA alerts on persons can include the following elements:

- (a) surname and name, name given at birth and previous name, any aliases which may be entered separately;
- (b) any specific, objective, physical characteristics not subject to change;
- (c) place and date of birth;
- (d) sex;
- (e) photographs;
- (f) fingerprints;
- (g) nationality(ies);

- (h) whether the person concerned is armed, violent or has escaped;
- (i) reason for the alert;
- (j) authority issuing the alert;
- (k) a reference to the decision or judgment giving rise to the alert;
- (l) action to be taken;
- (m) link(s) to other alerts;
- (n) the type of offence.

(2) The alerts on persons cannot be entered in NISA without the data mentioned in paragraphs (1) letters a), d), l) and, when it is the case, letter k).

(3) When they are available, all the data stipulated in paragraph (1) are entered.

(4) Photographs and fingerprints shall be entered only after fulfilling a minimum quality standard according to the features established according to the Council Decision 2007/533/JHA for the alerts stipulated in article 6 letter a) - e) and according to Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II), published in the Official Journal of the European Union no. L 381 of 28 December 2006, for alerts stipulated in art 6 letter f) and they shall be used only to confirm the identity of a person following a hit of an alert in NISA.

§ 2. Alerts on persons searched for surrender based on a European Arrest Warrant or for extradition

Art. 8 - (1) Alerts on wanted persons for surrender purposes based on a European Arrest Warrant are entered in NISA according to provisions regarding the European Arrest Warrant of the Law no. 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

(2) Alerts on wanted persons for extradition purposes are entered in NISA according to the provisions regarding the international pursuit warrant for extradition purposes of the Law no. 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

Art.9 – In the case of alerts stipulated in art. 8 paragraph (1), the following additional data is also entered in NISA:

- a) a copy of the European Arrest Warrant;
- b) translation of the European Arrest Warrant in one or more official languages of the European institutions, when it is available,

§ 3. Alerts on missing persons

Art.10 - (1) The alerts mentioned in article 6 letter b) are entered into NISA for the following categories of persons:

- a) missing persons whose whereabouts have to be established;
- b) missing persons that must be admitted to institutions or medical units, after establishing their whereabouts;
- c) minors and persons who need to be placed under protection, who after establishing their whereabouts must be returned to their legal representatives.

(2) Alerts on missing persons whose whereabouts must be found are entered in NISA by the national competent authorities at the request of any person, if after verifications, it is proved that the request for that missing person is grounded.

(3) Alerts on missing persons that must be admitted to institutions or medical units, after finding their whereabouts, are entered in the NISA by the national competent authorities at the request of the institutions or medical units, based on the documents issued by these institutions deciding the involuntary admission in case of persons with mental disorders or compulsory admission in case of persons with transmissible diseases or based on a court decision which decides the medical admission or admission in a medical-educational center, if following the checks, the request for the missing person is proved to be grounded.

(4) Alerts on minors or persons who need to be placed under protection for their own safety, who after finding their whereabouts must be returned to their legal representatives, are entered by the national competent authorities at the request of any person, if following the checks the request for the respective missing person is proved to be grounded.

(5) In the content of the alert on missing persons, the measure to be taken is mentioned in the case of identification of the person, which is the subject of the respective alert.

Art. 11. – (1) In the case of identifying a major person about whom an alert was entered in the NISA of the category stipulated in article 10 paragraph 1, letter a) this person is informed about the existing alert and their consent is taken about sending the information regarding the address where the person who reported the missing person lives.

(2) The national competent authority, which entered the alert, informs the person who reported the missing person about their whereabouts only if the latter gives their consent. If the consent is not taken, the person who reported the missing person is informed about the deletion of the alert because the whereabouts of the person were established.

Art.12 – (1) In case of identifying a person about whom an alert was entered in the NISA of the category stipulated in art. 10 paragraph 2, letter b), the institutions or medical units that requested the alert to be entered are informed and at the same time, the respective person is taken over.

(2) In the case the respective person cannot be taken over immediately, the person is admitted to the nearest institution or medical unit with the capacity to provide an adequate treatment, until they are taken over.

Art.13 – (1) In case of identifying a person about whom an alert was entered in the NISA of the category stipulated in art. 10 paragraph 3, letter c), the legal representative is informed and he/she is requested to take over the person.

(2) In case the legal representative could not be identified or the person could not be immediately taken over by the legal representative, the person is placed in an institution or medical unit or protection service according to the law, in case be, until they are taken over.

§ 4. Alerts on wanted persons to participate in a judicial procedure

Art.14 – (1) Alerts on wanted persons to participate in a judicial procedure are entered in NISA by the national competent authorities at the request of the judicial authorities or courts of law for the following categories:

a) witnesses;

(b) persons searched in order to be subpoenaed to appear before judicial authorities to give statements about deeds for which they are investigated during a criminal trial;

(c) persons who are about to be communicated a court decision or other documents regarding the activities of a criminal trial where they are investigated;

(d) persons searched in order to serve an educational penalty involving deprivation of liberty.

(2) In case of identifying a person about whom an alert was entered in the NISA from the category stipulated in paragraph (1), the respective person is informed about the existing alert, the address is established and this piece of information is communicated to the judicial body or the court of law that requested the entering of alert.

§ 5. Alerts on persons and goods for discreet checks

Art.15 – (1) Alerts on persons or vehicles, boats, aircrafts and containers for discreet checks are entered in NISA by national competent authorities at the request of judicial authorities.

(2) The judicial authorities can request to entry an alert from the category stipulated in paragraph (1) for the purpose of preventing and combating criminal deeds, in the following cases:

a) when there is data and information according to which a person intends to commit or is committing one of the criminal offences for which a European Arrest Warrant can be issued, according to Law no 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments;

b) when following a general evaluation of a person enough indications are established to presume that the person will commit one of the criminal offence for which a European Arrest Warrant can be issued according to Law no 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments;

c) when there is data and information that the vehicle, boat, aircraft or container is linked to one of the criminal offences for which a European Arrest Warrant can be issued according to Law no 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

(3) The general evaluation of a person in the case stipulated in paragraph 2 letter b) takes into consideration the criminal record for which the rehabilitation did not apply and are related to several of the criminal offences for which a European Arrest Warrant can be issued according to Law no 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments, as well as the elements which influence the perspective of social reintegration of the respective person after the execution of the sentence.

