

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

2016/0407(COD) - 10/11/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Jeroen LENAERS (EPP, NL) on the proposal for a regulation of the European Parliament and of the Council on the use of the Schengen Information System (SIS) for the return of illegally staying third-country nationals.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

**Introduction of data into the SIS:** data on third-country nationals subject to a return decision shall be **entered in SIS immediately** after the decision becomes effective under the national legislation of the respective Member State for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision.

Member States may elect not to enter data on third-country nationals subject to a return decision when it concerns third-country nationals who are placed in detention until removal.

The period for voluntary departure granted to third-country nationals subject to a return decision issued shall be immediately recorded in the alert. Where this period is extended, the alert shall be immediately updated accordingly.

**Suspension or postponement of execution of the return decision:** Members proposed that Member States should make an existing alert related to return in SIS temporarily unavailable upon the suspension or postponement of the enforcement of the return decision or where an appeal has been lodged against a return decision which may lead to the suspension of its enforcement. If the return decision is overturned the alert shall be deleted immediately.

**Data categories:** the data entered in the SIS shall also include information on whether the return decision can be appealed and whether an appeal is pending against the return decision. **Fingerprint data** shall always be preferred over photographs and facial images.

**Authority responsible for the exchange of supplementary information:** Members suggested that each Member State shall designate a **national authority that is fully operational 24 hours a day, 7 days a week**, to ensure the exchange and availability of all supplementary information on third-country nationals who are the subject of a return decision. Member States may **designate their SIRENE Bureau** as their national authority.

Members stated that where a third-country national who is the subject of an alert on return is identified when entering through the external borders, the Member State that identified the third-country national concerned shall inform the issuing Member State as soon as possible and in any event **within 12 hours** through the exchange of supplementary information in order to delete the alert.

**Transfer of personal data to third countries:** the data may only be exchanged if the third country explicitly undertakes to use the data only for the purpose for which it they were provided and if the third-country national concerned has been informed that his or her personal data and supplementary information will be shared with the authorities of a third country.

**Non-refoulement, best interests of the child, family life and state of health:** when implementing this Regulation, Member States shall take due account of the best interests of the child, family life, the state of health of the third-country national concerned and whether the third-country national is a vulnerable persons.

In any event, any measures to return third-country nationals shall fully respect the **Charter of Fundamental Rights of the European Union** and the principle of non-refoulement.