

Use of the Schengen Information System (SIS) for the return of illegally staying third country nationals

2016/0407(COD) - 21/12/2016 - Legislative proposal

PURPOSE: to reform the Schengen Information System (SIS) in order to provide for the integration of alerts in the SIS concerning the return of illegally staying third-country nationals to the territory of the Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in 2016, the Commission carried out a [comprehensive evaluation of SIS](#), three years after the entry into operation of its second generation. This evaluation showed that SIS has been a genuine operational success.

Nonetheless, the effectiveness and efficiency of the system should be further strengthened. To this end, the Commission is presenting a first set of three proposals to improve and extend the use of SIS as result of the evaluation while continuing its work to make existing and future law enforcement and border management systems more interoperable.

These proposals cover the use of the system for:

- [border management](#),
- [police cooperation and judicial cooperation in criminal matters](#), and
- **the return of illegally staying third country nationals.**

CONTENT: this proposal **lays down the conditions and procedures for the entry and processing in the Schengen Information System (SIS) of alerts in respect of third-country nationals** subject to return decisions issued by the Member States in accordance with procedures respecting [Directive 2008/115/EC](#), as well as for exchanging supplementary information on such alerts.

Purpose: the purpose of the present proposal is to improve and extend the use of SIS by making it obligatory for Member States' authorities to **enter in SIS all return decisions** issued, to allow their EU-wide visibility and thus enhance their enforcement.

The use of SIS for return is aimed at assisting immigration authorities in following up and enforcing the return of third-country nationals who have no right to stay in the Member States. It also helps to prevent and **deter irregular migration** and to enhance information sharing and cooperation between immigration authorities.

Entering alerts on return: in order to facilitate the exchange of information between competent authorities, the proposal lays down the purpose and rules for entering alerts on return in SIS to allow the competent authorities to verify that the obligation to return has been complied with. The alert should be **without delay entered as soon as the decision has been issued** to the illegally staying third-country national concerned, in order to allow the verification referred to above. The alert should indicate if a

period for voluntary departure is still running or if a decision has been suspended or removal has been postponed.

Where there are no reasons to believe that it would undermine the purpose of return procedures, voluntary return should be preferred over forced return and a period for voluntary departure should be granted to the returnee.

The duration of the period for voluntary departure, and any prolongation thereof, should be indicated in the alert to allow public authorities to decide whether it is appropriate to take action in the individual case.

Exchange of information between the competent authorities: the proposal lays down categories of data that can be contained in a return alert.

Effective and timely cooperation and exchange of supplementary information between Member States requires the **set-up of single point of contact**.

To improve the efficiency of the EU's return policy, Member States shall be obliged to **confirm the departure of the third-country national subject to an alert on return to the Member State (or authority) that entered the alert**. This provision shall allow the authorities issuing and enforcing return decisions to verify that the obligation to return has been complied with.

Non-compliance with an obligation to return: the proposal sets out the provisions in cases of non-compliance with the obligation to return. A series of procedures are provided to deal with situations where a third-country national subject to an alert on return is identified and apprehended in another Member State (passing back the third-country national to the issuing Member State).

Access and management of data: provisions are provided regarding:

- alerts on return need to be deleted following the return of the third-country national concerned;
- the opportunity to keep trace in SIS of return decisions after the return was enforced will be explored. This information could be useful if a third country national re-entered the territory of the Member States and is found as illegally staying in a different Member State than the one who issued the first return decision;
- enabling the authorities responsible for issuing return decisions to be able to access SIS in order to enter, update, delete and search data (the authorities concerned are listed in the proposal).

BUDGETARY IMPLICATIONS: the cost-estimate of **EUR 3.6 million from 2018 to 2020** includes costs for the technical upgrade of SIS for the purpose of return.