Art.16 - (1) Alerts on persons or vehicles, boats, aircrafts and containers for discrete checks are entered in the NISA by the national competent authorities at the request of the state authorities with competences in the field of national security.

(2) State authorities with competencies in the field of preventing and countering the threats to national security can request to enter an alert of the categories stipulated in paragraph (1) in the following cases:

- a) when there is data or indications that the information stipulated in art. 17 paragraph (1) is necessary to prevent a threat from the respective person or other threats to national security;
- b) when the vehicle, boat, aircraft or container are related to a serious threat to national security.

Art.17 – (1) When, on the occasion of performing the border control or any other type of police or customs control, the competent authorities to perform such checks find persons, vehicles, boats, aircrafts or containers in relation to which an alert was entered in NISA, in order to perform a discreet check, as much of the following information is collected and transmitted to the national competent authorities:

- (a) the fact that the person, vehicles, boat, aircraft or container was located;
- (b) place, date or reasons for the check;
- (c) route and destination of the travel;
- (d) the persons accompanying the respective persons or the travelers in the vehicle, boat or aircraft who can rationally be assumed to be associated with the respective persons;
- (e) vehicle, boat, aircraft or container;
- (f) carried goods;
- (g) circumstances under which the person, vehicle, boat or container were found.

(2) The procedure for collecting the information provisioned in paragraph 1 is that established for performing the check when the persons, vehicles, boats, aircrafts or containers in relation to which an alert was entered in NISA for carrying out discreet checks.

(3) On the occasion of gathering the information mentioned in paragraph 1, one must not communicate to the respective persons that there is an alert in NISA for the purpose of carrying out discreet checks on them.

§ 6. Alerts on goods searched for seizure or use as evidence during criminal proceedings

Art. 18 - (1) Alerts on goods searched for seizure or use as evidence during criminal proceedings are entered in the NISA by the national competent authorities at the request of the authorities for criminal pursuit or the court of law.

(2) The alerts mentioned in paragraph 1 are entered regarding to the following goods:

- (a) vehicles with cylinder capacity exceeding 50 cc, boats and aircrafts ;
- (b) trailers with an unladen weight exceeding 750 kg, caravans, industrial equipment, outboard engines and containers;
- (c) firearms;
- (d) blank official documents which have been stolen, misappropriated or lost;

- (e) issued identity papers such as passports, identity cards, driving licenses, documents proving stay or residence on Romanian territory and travel documents which have been stolen, misappropriated, lost or invalidated;
 - (f) vehicle registration certificates which have been stolen, misappropriated, lost or invalidated;
 - (g) banknotes;
 - (h) securities and means of payment such as cheques, credit cards, bonds, stocks and shares which have been stolen, misappropriated, lost and invalidated.
- (3) The alerts regarding the goods mentioned in paragraph 2 letters d) and e) are also entered in NISA by the national competent authorities based on the loss notifications received by any concerned person, if the request is proved to be grounded.
- (4) The transactions with the data mentioned in paragraph 2 are done according to the technical norms established according to Council Decision 2007/533/JHA.

Art.19 In case an object is found in relation to which an alert was entered in the NISA of the type mentioned in article 18 paragraph 1, the authority responsible with the criminal pursuit or the court of law that requested the entering of the alert, must be immediately informed.

§ 7. Alerts on third country nationals for refusal of entry on the Romanian territory or for the purpose of executing a measure for forbidding stay on Romanian territory

Art. 20 - (1) The alerts regarding aliens shall be entered by the national competent authorities on the basis of the measures that determine a ban on entry on Romanian territory or a ban on stay on Romanian territory, decided according to the provisions of GEO no. 194/2002 regarding the aliens' regime in Romania, republished.

(2) Processing in the NISA the alerts on aliens for refusal of entry on Romanian territory or for the purpose of executing a measure for forbidding stay on Romanian territory is done by the national competent authorities according to the provisions of the Regulation (EC) no. 1987/2006 of the European Parliament and Council.

CHAPTER III Romania's participation in the SIS

Section 1 Establishment and the general objective of the N.SIS

Art. 21 – (1) N.SIS is hereby set up by respecting the protocols and technical procedures established for the second generation Schengen Information System according to the provisions of Council Decision 2007/533/JHA so that the two information systems could be compatible.

(2) N.SIS is designed to ensure the possibility for the national competent authorities that through an automated search procedure, to carry out transactions regarding alerts that contain, in order to fulfill the legal competences.

(3) N.SIS contains alerts entered by the national competent authorities or by the competent authorities of the Member States regarding the persons or goods according to the types mentioned in the regulations applicable at the level at the central SIS.

(4) N.SIS becomes operational as of the date Romania fully applies the provisions of the Schengen acquis on the basis of the Council Decision to this end.

Section 2

Authorities with competencies in managing and using N.SIS

Art. 22 – (1) The Ministry of Administration and Interior through the SIS National Center is responsible for implementing, operation, maintenance and security of N.SIS, for ensuring the connection of N.SIS to central SIS and the management of the national copy of the central database of SIS, as well as ensuring the access of the Romanian public authorities to the N.SIS.

(2) After the date on which N.SIS becomes operational, the Technical Committee mentioned in article 4 paragraph 2 has competences for analyzing and solving the technical problems that might arise in its operation.

(3) The right of access to NISA of the national competent authorities shall be extended including to the national copy starting with the date NSIS becomes operational.

Art.23 The national SIRENE Bureau has the following main competences:

- a) it ensures the exchange of supplementary information according to the provisions of the SIRENE Manual;
- b) it takes the necessary steps in order to add or lift a flag on the SIS alerts;
- c) it carries out the activities for entering the alerts on persons wanted for arrest under the European Arrest Warrant or for the extradition purpose;
- d) it carries out the necessary activities in order to implement the decisions taken at the level of the European Union in the field of activity of the SIRENE Bureaus;
- e) drafts statistics regarding its activity and sends them periodically to the General Secretariat of the Council;
- f) coordinates the activity of checking the quality of the data contained in the N.SIS alerts
- g) sends to the competent authority from the level of central SIS the list of the national competent authorities, as well as any subsequent amendment of it;
- h) ensures the organization and carrying out of surrender/take over missions for the arrested persons, based on the European Arrest Warrant or the international pursuit warrant issued by the Romanian judicial authorities, following a hit, together with the national competent authorities.

