



EUROPEAN COMMISSION

Brussels, 10.11.2017
C(2017) 7456 final

Dear President,

The Commission would like to thank the Camera dei Deputati for their Opinions 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 {COM(2016) 881 final}; the proposal for a Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 {COM 2016) 882 final}; and the proposal for a Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU {COM (2016) 883 final}.

These proposals form part of a broader package of ambitious measures designed to improve European security by strengthening our borders and tackling the growing challenges of terrorism and illegal migration.

The proposals make technical and operational improvements to the Schengen Information System. An overall evaluation of the system in 2016 concluded that it was a significant operational success, supporting information exchange on criminal matters and border check issues between law enforcement officials and border guards in 29 countries. Notwithstanding this success, the evaluation found a number of areas where improvements could be made, including by improving operational effectiveness and efficiency in cooperation on criminal matters and enhancing the effective implementation of entry bans and return decisions. The proposals seek to address those issues by improving harmonisation and cooperation among the countries that use the system.

The Commission is pleased that the Camera dei Deputati shares the view that action at European Union level as envisaged in the proposals is required to ensure effective information exchange through the Schengen Information System, especially in light of the transnational nature of the challenges it seeks to tackle.

*Ms Laura BOLDRINI
President of the Camera dei Deputati
Piazza Montecitorio
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In response to the specific comments of the Camera dei Deputati on each of the three proposals, the Commission would like to refer to the attached annex.

The points made in this reply are based on the initial proposals presented by the Commission in December 2016 which are currently in the legislative process involving both the European Parliament and the Council.

The Opinions of the Camera dei Deputati have been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.

The Commission hopes that the comments provided in this reply are helpful to the Camera dei Deputati and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*

Annex

The Commission has carefully considered each of the issues raised by the Camera dei Deputati in its Opinions and is pleased to offer the following clarifications.

On the proposal for a Regulation on the use of the Schengen Information System for the return of illegally staying third-country nationals {COM(2016) 881 final}:

The Commission agrees with the Camera dei Deputati on the need to ensure compliance with the duty of solidarity with the countries of first entry, in accordance with obligations regarding relocation. The Commission fully recognises the importance of solidarity with countries of first entry, such as Italy, with regard to migrant entry and relocation.

The Commission also notes the Camera dei Deputati's suggestion to introduce a system to keep track of deleted alerts once the return decisions have been complied with, and to ensure Member States take all steps necessary to avoid a hiatus between the time of enforcing a return decision and the time an alert is issued in the Schengen Information System for the subsequent refusal of entry and stay for that individual.

The Commission has previously considered the issue of retaining alerts for return after they have indeed been complied with. However, the Commission recalls that the Schengen Information System is not an archiving system and its considerable success lies in its ability to convey to end-users immediate, up-to-date information, accompanied by clear action to be taken. For the system to fully comply with data protection measures, alerts that have fulfilled their purpose must be deleted. The Commission shares the Camera dei Deputati's opinion that Member States must ensure that successful implementation of a return decision is immediately followed by the entry into the Schengen Information System of an alert for refusal of entry and stay, wherever appropriate.

On the proposal for a Regulation on the establishment, operation and use of the Schengen Information System in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 {COM 2016) 882 final}:

The Commission notes the Camera dei Deputati's concerns regarding the consultation procedure where prevalence is afforded to the Member State having issued the third-country national with a right to stay. The consultation procedure is the subject of detailed ongoing discussions between the co-legislators, and the Camera Dei Deputati's comments will inform future discussions on this topic.

Regarding the extension of the retention period for alerts on return, the Commission agrees with the Camera dei Deputati on the need to fully comply with data protection measures in full respect of the fundamental rights of individuals. The Camera dei Deputati's suggestion to afford a maximum period of any such extension will inform future discussions with the co-legislators on this topic.

On the proposal for a Regulation on the establishment, operation and use of the Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU {COM (2016) 883 final}:

The Commission shares the Camera dei Deputati's view that a clear and precise definition of inquiry checks is helpful, particularly to confirm that such checks are not designed to amount to formal detention or an impingement of the individual's rights in any way. The proposal specifically underlines that where inquiry checks are not authorised by national law, they must be replaced with the less intrusive option of discreet checks.