



2016/0407(COD)

6.9.2017

AMENDMENTS

30 - 168

Draft report
Jeroen Lenaers
(PE606.233v01-00)

Use of the Schengen Information System for the return of illegally staying
third-country nationals

Proposal for a regulation
(COM(2016)0881 – C8-0532/2016 – 2016/0407(COD))

Amendment 30
Marie-Christine Vergiat

Draft legislative resolution
Paragraph 1

Draft legislative resolution

1. **Adopts** its position at first reading hereinafter set out;

Amendment

1. **Rejects** its position at first reading hereinafter set out;

Or. fr

Amendment 31
Eva Joly, Judith Sargentini

Proposal for a regulation
Title 1

Text proposed by the Commission

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

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the use of the Schengen Information System for the return of **irregularly** staying third-country nationals

Or. en

Amendment 32
Lorenzo Fontana

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in full respect of fundamental rights **and in particular the principle of non-refoulement, and in accordance with**

Amendment

1. The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in full respect of fundamental rights, is an essential part of the comprehensive efforts to tackle irregular migration and increase

Directive 2008/115/EC of the European Parliament and of the Council, is an essential part of the comprehensive efforts to tackle irregular migration and increase the rate of return of irregular migrants.

the rate of return of irregular migrants *and has to date not been satisfactorily achieved*.

Or. it

Amendment 33
Marie-Christine Vergiat

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, *in full respect of fundamental rights and* in particular the *principle of non-refoulement, and in accordance with Directive 2008/115/EC of the European Parliament and of the Council, is an essential part of the comprehensive efforts to tackle irregular migration and increase the rate of return of irregular migrants.*

Amendment

(1) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States *must ensure full compliance with international law*, in particular the *right of asylum as defined in the 1951 Geneva Convention, and respect for the principle of non-refoulement and for fundamental rights, in particular the right to family reunification, no matter what their reasons for coming to and staying in the Schengen area are, or the manner in which they came;*

Or. fr

Amendment 34
Marie-Christine Vergiat

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) It is necessary to *increase the effectiveness* of the *European system to return illegally staying third-country*

Amendment

(2) It is necessary to *take account of the situation* of the *individuals concerned with regard to their country of origin*

nationals. This is essential for maintaining public trust in the Union migration and asylum policy and providing support to persons in need of international protection.

and/or transit. Their return must not under any circumstances conflict with the application of the 1951 Geneva Convention or the principle of non-refoulement, and they may not be sent back to a country in which they would be at risk of torture or inhuman or degrading treatment or punishment. This ensures that the rights of those who require international protection are upheld.

Or. fr

Amendment 35
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) It is necessary to increase the effectiveness of the European system to return *illegally* staying third-country nationals. *This is essential for maintaining public trust in the Union migration and asylum policy and providing support to persons in need of international protection.*

Amendment

(2) It is necessary to increase the effectiveness of the European system to return *irregularly* staying third-country nationals.

Or. en

Amendment 36
Lorenzo Fontana

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) It is *necessary* to increase the effectiveness of the European system to return illegally staying third-country nationals. This is *essential for maintaining*

Amendment

(2) It is *essential* to increase the effectiveness of the European system to return illegally staying third-country nationals. This is *necessary to guarantee*

public *trust* in the Union *migration and asylum policy and providing* support to persons in need of international protection.

public *safety* in the Union *and provide* support to persons *genuinely* in need of international protection.

Or. it

Amendment 37

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Member States should take all necessary measures to return illegally staying third-country nationals in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.

Amendment

(3) Member States should take all necessary measures – *while fully upholding fundamental rights, and in particular the principle of non-refoulement* – to return illegally staying third-country nationals in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.

Or. fr

Amendment 38

Eva Joly, Judith Sargentini

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Member States should take *all* necessary measures to return *illegally* staying third-country nationals in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.