Art.24 – (1) The national SIRENE Bureau ensures the exchange of supplementary information through the communication infrastructure for SIS or when this is not available through other technical means, properly secured for supplementary information exchange under the following conditions:

- a) when it is necessary that the national competent authorities and the authorities of the other Member States consult or inform each other when entering an alert in SIS ;
- b) following a hit in order to allow an appropriate measure to be taken;
- c) if the necessary measure according to a SIS alert cannot be taken;

- d) when the quality of data contained in the SIS alerts is analyzed;
- e) when the compatibility and priority of several alerts are analyzed;
- f) when the exercise of the right of access is analyzed.

(2) The Romanian public authorities use the supplementary information only for the purposes for which they were sent by the authorities of the other Member States.

(3) The answer at the requests for supplementary information given by the authorities of other Member States is sent by the national competent authority that entered the respective alert through the SIRENE Bureau as soon as possible, but no later than 12 hours.

(4) The Romanian public authorities that requested the national competent authorities to enter alerts in the SIS shall send in the shortest time the supplementary information requested by the authorities of the other Member States related to the respective alerts so that the deadline mentioned in paragraph 3 could be observed.

Section 3 **Alerts entered in SIS**

§ 1. Sending the alerts in SIS

Art.25 – (1) The national competent authority that entered an alert in the NISA orders that the respective alert be sent in the SIS if following the checks, data and information are gathered from which it may result the necessity for searching persons or goods in Schengen area.

(2) In the case of the NISA alerts related to persons or goods for performing discreet checks, they are sent to the SIS only at the request of the authorities for criminal pursuit or the state authorities with competencies in the field of national security.

(3) The alerts related to minors or persons under interdiction entered in the NISA are directly sent to the SIS at the date the N.SIS becomes operational.

(4) The alerts related on aliens, entered in the NISA for the purpose of refusal of entry on Romanian territory or performing a measure by which stay is forbidden on Romanian territory are directly sent to the SIS at the date the N.SIS becomes operational.

§ 2. Alerts on persons wanted for surrender based on a European Arrest Warrant or for extradition

Art.26 – After sending to the SIS an alert of the type mentioned in article 8 paragraph 1, the national SIRENE Bureau informs within the exchange of supplementary information the SIRENE Bureaus of the other Member States that the alert was entered and sends them the information mentioned in Article 79 paragraph 1 of the Law no. 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments, within the exchange of supplementary information.

Art. 27 – (1) After sending to the SIS of an alert of the type mentioned in article 8 paragraph 2, the national SIRENE Bureau informs within the exchange of supplementary information the SIRENE Bureaus of the other Member States about the alert being entered and transmits the information mentioned in Article 29 paragraph (1) of the Council Decision 2007/533/JHA.

(2) The national SIRENE Bureau does not send to the SIRENE Bureaus of the other Member States the information mentioned in paragraph 1 if it had previously transmitted regarding the same person, the information mentioned in article 9 or those mentioned in Article 79 paragraph (1) of the Law no. 302/2004 with the subsequent modifications and amendments, and those are sufficient for executing the actions on the basis of the alert by the authorities of the other Member States.

Art.28 - (1) After receipt at the national SIRENE Bureau of the communication about the entering in the SIS by another Member States of an alert related on person wanted for surrender based on a European Arrest Warrant or for the extradition purposes, the prosecutor or judge seconded at the national SIRENE Bureau checks if the arrest on the basis of that alert is compatible with the national legislation, with the obligations assumed by Romania through legal documents of international cooperation or with the vital national interests and requests the national SIRENE Bureau to take the necessary steps in order to add a flag when the incompatibility is ascertained.

(2) In order to accomplish the tasks mentioned in paragraph (1), the Ministry of Administration and Interior requests the Superior Council of Magistrates, according to the law, to second the prosecutor or the judge at the national SIRENE Bureau.

(3) The Romanian judiciary authority for executing the European Arrest Warrant requests the national SIRENE Bureau to take all the necessary steps in order to add a flag to the SIS alert entered by another Member State on the basis of an European Arrest Warrant which the respective judicial authority refuses to execute on the basis of article 88 of Law no. 302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

(4) The Romanian judicial authority which could be competent to decide about the execution of a European Arrest Warrant, at the request of the prosecutor, requests to the national SIRENE Bureau to take all the necessary steps to add a flag to the alert entered in the SIS by another Member State on the basis of an European Arrest Warrant which they would refuse to execute on the basis of article 88 of the Law no. 302/2004 on the international judicial cooperation in criminal matters, with the subsequent modifications and amendments, if that person would be found.

(5) The national SIRENE Bureau cooperates with SIRENE Bureau of the Member State, which entered the alert, mentioned in paragraph (1), (3) or (4) in order to add a flag so that the Romanian authorities should not execute the arrest.

(6) The alerts entered by the other Member States related on persons wanted for surrender based on a European Arrest Warrant or for the extradition purposes, which have a flag, as mentioned in paragraph (5) are not grounds for the arrest of the respective person by the Romanian authorities, but only for communicating the whereabouts of the persons.

(7) The alerts related on persons wanted for arrest in order to be extradited entered by the other Member States are grounds only for communicating the whereabouts of the persons for whom an alert was entered until the provisional arrest is decided for extradition, according to the provisions of article 45 of the Law no. 302/2004 on the international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

(8) At the valid request of the competent authorities of the Member State that entered the alert which has a flag mentioned in paragraph 5, in urgent and serious cases, the

Romanian judicial authority competent to decide regarding the execution of a European Arrest Warrant or the extradition request, decides the lifting of the flag and the arrest of the respective person in order to be surrendered or temporary arrest for extradition purpose.

