

Translation

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RESOLUTION OF THE 1st 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 COCIANCICH)

approved at the session of 24 May 2017

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)**

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

Sent to the President's Office on 31 May 2017

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The Committee,

having examined the Proposal for a Regulation pursuant to Article 144(1) and (6) of the Rules of Procedure,

whereas,

the proposal makes it obligatory to enter all return decisions in the Schengen Information System (SIS) in order to facilitate the return of third country nationals illegally residing in the European Union,

recalling that:

the SIS is an information system that supports the Schengen external border controls and police and judicial cooperation of twenty-nine European countries. It currently contains around 70 million entries concerning information on persons who do not have the right to enter or stay in the Schengen area, on persons wanted in connection with criminal activity and on missing persons, and also information on certain categories of lost or stolen objects,

whereas, in particular,

the proposal requires entering and processing data in the SIS, in the form of alerts, on third-country nationals subject to a return decision, and exchanging supplementary information on such alerts, in order to give return decisions EU-wide visibility and thus enhance their enforcement;

the regulation provides that an alert should be entered in the SIS immediately, as soon as the decision has been issued to the illegally staying third-country national concerned, and should indicate the duration of the period for voluntary departure and whether removal has been suspended or postponed. Where there are no reasons to believe that this 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 person concerned;

the proposed regulation further provides that each Member State must designate an authority responsible for the exchange of supplementary information on alerts entered on third-country nationals within the context of return and illegal stay;

it also provides that Member States must confirm the departure of the third-country national subject to a return alert to the Member State that entered the alert, so that the authorities issuing and enforcing return decisions can verify that the obligation to return has been complied with. There is also provision for systematic checks at exit to ensure that all third-country nationals concerned are reported as actually having left the territory;

the proposal sets out the provisions applicable in cases of non-compliance with the obligation to return and the procedures necessary for preventing and solving divergences or conflicting decisions between Member States;

further provisions concern the deletion of alerts, the transfer of data to third countries under strict conditions, and the identification of persons who may be given access to alerts concerning return,

having examined the Government's report, drawn up pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012,

also given that:

the legal basis has been correctly identified as Article 79(2)(c) of the Treaty on the Functioning of the European Union (TFEU), which provides for the ordinary legislative procedure to be used to adopt measures under the common immigration policy aimed at ensuring efficient management of migration flows and fair treatment of third-country nationals residing legally in the Member States, and the prevention of, and enhanced measures to combat illegal immigration and trafficking in human beings. Article 79(2)(c) TFEU concerns illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

the proposal complies with the subsidiarity principle, since the objective of extending compulsory use in all Member States of the Schengen Information System to support the monitoring and enforcement of decisions to return third-country nationals illegally residing in the European Union cannot be sufficiently achieved by the Member States acting individually;

as regards the principle of proportionality, the proposal is limited to the measures necessary to achieve the above purpose, leaving Member States free to adopt, on a case by case basis, in consultation with one another, any decisions or measures to be taken against persons who have not returned to their country of origin,

issues a favourable opinion, with the following comments:

stresses the need to take account of Commission Recommendation (EU) 2017/432 of 7 March 2017 on making returns more effective when implementing Directive 2008/115/EC, and Communication COM(2017) 200 on a more effective return policy in the European Union — A renewed action plan, in order to assess further scope for reducing the growing mismatch between the number of illegally resident third-country nationals and the number of those actually repatriated,

with reference to the particular sensitivity of Italy's position, the Committee highlights the need to ensure compliance with the duties of solidarity with the countries of first entry, which are especially burdened by migration, through proper involvement of the other Member States in the management of the most critical stages of migrant entry, and full compliance with the obligations regarding relocation.