Amendment

(3) Member States should take *the* necessary measures to return *irregularly* staying third-country nationals in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC *and with full respect of fundamental rights and in particular the principle of non-refoulement.*

Or. en

Amendment 39
Lorenzo Fontana

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Member States should take all necessary measures to **return** illegally staying third-country nationals ***in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.***

Amendment

(3) Member States should take all necessary measures to **repatriate** illegally staying third-country nationals.

Or. it

Amendment 40
Marie-Christine Vergiat

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Member States **should** take all necessary measures to return illegally staying third-country nationals ***in an effective and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.***

Amendment

(3) Member States **must** take all necessary measures to ***ensure that the return of*** illegally staying third-country nationals ***is carried out in a manner that fully upholds and protects human rights, and in particular the rights of those who are most vulnerable.***

Or. fr

Amendment 41
Jussi Halla-aho

Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

(3) Member States should take all necessary measures to return illegally staying third-country nationals in an effective *and proportionate* manner, in accordance with the provisions of Directive 2008/115/EC.

(3) Member States should take all necessary measures to return illegally staying third-country nationals in an effective manner, in accordance with the provisions of Directive 2008/115/EC.

Or. en

Amendment 42
Marie-Christine Vergiat

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) A Union-wide system for sharing information between Member States on return decisions issued in respect of third-country nationals staying illegally on the territory of the Member States in accordance with provisions respecting Directive 2008/115/EC *and for monitoring whether third-country nationals subject to those decisions have left the territory of the Member States* should be established.

Amendment

(4) A Union-wide system for sharing information between Member States on return decisions issued in respect of third-country nationals staying illegally on the territory of the Member States in accordance with provisions respecting Directive 2008/115/EC should be established.

Or. fr

Amendment 43
Marie-Christine Vergiat

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) A Union-wide system for sharing information between Member States on *return decisions issued in respect* of third-country nationals staying illegally on the territory of the Member States *in accordance with provisions respecting*

Amendment

(4) A Union-wide system for sharing information between Member States on *the rights* of third-country nationals staying illegally on the territory of the Member States, *having regard to the right of asylum and to the 1951 Geneva*

Directive 2008/115/EC and for monitoring whether third-country nationals subject to those decisions have left the territory of the Member States should be established.

Convention, should be established, and it should be made clear that they may not be made the subject of a decision to return them to a country in which they are at risk of torture or inhuman or degrading treatment or punishment.

Or. fr

Amendment 44
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) A Union-wide system for sharing information between Member States on return decisions issued in respect of third-country nationals staying *illegally* on the territory of the Member States in accordance with provisions respecting Directive 2008/115/EC and for monitoring whether third-country nationals subject to those decisions have left the territory of the Member States should be established.

Amendment

(4) A Union-wide system for sharing information between Member States on return decisions issued in respect of third-country nationals staying *irregularly* on the territory of the Member States in accordance with provisions respecting Directive 2008/115/EC and for monitoring whether third-country nationals subject to those decisions have left the territory of the Member States should be established.

Or. en

Amendment 45
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) SIS alerts on return and the exchange of supplementary information on these alerts should support competent authorities to take the necessary measures to enforce return decisions issued in accordance with provisions respecting

Amendment

(6) SIS alerts on return and the exchange of supplementary information on these alerts should support competent authorities to take the necessary measures to enforce return decisions issued in accordance with provisions respecting

Directive 2008/115/EC. SIS should contribute to the identification and the information sharing between Member States on third-country nationals who are the subject of such return decision, who have absconded and are apprehended in another Member State. These measures should help ***prevent and deter irregular migration*** and enhance cooperation between Member States' authorities.

Directive 2008/115/EC. SIS should contribute to the identification and the information sharing between Member States on third-country nationals who are the subject of such return decision, who have absconded and are apprehended in another Member State. These measures should help ***increase the effectiveness of return decisions*** and enhance cooperation between Member States' authorities.