Art.29 - (1) Upon receipt from the SIRENE Bureau of another Member State about adding a flag to a Schengen alert related to persons wanted in order to be surrendered based on a European Arrest Warrant or for extradition purpose, the national SIRENE Bureau adds the requested flag and informs immediately the Romanian judicial authority that issued the European Arrest Warrant or the international pursuit warrant for extradition at the basis for the respective alert.

(2) The Romanian judicial authority that issued the European Arrest Warrant or international pursuit warrant, which is the basis for entering the alert, transmits through the national SIRENE Bureau in urgent and serious cases a motivated request for lifting the flag that was added according to paragraph 1.

Art.30 – (1) The alerts entered in SIS on the basis of article 26 of the Council Decision 2007/533/JHA by the associate states are equivalent to the alerts regarding the persons wanted for surrender purposes based on a European Arrest Warrant.

(2) The arrest warrants issued by the associate states sent through the SIS are equivalent to the European Arrest Warrants.

§ 3. Alerts on missing persons

Art.31 – (1) In case of receipt of a communication regarding the establishing of the whereabouts on the territory of another Member State of a major person about whom an alert was transmitted in the SIS of the type mentioned in article 10 paragraph 1 lit a), the national competent authority that entered the alert informs the respective person that reported the missing person about the whereabouts of the respective person only if that person agrees to it. If the person does not agree to it, the person that reported the missing person is informed about the fact that the alert was deleted since the missing person was located.

(2) In case of receipt of a communication regarding the establishment of the whereabouts on the territory of another Member State of a person about whom an alert was transmitted to the SIS of the type mentioned in article 10 paragraph 1, lit b) the national competent authority which entered the alert together with the institutions or health authorities that reported the missing, take all the necessary steps in order take over the respective persons.

(3) In case of receipt of a communication regarding the establishment of the whereabouts of another Member State of a person about whom a Schengen alert was transmitted to the SIS of the type mentioned in article 10 paragraph (1), lit. c), the Romanian authorities take all the necessary steps in order to reunite them with their legal representatives.

Art.32 – (1) In case of identifying on the Romanian territory of a major person about whom an alert was issued by another Member State regarding his/her missing, the person is informed about the existence of the alert and its consent is requested about sending the information regarding the address where the person that reported the missing lives.

(2) The information about the address where the located person lives and their consent are sent to the Member State that entered the alert through the national SIRENE Bureau.

Art.33 - (1) In case of identifying on Romanian territory a person about whom an alert was issued by another Member State regarding his/her missing and the necessity to put him/her under protection, at the recommendation of the county public health directorate or public health directorate of Bucharest city, the person is committed into a health institution or unit that has the capacity to provide him/her with the appropriate treatment until he/she will be taken over by the authorities of the state that entered the alert.

(2) The information about the location where the respective person is committed is sent to the Member State that entered the alert through the national SIRENE Bureau by the authority, which got the hit.

Art.34 - (1) In case of identifying on the Romanian territory a minor or a person under interdiction about whom an alert was entered in SIS by another Member State regarding his/her missing, the person is placed depending on the case in a health institution or unit or in a protection service, under legal conditions, until the person is taken over by the legal representative or by the authorities of the state that entered the alert.

(2) Information on the whereabouts of the minor or the person put under interdiction is transmitted to the Member State, which entered the alert, through the national SIRENE Bureau.

Art. 35 - (1) The court which has territorial competence, at the request of the person on whose name an alert was entered regarding his/her missing and the necessity to put him/her under protection, decides that National SIRENE Bureau take the necessary measures to add a flag to that alert, if the admission of that person in sanitary institutions or units based on that alert is not compatible with the national legislation, with Romania's assumed obligations by legal documents of international cooperation or with national vital interests.

(2) After receiving the request mentioned by paragraph (1), the court decides, by presidential ordinance, if that person is going to be or not admitted in a sanitary institution or unit until solving the case.

(3) If on Romanian territory a major person is identified about whom an alert was entered in the SIS by another Member State regarding his/her missing, when he/she was minor, the national SIRENE Bureau is requested to take the necessary measures to add a flag to that alert.

(4) The National SIRENE Bureau cooperates with the SIRENE Bureau of the Member State which entered the alert mentioned in paragraph (1) or (3) in order to add a flag to it so that the respective person should not be located by the Romanian authorities.

(5) At the motivated request of the competent authorities of the Member State that entered the alert which has a flag attached as mentioned in paragraph (1), in urgent and serious cases, the court of law that decided to add the flag decides by subpoenaing the respective person if he/she can be taken over.

(6) The decision of the court of law is communicated by the national SIRENE Bureau to the SIRENE Bureau of the Member State, which entered the alert.

(7) When receiving a request for adding a flag concerning an alert on missing person, the national SIRENE Bureau adds a requested flag and informs immediately the national competent authority, which sent the alert in the SIS.

(8) The national competent authority which sent to the SIS an alert on missing persons that must be placed under protection ex officio or at the request of the medical institutions or units sends through the national SIRENE Bureau in urgent and serious cases a motivated request for lifting the flag added according to paragraph (7).

3. Alerts on persons searched for participating in a judicial proceeding

Art.36 – (1) In case of receiving a communication for locating on the territory of another Member State of a person about whom an alert was sent to the SIS on wanted persons in order to take part in a judicial procedure, the national SIRENE Bureau immediately sends the received information to the criminal pursuit authorities or to the court of law that requested the alert to be entered.

(2) In case of identifying on Romanian territory a person about whom an alert was entered in the SIS by another Member State on wanted persons in order to take part at a judiciary procedure, the Romanian authorities inform the respective person about the existing alert, they establish the address where the person lives and communicate this information to the Member State that entered the alert through the national SIRENE Bureau.

5. Alerts on persons or goods in order to perform discreet checks

Art.37 – (1) After sending to the SIS an alert on persons or goods in order to perform a discreet check at the request of the state authorities with competences in the field of national security, the national SIRENE Bureau informs through the exchange of supplementary information, the SIRENE Bureaus of the other Member States about the alert that was entered.

(2) After receiving a communication about an alert being entered in the SIS by another Member State for performing discreet checks, the national SIRENE Bureau informs the state authorities with competences in the field of national security.

