

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

2016/0407(COD) - 24/10/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 500 votes to 103, with 41 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Purpose: the proposed Regulation shall down the conditions and procedures for the entry and processing of alerts in respect of third-country nationals subject to return decisions issued by the Member States in the Schengen Information System (SIS), as well as for exchanging supplementary information on such alerts.

Member States shall implement this Regulation in full respect of the **Charter of Fundamental Rights**, including the respect of the principle of non-refoulement, and shall always take into consideration the best interests of the child, family life, and the state of health or condition of vulnerability of the individuals concerned.

Introduction of data into the SIS: in order to ensure the effectiveness of returns, Member States shall enter alerts into SIS in relation to return decisions they issue in respect of illegally staying third-country nationals. In certain circumstances, Member States may **refrain from entering alerts on return into SIS** where the risk of the return decision not being complied with is low, namely during any period of detention or when the return decision is issued at the external border and is executed immediately, in order to reduce their administrative burden.

Alerts on return shall be **automatically deleted** as soon as they expire.

Categories of data: the amended text provides for the introduction of new categories of data in the SIS. Given the reliability of identifying persons using **fingerprints and photographs or facial images**, they shall always be inserted in alerts on return. As they may not be available, for example, when a return decision is taken in absentia, it shall exceptionally be possible to derogate from this requirement in such cases.

Competent authorities: the exchange of supplementary information provided by the national competent authorities on third-country nationals subject to alerts on return, shall always be carried out through the network of national offices called SIRENE Bureaux serving as point of contact.

Confirmation of return: in the event of a hit on an alert on return concerning a thirdcountry national who is exiting the territory of the Member States through the external border of a Member State, the executing Member State shall communicate the following information to the issuing Member State through the exchange of supplementary information - that the third-country national has been subject to removal, if this is the case.

The amended text also describes the procedures that shall apply in the event of a hit at the external borders to entry into the territory of the Member States through the external borders.

Consultations: this Regulation shall establish mandatory rules for consultation between Member States to avoid or reconcile conflicting instructions. Provisions have been introduced with regard to this:

- prior consultation before granting or extending a residence permit or long-stay visa;
- prior consultation before entering an alert on return;
- posteriori consultation after entering an alert on return;
- consultation in the case of a hit concerning a thirdcountry national holding a valid residence permit or long-stay visa.

Transfer of personal data to third countries: personal data obtained by a Member State pursuant to this Regulation **shall not be transferred** or made available to any third country. As a derogation to that rule, it shall be possible to transfer such personal data to a third country where the transfer is subject to strict conditions and is necessary in individual cases in order to assist with the identification of a third-country national for the purposes of his or her return.

Lastly, Member States shall provide **statistics** to eu-LISA on an annual basis on the exchanges of information carried out in accordance with Articles 8 to 12 and on the instances in which the deadlines provided for in those Articles were not met.