Or. en

Amendment 46
Marie-Christine Vergiat

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) SIS alerts on return ***and the exchange of supplementary information on these alerts should support competent authorities to take the necessary measures to enforce*** return decisions issued in accordance with provisions respecting Directive 2008/115/EC. ***SIS should contribute to the identification and the information sharing between Member States on third-country nationals who are the subject of such return decision, who have absconded and are apprehended in another Member State. These measures should help prevent and deter irregular migration and enhance cooperation between Member States' authorities.***

Amendment

(6) SIS alerts on return ***should help competent authorities take the necessary measures to uphold the rights of the people concerned before the enforcement of*** return decisions issued in accordance with provisions respecting Directive 2008/115/EC. ***Under no circumstances should those measures adversely affect the rights of the individuals concerned as laid down in international and European law. Such alerts must never affect the right of asylum and should not constitute grounds for refusal for applicants and beneficiaries of international protection, in particular with regard to the principle of non-refoulement.***

Or. fr

Amendment 47
Marie-Christine Vergiat

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) ***To ensure the effectiveness of return and increase the added value of alerts on return, Member States should enter alerts in SIS in relation to all return decisions they issue to illegally staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC. For this purpose, Member States should enter an alert in SIS also when decisions imposing or stating an obligation to return are issued in the situations described in Article 2(2) of that Directive, notably to third-country nationals who are subject to a refusal of entry in accordance with the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State, and to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.***

Amendment

(7) Member States ***may*** enter alerts in SIS in relation to return decisions they issue to illegally staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC ***if the persons concerned have been able to assert their rights and have exhausted all avenues of appeal. Whatever the case, the country that authorised the stay must be informed immediately.***

Or. fr

Amendment 48

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) To ensure the effectiveness of return and increase the added value of alerts on return, Member States should enter alerts in SIS in relation to ***all*** return

Amendment

(7) To ensure the effectiveness of return and increase the added value of alerts on return, Member States should enter alerts in SIS in relation to return

decisions *they issue* to illegally staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC. For this purpose, Member States should enter an alert in SIS also when decisions imposing or stating an obligation to return are issued in the situations described in Article 2(2) of that Directive, notably to third-country nationals who are subject to a refusal of entry in accordance with the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State, and to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

decisions *issued* to illegally staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC. For this purpose, Member States should enter an alert in SIS also when decisions imposing or stating an obligation to return are issued in the situations described in Article 2(2) of that Directive, notably to third-country nationals who are subject to a refusal of entry in accordance with the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State, and to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures. ***In order to reduce the administrative burden for Member States and the number of less useful SIS entries, Member States may refrain from entering an alert if the return decision does not set a deadline for voluntary departure and the third-country national is placed in detention prior to removal.***

Or. fr

Justification

In addition, a record of the return decision will be stored in Eurodac.

Amendment 49
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) To ensure the effectiveness of return and increase the added value of alerts on return, Member States should enter alerts in SIS in relation to all return decisions they issue to *illegally* staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC. For this purpose, Member States should enter an alert in SIS also when decisions imposing or stating an obligation to return are issued in the situations described in Article 2(2) of that Directive, notably to third-country nationals who are subject to a refusal of entry in accordance with the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State, and to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

(7) To ensure the effectiveness of return and increase the added value of alerts on return, Member States should enter alerts in SIS in relation to all *final* return decisions they issue to *irregularly* staying third-country nationals in accordance with provisions respecting Directive 2008/115/EC. For this purpose, Member States should enter an alert in SIS also when decisions imposing or stating an obligation to return are issued in the situations described in Article 2(2) of that Directive, notably to third-country nationals who are subject to a refusal of entry in accordance with the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State, and to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

Or. en

Amendment 50

Eva Joly, Judith Sargentini

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) This Regulation should set out common rules for entering alerts related to return in SIS as soon as the underlying return decisions in accordance with provisions respecting Directive 2008/115/EC are issued. The alert should indicate whether a period for voluntary departure has been granted to the third-