Art.38

(1) The Romanian authorities that identify, on the occasion of carrying out border controls or any other type of police and customs controls, persons, vehicles, boats, aircrafts or containers about whom an alert was entered in the SIS by another Member State for discreet checks, gather and transmit to the national SIRENE Bureau as many of the information mentioned in art. 17 paragraph (1).

(2) The national SIRENE Bureau sends to the SIRENE Bureau of the Member State that entered the alert the received information according to paragraph (1) within the exchange of supplementary information.

(3) The provisions of art. 17 paragraph (3) are applied accordingly.

Art.39

After receiving a communication from the SIRENE Bureau of another Member State on persons, vehicles, boats, aircrafts or containers about whom an alert was entered in the SIS for discreet checks, the national SIRENE Bureau sends the received information to the competent authority that sent the alert or the state authority with competences in the

field of preventing and countering threats to national security that requested that the alert be sent to the SIS.

Art.40

The alerts on persons or goods in order to perform a discreet checks entered by another Member State are equivalent on Romanian territory with alerts for performing discreet checks.

Art.41

(1) The criminal pursuit authorities or the state authorities with competences in the field of national security can request to the national SIRENE Bureau to take the necessary steps in order to add a flag to the alerts for performing discreet checks that were entered by other Member States if performing a discreet check by the Romanian authorities on the basis of that alert is not compatible with the national legislation, with the commitments assumed by Romania through legal documents for international cooperation or with vital national interests.

(2) The national SIRENE Bureau works together with the SIRENE Bureau of the Member State that entered the alert mentioned in paragraph (1) in order to add a flag to it, thus that the discreet check should not be performed by the Romanian authorities.

(3) At the motivated request of the competent authorities of the Member State that entered the alert with the attached flag mentioned in paragraph (2), in urgent and serious cases, the criminal pursuit authorities or the state authorities with competences in the field of national security that requested the flag communicate in 5 working days to the national SIRENE Bureau if they agree or not to the flag being lifted.

(4) After receiving the consent mentioned in paragraph (3), the national SIRENE Bureau requests the SIRENE Bureau of the Member State that entered the alert to lift the flag.

(5) When receiving a request from the authorities of another Member State for adding a flag to an alert in order to perform discreet checks, the national SIRENE Bureau adds the requested flag and informs immediately the criminal pursuit authorities or the state authorities with competences in the field of national security that entered or requested the alert be entered.

(6) The criminal pursuit authorities or the state authorities with competences in the field of national security can send through the national SIRENE Bureau in urgent and serious cases a motivated request for lifting the flag added according to paragraph (5).

6. Alerts on searched goods in order to be seized or used as evidence during criminal procedures

Art.42

(1) In case of a communication regarding the locating on the territory of another Member State of a good about which an alert was entered in the SIS of the categories mentioned in art. 18 paragraph (1), the national SIRNE Bureau sends immediately the received information to the criminal pursuit authorities or the court of law that requested the alert to be entered.

(2) In case of identifying on the Romanian territory of a good about which an alert was entered in the SIS by another Member State alerts on searched goods in order to be seized or used as evidence during criminal procedures, the Romanian authorities order the necessary measures for confiscation or taking over the good according to the criminal

legislation or criminal procedure legislation, by case, and communicate the information regarding the measures taken by the Member State that entered the alert through the national SIRENE Bureau.

7. Alerts on third country nationals for refusal of entry on the Romanian territory or for the purpose of executing a measure for forbidding stay on Romanian territory.

Art.43

The exchange of supplementary information related to the Schengen alerts of the category mentioned in art. 20 sent to the SIS are performed by the national competent authorities through the national SIRENE Bureau, according to the provisions of Regulation (EC) no 1987/2006 of the European Parliament and of the Council.

8. Statistics

Art.44

- (1) In all the cases when a hit was obtained, the competent authorities that identified goods or persons about whom alerts were entered in the SIS inform the national SIRENE Bureau for statistical purposes.
- (2) In case of the requested measures by a SIS alerts not be accomplished, the national competent authorities inform about this to the Member state that entered the alert, through national SIRENE Bureau.
- (3) The national SIRENE Bureau informs the national competent authorities that send an alert to SIS the communication received from another Member State regarding the impossibility to accomplish the requested measures through that alert.

Section 5

Access for EUROPOL and EUROJUST and cooperation with INTERPOL

Art. 45

The national competent authorities send the consent as regards the use of EUROPOL or EUROJUST of the information contained in the alerts sent to the SIS in 10 days after receiving the request.

Art.46

- (1) As exception from the provisions of art. 56, the Romanian authorities can exchange information contained in the SIS alerts with the authorities of the INTERPOL Member State under the conditions set by the agreement concluded according to art. 55 of Council Decision 2007/533/JHA.
- (2) The information that can be exchanged is the number, issuing country and the type of document of the stolen passports, misappropriated, lost or annulled.

CHAPTER IV
Common dispositions for alerts contained in NISA and sent to the SIS

Section 1
Retention period of the alerts

Art. 47 – (1) Alerts regarding persons entered in the NISA or sent to the SIS are kept in the respective system only for the period necessary for achieving the purpose for which they were entered.

(2) In 3 years after entering an alert on persons, the national competent authority that entered the alert analyzes, together with the Romanian authorities that requested the entering of the alert, if case be, the necessity of maintaining it for the purpose it was entered in the NISA or sent to the SIS. In case of national alerts or Schengen alerts for performing discreet checks regarding persons, the deadline for carrying out this analysis is one year after entering the alert.

(3) If following the analysis, it is decided to maintain the alert, the national competent authority shall enter in the NISA or SIS a request for extending the validity period for the alert. The provisions of paragraph 2 shall apply accordingly as of the date of extending the validity.

(4) The alerts for which there is no request for extending the validity period within the deadlines mentioned in paragraph 2 shall be deleted automatically.

(5) NISA and SIS generate automated notifications regarding the programmed deletion of alerts on persons before the deadlines mentioned in paragraph 2.

(6) The SIS National Center together with the national competent authorities issue separate statistics for alerts contained in NISA and alerts sent to SIS regarding the number of alerts on persons for which the extension of the validity period was requested.

