

SENATE OF THE REPUBLIC

17TH PARLIAMENTARY TERM

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No132

RESOLUTION OF THE FIRST STANDING COMMITTEE

(Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system of the State and the civil service)

(Rapporteur MANCUSO)

adopted at the sitting of 8 June 2016

ON THE

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2016/399 AS REGARDS THE USE OF THE ENTRY/EXIT SYSTEM

(COM(2016) 196 final)

pursuant to Article 144(1) and (6) of the Rules of Procedure

Sent to the President's Office on 14 June 2016

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The Committee,

having examined the proposal for a Regulation,

whereas:

the proposal integrates into the Schengen Borders Code the technical changes that result from the new proposal for a Regulation establishing an Entry/Exit System (EES) (COM(2016) 194), with particular regard to the recording in the EES of refusals of entry of third country nationals, new elements relating to the fall back procedures for the EES and interoperability between the EES and the Visa Information System (VIS).

noting, in particular, that:

provisions are introduced defining the categories of person whose data is to be entered in the system and the derogations from this procedure;

the proposal provides for authenticity checks of the chip in travel documents containing an electronic storage medium;

the proposal allows, for third country nationals, verification of the validity of the travel document by consultation of the relevant databases;

the proposal establishes the possibility of using the EES for identification purposes at the external borders;

the proposal provides for the use of self-service systems and e-gates for persons whose border crossing is subject to registration in the EES;

the proposal provides for registration in the EES of data on third country nationals whose entry for a short stay has been refused

whereas, moreover:

the legal basis has been correctly identified as Article 77(2)(b) of the Treaty on the Functioning of the European Union, which provides for the ordinary legislative procedure to be used to adopt measures concerning external border controls.

the proposal fully complies with the principle of subsidiarity, since its purpose is to make amendments to the Schengen Border Code that are necessary to establish the entry/exit system. This objective cannot be sufficiently achieved by the Member States acting individually, because only the European Union may amend an existing Union Act (the Schengen Borders Code);.

the proposal also complies with the principle of proportionality, since its provisions do not go beyond what is necessary to achieve its objective,

having examined the Government's report, drawn up pursuant to Article 6(4) of Law No 234 of 24 December 2012,

issues a favourable opinion.

OPINION OF THE 14TH STANDING COMMITTEE

(EUROPEAN UNION POLICIES)

(Rapporteur: MARAN)

8 June 2016

The Committee, having examined the document,

recalling that in 2013 the European Commission presented a package of ‘Smart Border’ proposals, made up of a regulation on an Entry/Exit System (EES) for third country nationals, a regulation on a Registered Traveller Programme (RTP) concerning simplified procedures for the entry and exit of third country nationals already registered, and a regulation on amending the Schengen Border Code accordingly;

noting that in 2014 the Council of the European Union and the European Parliament expressed technical, financial and operational concerns about certain aspects of the development of these systems and that the European Commission - on the basis of a technical study which it carried out, the results of the pilot phase on the use of biometric identifiers, technical discussions with the Council and Parliament and interested parties, and a public consultation - drafted and presented a revised version of the regulation providing for a single entry and exit system and withdrew the proposal for a registered traveller programme;

whereas the proposal under consideration, which replaces the 2013 proposal, integrates into the Schengen Borders Code the technical changes that result from the new proposal for a Regulation establishing an Entry/Exit System (EES) (COM(2016) 194), with particular regard to the recording in the EES of refusals of entry of third country nationals, new elements relating to the fall-back procedures for the EES and interoperability between the EES and the Visa Information System (VIS);

whereas, in particular, the main amendments to the Schengen Border Code concern:

provisions specifying the categories of persons and data that must or must not be entered in the EES and the procedures for verifying travel documents and visas and for accessing the Visa Information System (VIS);

provisions concerning the use of automated control systems and national facilitation programmes that may be established by Member States on a voluntary basis;

elimination of the obligation to stamp systematically the travel documents of third country nationals admitted for a short stay on entry and exit (except in cases of refusal of entry);

presumption of an irregular stay in the absence of the appropriate records in the EES and possibilities of rebuttal on the basis of credible evidence;

provisions concerning a transitional period of six months from the entry into operation of the EES and transitional measures for cases in which a third country national whose border crossing is subject to registration in the EES has

entered the territory of the Member States and has not yet exited it before the entry into operation of the EES;

registration in the EES of data on third country nationals whose entry for a short stay has been refused;

comments favourably on the proposal, within its area of responsibility, with the following remarks:

the legal basis has been correctly identified as Article 77(2)(b) of the Treaty on the Functioning of the European Union, which provides for the ordinary legislative procedure to be used to adopt measures concerning external border controls;

the proposal clearly complies with the principle of subsidiarity, since the objective of making the amendments to the Schengen Border Code that are needed to establish the Entry/Exit System (EES) cannot be achieved by Member States individually, as only the European Union may amend an existing Union Act (the Schengen Border Code). Moreover, the objective of improving the quality and speed of controls on entries and exits for short-stay purposes (90 days) by establishing an integrated system for recording crossings of the external borders of the Schengen Area cannot be achieved by the Member States individually. The proposal therefore meets the two subsidiarity criteria concerning the need for EU action and the added value of the measure;

as to the principle of proportionality, the proposal does not go beyond what is necessary to achieve its objective.