Amendment

(8) This Regulation should set out common rules for entering alerts related to return in SIS as soon as the underlying return decisions in accordance with provisions respecting Directive 2008/115/EC are issued. The alert should indicate whether a period for voluntary departure has been granted to the third-

country national concerned, including whether such period has been extended taking into account the specific circumstances of the individual case, and whether the decision has been suspended or the removal has been postponed.

country national concerned, including whether such period has been extended taking into account the specific circumstances of the individual case, ***whether the third-country national has a right to appeal against the return decision, whether an appeal against the return decision is pending***, and whether the decision has been suspended or the removal has been postponed.

Or. en

Amendment 51
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Where enforcement of a return decision issued in accordance with provisions respecting Directive 2008/115/EC is suspended or postponed, the issuing Member State should mark the alert on return with a suspension indicator to ensure that it is only accessible to SIRENE bureaux, that it is not searchable by end-users, and that the action called for is not enforced.

Or. fr

Amendment 52
Marie-Christine Vergiat

Proposal for a regulation
Recital 9

Text proposed by the Commission

Amendment

(9) It is necessary to specify the categories of data that can be entered in

(9) It is necessary to specify the categories of data that can be entered in

SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts on return should contain only those data that are required in order to identify the data subjects, *to allow the competent authorities to take informed decisions without losing time* and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.

²⁶ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts on return should contain only those data that are required in order to identify the data subjects and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.

Or. fr

Amendment 53

Jussi Halla-aho

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) It is necessary to specify the categories of data that can be entered in SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts on return should contain only those data that are required in order to identify the data subjects, to allow the competent

Amendment

(9) It is necessary to specify the categories of data that can be entered in SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts on return should contain only those data that are required in order to identify the data subjects, to allow the competent

authorities to take informed decisions without losing time and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in *Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism*²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.

²⁶ *Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).*

authorities to take informed decisions without losing time and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in *Titles II, III or IV of Directive (EU) 2017/541 of the European Parliament and of the Council*²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document *or documents* and a copy of such document *or documents*, if available.

²⁶ *Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).*

Or. en

Justification

Reference to the provisions of the new terrorist directive on terrorist offences and offences related to a terrorist group (title II), offences related to terrorist activities (title III) as well as aiding, abetting, inciting and attempting such offences (title IV).

Amendment 54 **Eva Joly, Judith Sargentini**

Proposal for a regulation **Recital 9**

Text proposed by the Commission

(9) It is necessary to specify the categories of data that can be entered in SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts

Amendment

(9) It is necessary to specify the categories of data that can be entered in SIS in respect of third-country nationals who are the subject of a return decision issued in accordance with provisions respecting Directive 2008/115/EC. Alerts

on return should contain only those data that are required in order to identify the data subjects, to allow the competent authorities to take informed decisions **without losing time** and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.

²⁶ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

on return should contain only those data that are required in order to identify the data subjects, to allow the competent authorities to take informed decisions and to ensure, where necessary, their protection in relation to persons who are armed, violent, have escaped or are involved in an activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism²⁶. Furthermore, in order to facilitate identification and detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.

²⁶ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

Or. en

Amendment 55 **Marie-Christine Vergiat**

Proposal for a regulation **Recital 9 a (new)**

Text proposed by the Commission

Amendment

(9a) In view of the impact on the private lives of third-country nationals, personal data may only be used for clearly determined purposes, with the precise aims user authorities are seeking to achieve being taken into account. Where personal data are used, account should be taken of the status of the individuals concerned in their country of origin, and this may not under any circumstances conflict with application of the 1951 Geneva Convention. Special care and

sensitivity should be applied regarding the registration of minors.

Or. fr

Amendment 56
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Competent authorities should be able to add in the SIS specific information relating to any specific, objective, physical characteristics of a person not subject to change. This information may relate to characteristics such as piercings, tattoos, marks, scars, etc. However, it should not reveal sensitive data of a person such as ethnicity, religion, disability, gender or sexual orientation, as defined in Article 9 of Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a}.