Art. 48 – (1) The alerts on goods entered in NISA or sent to SIS are kept in the respective system only for the time necessary to achieve the purpose they were entered for.

(2) The retention period in NISA or SIS of the alerts on goods is:

a) 5 years for the national alerts or Schengen alerts of the category mentioned in art.15 paragraph (1) and art. 16 paragraph (1);

b) 10 years for the national alerts or Schengen alerts of the category mentioned in art. 18 paragraph (1).

(3) The national competent authority analyzes together with the Romanian authority that requested the entering of the alert if maintaining an alert after the deadlines mentioned in paragraph (2) is necessary for the purpose for which it was entered in NISA or sent to SIS. The provisions of paragraph (2) are applied accordingly as of the extension of the validity.

Section 2
Rules for performing transactions on NISA and SIS alerts

§ 1. Performing transactions on national alerts or Schengen alerts that can be included in the categories mentioned in art. 6 letters a) – e)

Art. 49 – (1) The national competent authorities perform transaction on the alerts included in the N.SIS only for the purposes they were entered, within their legal competencies and ensure access to these alerts only for the authorized personnel, according to their job description. The data included in the N.SIS alerts cannot be used for administrative purposes.

(2) The data included in the N.SIS alerts can be copied for technical purposes in order to ensure the possibility of direct consultation by the national competent authorities.

(3) The dispositions of the present law shall also apply for the copies done according to paragraph (2).

(4) Copying to other national databases the data included in the alerts entered by the national competent authorities in the NISA or sent to the SIS is forbidden.

(5) The copies done according to paragraph (2) can be kept for a period of 48 hours. This period may be extended in case of emergency until this emergency ceases to exist.

(6) The SIS National Center keeps daily records of the copies done according to paragraph (2) which can be made available to the National Supervisory Authority for Personal Data Processing, hereinafter called NSAPDP, in order to exercise its legal attributions, if they request it.

(7) The data included in the N.SIS alerts may be used for other purposes other than those for which they were entered when this is necessary to prevent a serious and imminent threat to public order and safety, for reasons related to national security or to prevent a crime from being committed for which an arrest warrant may be issued according to the Law no.302/2004 on international judicial cooperation in criminal matters, with the subsequent modifications and amendments.

(8) The data included in the alerts entered in the SIS by other Member States can be used according to paragraph (7) only after receiving the consent of the authority that entered the respective alert. The request is transmitted through the exchange of supplementary information.

(9) The national competent authorities that receive a request from the authorities of another Member State to use the data for other purposes than those the alert was entered for, analyze the request together with the Romanian authorities that requested the alert to be entered, if case be, and communicate through the exchange of supplementary information their answer regarding the use of the respective date.

Art.50 – (1) By exception from art. 49 paragraph (4) the data stored in the alerts existing in the N.SIS in relation to which measures were taken by the Romanian authorities, may be stored in the national databases. This data is stored for a period of maximum 3 years or for the period mentioned in the legal provisions setting a longer storing period for those types of data.

(2) By exception from the provisions of art. 49 paragraph (4), the data included in the national or Schengen alerts can be kept in the databases of the national competent authority that entered the respective alert into NISA or sent it to SIS.

Art. 51 – (1) The national competent authority that enters and alert in the NISA or sends it to the SIS ensures that the data included in it is exact and updated and that the entering or transmission of that alert is done according to the legal provisions.

(2) Only the national competent authority that entered an alert in the NISA or sent it to the SIS has the right to modify, supplement, correct or delete the data it entered until the validity period of the alert expires.

(3) The Romanian authorities with access rights communicate to the national competent authority or the authority of another Member State that entered an alert, immediately but no later than 10 days after the date when they found out about it, the evidence proving that at least one of the data included in the respective alert is incorrect or was illegally entered.

(4) The evidence mentioned in paragraph (3) is communicated to the authorities of other Member States through the exchange of supplementary information. In the case of communications to the national competent authorities, the national SIRENE Bureau is also informed.

(5) The national competent authorities are informed about the fact that at least one of the data included in an alert that was entered by it in the NISA or sent to the SIS is incorrect or was illegally entered, investigate the evidence presented for this purpose in 5 working days and in case it finds that the information is correct, modifies or deletes immediately the respective data or in case it finds that it is not correct, it communicates this to the authority that sent the communication.

(6) In case the national competent authorities which sent the communication according to paragraph (3) and the authorities of the other Member States informed as such do not reach an agreement regarding the status of that data within two months after the communication was transmitted, the national SIRENE Bureau informs the European Data Protection Authority about the case.

(7) In case a national competent authority receives a request from a person claiming that he/she can be mistaken for the person who is in reality the subject of an alert in the N.SIS, they inform the respective person as regards the procedure mentioned in art. 53.

(8) In case a national competent authority intends to enter an alert regarding a person who is already the subject of an alert in the N.SIS, they confer with the authority that entered the previous alert on the basis of rules on alert compatibility and the priority order set in the SIRENE Manual.

(9) In case the authority that entered the previous alert is from another Member State, the exchange of supplementary information is used in order to reach an agreement.

Art.52 – (1) – In case they find at the time of entering a new alert in NISA or sending an alert to SIS that in that system there already exists an alert regarding a person whose identification data are similar, the national SIRENE Bureau take the specific measures in order to clarify if it refers to the same person or not.

(2) In case the corroborated verification proves that the person who is the subject of the new alert and the person about whom there already exists an alert in that system are identical, the procedure mentioned in art. 51 para (8) is applied.

(3) In case the result of the verification proves that the case involves two different persons, the national SIRENE Bureau approves the request for entering the alert adding the necessary elements in order to avoid any misunderstanding.

Art. 53 – (1) In case there is evidence that the person who is the subject of an alert in NISA or SIS is not the same with the person that is located following a hit, the national

competent authority that entered the alert adds in that system data regarding the second person in order to avoid the negative consequences of misidentification.

(2) The data entered according to paragraph (1) are used for the following purposes:

(a) to allow the Romanian authorities or the authorities of another Member State if case be, to separate between the person who is the subject of the alert and the person that is located following a hit;

(b) to allow the person located after a hit to prove that he/she is not the same with the person who is the subject of the alert;

(3) Based on paragraph (1), the following personal data can be added and processed, only with the consent of the data subject:

(a) surname and name, name given at birth and previous name, any aliases which may be entered separately;

(b) any specific, objective, physical characteristics not subject to change;

(c) place and date of birth;

(d) sex;

(e) photographs;

(f) fingerprints;

(g) nationality;

(h) number of identity document and their issuing date.

(4) Adding and processing the data mentioned in paragraph (3) is done according to the technical norms set on the basis of the provisions of Council Decision 2007/533/JHA.

(5) The data mentioned in paragraph (3) is deleted at the same time with the alert they were attached to or prior to deleting the alert, if the respective person requests this.

(6) The data mentioned in paragraph (3) is accessed only by the authorities that have access rights to the alert they were attached to.

Art.54 – (1) The national competent authorities when necessary for operative reasons, create links between their own alerts or between own alerts and the alerts of other national competent authorities in order to highlight the connection between two or more national alerts or two or more Schengen alerts. The link is entered in NISA or transmitted to SIS depending on the case.

(2) Creating a link between alerts does not affect either the measures necessary to be taken based on that alert, or their validity period.

(3) Creating a link between alerts does not affect the access right of the national competent authorities. They do not have access to the links created with an alert to which they do not have access.

(4) The authorities with access right to the links created in SIS, when they consider that one of these links is not compatible with the national legislation or the obligations assumed by Romania in legal documents for international cooperation, request the national SIRENE Bureau to take the necessary measures so that the respective link should not be accessible for the Romanian authorities.

(5) The national SIRENE Bureau asks the SIS National Center to take the necessary measures to limit the access of the Romanian authorities to the respective link.

(6) The links between the NISA alerts or between the alerts sent to SIS are done according to the technical procedures set based on Council Decision 2007/533/JHA.

Art.55 – (1) The national SIRENE Bureau together with the national competent authorities keep records containing references related to the decisions of sending the alerts in SIS in order to support the exchange of supplementary information.

(2) The personal data communicated through the national SIRENE Bureau following an exchange of supplementary information are immediately deleted once they are not necessary for achieving the purpose they were supplied for, but no later than a year after deleting from SIS the alert in connection with which they were supplied.

(3) By exception from the provisions of paragraph (2) the personal data supplied within the exchange of supplementary information can be kept at national level, in connection with alerts sent in SIS by the national competent authorities or in connection with the SIS alerts on the basis of which measures were taken by the Romanian authorities. This data is kept for maximum 3 years after deleting from SIS the alert in relation to which it was supplied or for the period mentioned in the legal provisions that establish a longer period for storing the respective data categories.

Art.56 – It is forbidden for the national competent authorities to transmit the personal data used in relation to the alerts in the N.SIS to the authorities of the states that do not participate in the Schengen Information System or to the international organizations.

§ 2. Performing transactions on national alerts or Schengen alerts, which are included in the categories mentioned in art. 6 letter f)

Art.57 – Performing transactions on national alerts of Schengen alerts, which are included in the categories mentioned in art. 6 letter f) is done according to the provisions of Regulation (EC) no. 1987/2006 of the European Parliament and of the Council and of the SIRENE Manual.

Section 3 Data security

Art. 58 – (1) The Ministry of Administration and Interior, through the SIS National Center, together with the national competent authorities must draft a security plan and take the necessary security measures related to management and use of N.SIS as regards:

- a) the physical protection of the data, including by drafting a back up plan for protection of the critical infrastructure;
- b) the access control to equipment in order to prevent unauthorized access to equipment for processing personal data;
- c) control of data support in order to prevent unauthorized reading, copying, modifying or deletion of the data support;
- d) control of storing in order to prevent unauthorized entering of data and unauthorized inspection, modification or deletion of personal data;
- e) control of use in order to prevent the systems for automated processing of data being used by unauthorized persons with the help of data transmission equipment;
- f) control of data access in order to limit the access of persons authorized to use the system for automated data processing based on an unique and individual identity for the user and a confidential access mode only to the data for which they were authorized;

g) to ensure that all authorities with N.SIS access or equipment for data processing from this system should create profiles which describe the specific competencies and responsibilities of the persons authorized for access, entering, updating, deleting and searching the data and should immediately make available these profiles for the NSAPDP;

h) control of the communication related to N.SIS so that the authorities to which personal data can be transmitted by using communication equipment could verify and establish it;

i) control of entering data in order to ensure that it could be possible to verify and establish prior what personal data was entered in the systems for automated processing of data, when and for what purpose;

j) control of data transport in order to prevent unauthorized reading, copying, modification or deletion of personal data during their transmission or during transport of data support through technical security measures;

(2) The security measures mentioned in paragraph (1) are also applied accordingly for the exchange of supplementary information.

(3) Every Romanian authority with access right for the N.SIS data ensures that the security measures mentioned in paragraph (1) are applied and cooperates with the NSAPDP.

(4) The Ministry of Administration and Interior, through the SIS National Center monitors that the security measures mentioned in paragraph (1) are applied.

Art. 59 - (1) The security measures mentioned in art. 58 paragraph (1) are established and applied according to the following principles:

a) **principle of confidentiality** – ensuring access to data only for authorized persons according to job description;

b) **principle of integrity** – ensuring the exactness and completeness of the information as well as the processing methods;

c) **principle of availability** - ensuring access to information in the requested deadline;

d) **principle of identification and authentication** – ensuring the identification and authentication of all the users appropriately, depending on their competencies, before performing any transaction;

e) **principle of authorization** - authorizing the participants when performing a transaction in order to access N.SIS data depending on their competencies;

f) **principle of non-rejection** – ensuring that the transactions on N.SIS data are recorded in the system and they are assigned to the participants when performing them.

(2) The Ministry of Administration and Interior, through the SIS National Center and the authorities with access rights to N.SIS take steps in order to prevent loss of existing information of the system in case of natural disasters, as well as for ensuring that it is recovered.

Art.60 (1) – All transactions performed on N.SIS data by the national competent authorities are recorded in the system for monitoring the legality of the transaction on this data, for ensuring the proper functioning of the N.SIS as well as the data security and integrity. The use of the recordings for other purposes is forbidden.

(2) The records mentioned in paragraph (1) include data within the alert, the history of the alert, data and time of transmission of data in relation to the respective alert, the data

used for performing a search, comments regarding the data sent, the name of the authority and name of the person that performed transactions on the data.

(3) The history of the alerts includes all actions performed on the N.SIS alerts from the time they are entered until they are deleted.

(4) The records mentioned in paragraph (1) are kept for at least one year but no longer than 3 years since creation. For the records that include the history of the alerts, the storing period starts when the alert is deleted.

(5) By exception from the provisions of paragraph (3), records can be kept for a longer period if they are necessary for monitoring procedures under way.

(6) The Ministry of Administration and Interior, through the SIS National Center makes available for the NSAPDP, at its request, the records mentioned in paragraph (1).

Section 4

Protection of persons as regards personal data processing

Art. 61 –(1) Accessing and using the personal data contained in the N.SIS is done according to the legal provisions in the field of protection of persons as regards personal data processing and by respecting the Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data, adopted in Strasbourg on 28 January 1981, ratified by Law no. 682/2001, with the subsequent modifications, exclusively by the national competent authorities and only for the purpose of fulfilling the competencies set by law and under its conditions.

(2) Performing transactions in the SIS using data foreseen in the first thesis of article 6 of the Convention for the protection of individuals with regard to automatic processing of personal data, adopted in Strasbourg on 28 January 1981, ratified by Law no. 682/2001, with the subsequent modifications, is forbidden

Art. 62 – (1) The rights of the person as regards the personal data processing in NISA or SIS are used according to the provisions of Law no. 677/2001 on the protection of individuals with regard to the personal data processing and the free movement of such data, with the subsequent modifications and amendments, with the exceptions mentioned by this law.

(2) The requests of the data subjects in the context of personal data processed in the NISA or the SIS can be submitted only to the national SIRENE Bureau which will communicate the answer to the applicant as soon as possible but no later than 60 days after the receipt of the request, in the case of using the right of access to the personal data and as soon as possible but no later than 90 days after the receipt of the request in the case of using the right of rectification and deletion of the personal data, by exception from the provisions of Law no. 677/2001, with the subsequent modifications and amendments

(3) The requests may be submitted to the national SIRENE Bureau or to any data controller within the Minister of Administration and Interior or its structures, which sends the request to the national SIRENE Bureau within 5 days from its submission.

(4) In order to communicate to the applicant information on the personal data processed in NISA or SIS, the national SIRENE Bureau asks for the consent of the national

competent authorities that entered the respective alerts. The consent is communicated in 20 days after receipt of the request from the national SIRENE Bureau.

(5) In the case of alerts entered in the SIS by another Member State, the requests of the persons are answered by the national SIRENE Bureau only with the consent of the Member State that entered the alert. The national SIRENE Bureau requests the consent through the exchange of supplementary information.

(6) The national SIRENE Bureau communicates in 40 days after receiving the request, its consent about another Member State transmitting the personal data included or related to the alerts sent by the national competent authorities in SIS, only with their consent. The consent is communicated in 20 days after receiving the request from the national SIRENE Bureau.

(7) The data subject shall not be communicated information regarding personal data processed in NISA or SIS as long it is necessary for performing the activities on the basis of the alert or the objective of the alert or for protecting the rights and freedom of other persons.

Art.63 – When the court of law examines the lawful application of the provisions of art. 16 of Law no. 677/2001, with the subsequent modifications and amendments, the evidence is presented in the council room.

Art 64 – (1) The legality of the personal data processing in the N.SIS on the territory of Romania and transmitting this data abroad, as well as subsequent exchanging and processing of supplementary information are subject to monitoring and control by the NSAPDP.

(2) The auditing of the personal data processing is performed by the NSAPDP according to audit international standards at least once every four years.

(3) The funds necessary in order to perform the attributions mentioned at paragraph (1) are supplied from the state budget and are foreseen in the annually budget of the NSAPDP.

CHAPTER VI

Final and transitory provisions

Art. 65 – (1) The financing sources for setting up and rendering operational the N.SIS components are ensured from state budget funds, PHARE funds and funds earmarked through the Schengen Facility.

(2) Financing the current expenses and capital costs necessary for maintaining and carrying out the N.SIS activity is done from state budget approved for the Ministry of Administration and Interior, according to the law.

Art. 66 – (1) Within 30 days from the entering into force of the GD mentioned at art. 5, paragraph (1), the national competent authorities adopt internal regulations in which working procedures for the activities related to alerts in NISA and SIS are established.

(2) The working procedures for the activities of the national competent authorities within the Minister of Administration and Interior shall be approved by order of the minister of administration and interior.

Art. 67 – (1) The provisions of this law regarding Romania’s participation to SIS apply from the date Romania fully implements the Schengen acquis based on a Council decision, according to the regulations at the level of central SIS based on the developing steps of the SIS.

(2) Until the date of rendering operational the SIS of second generation at the central level, the Ministry of Administration and Interior, through SIS National Center, ensures the data transactions in the N.SIS and the central SIS according to the regulations applicable at the central SIS level,

(3) At the time this law enters into force, the Government Emergency Ordinance no. 128/2005 on setting up, organization and functioning of the National Information System for Alerts is abrogated; the GEO was published in the Official Monitor of Romania, part I, no. 866 of 26 September 2005, approved with modifications and amendments by Law no. 345/2005. The following acts are also abrogated: Government Decision no. 1411/2006 for approving the methodological norms for applying the Government Emergency Ordinance no. 128/2005 on setting up, organization and functioning of the National Information System for Alerts, published in the Official Monitor of Romania, part I, no. 856 of 19 October 2006 as well as Government Decision no. 769/2006 for approving the Implementation Plan of the National IT System of Alerts, published in the Official Journal of Romania, Part I, no. 536 of 21 June 2006.

This law was adopted by the Romanian Parliament by observing the provisions of art. 75 and 76 paragraph (2) of the Romanian Constitution, as republished.

Bucharest, July 12, 2010.

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