1a Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L119, 4.5.2016, p. 1).

Or. en

Amendment 57
Marie-Christine Vergiat

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Each Member State should designate an authority responsible for the exchange of supplementary information in connection to alerts on return in order to ensure efficient and swift cooperation among the Member States.

Amendment

(10) Each Member State should designate an authority responsible for the exchange of supplementary information in connection to alerts on return in order to ensure ***that the rights of the people concerned are upheld and that there is*** efficient and swift cooperation among the Member States. ***Such exchanges must be absolutely necessary and in proportion to the task.***

Or. fr

Amendment 58

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Each Member State should designate ***an*** authority responsible for the exchange of supplementary information ***in connection to alerts on*** return in order to ensure efficient and swift cooperation among the Member States.

Amendment

(10) Each Member State should designate ***a national*** authority ***that is fully operational 24 hours a day, 7 days a week, and*** responsible for the exchange of supplementary information ***on third-country nationals who are the subject of a return decision ('Migration Office')*** in order to ensure efficient and swift cooperation among the Member States.

Or. fr

Amendment 59

Marie-Christine Vergiat

Proposal for a regulation

Recital 11

Text proposed by the Commission

Amendment

(11) Procedures should be established to enable Member States to verify *that the obligation to return has been complied with and to confirm* the departure of the third-country national concerned *to the Member State that issued the alert on return. This information should contribute to a more comprehensive follow-up of the compliance with return decisions in accordance with provisions respecting Directive 2008/115/EC.*

(11) Procedures should be established to enable Member States to verify the departure of the third-country national concerned.

Or. fr

Amendment 60
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) Procedures should be established to enable Member States to verify that the obligation to return has been complied with and to confirm the departure of the third-country national concerned to the Member State that issued the alert on return. This information should contribute to a more comprehensive follow-up of the compliance with return decisions in accordance with provisions respecting Directive 2008/115/EC.

Amendment

(11) Procedures should be established to enable Member States to verify that the obligation to return has been complied with and to confirm the departure of *or that a residence permit or other authorisation offering a right to stay has been granted to* the third-country national concerned to the Member State that issued the alert on return. This information should contribute to a more comprehensive follow-up of the compliance with *return decisions and rate of successful appeals against* return decisions in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Amendment 61
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Where a third-country national who is subject of an alert on return is identified by a competent authority and it has been ascertained by the same authority that the obligation to return has not been complied with, that authority should immediately consult the issuing Member State through the exchange of supplementary information in order to determine the action to be taken. That action should be carried out in accordance with the EU return acquis and other provisions of national and EU legislation applicable to the case concerned. The Member States should nevertheless prioritise the recognition of the return decision of the issuing Member State pursuant to Directive 2001/40/EC.

Or. fr

Amendment 62

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) Entering information on voluntary departure deadlines into the SIS should allow illegally staying third-country nationals, when checked, to say why they should be allowed to remain in a Member State.

Or. fr

Amendment 63

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Alerts on return should be deleted as soon as the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been informed that the return has taken place. ***Where a return decision is accompanied by an entry ban, the latter should be entered in SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases Member States should take all necessary measures to ensure that no time-gap exist between the moment in which the third-country national leaves the Schengen area and the activation of the alert on the entry ban in SIS.***

Amendment

(12) Alerts on return should be ***automatically deleted as soon as the alert expires, in accordance with the examination procedure. They should also be*** deleted as soon as the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been informed that the return has taken place, ***or, where necessary, in accordance with the provisions on the compatibility of alerts.***

Or. fr

Amendment 64
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Alerts on return should be deleted as soon as the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been informed that the return has taken place. Where a return decision is accompanied by an entry ban, the latter should be entered in SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases Member States should take all necessary measures to ensure that no time-gap exist between the moment in

Amendment

(12) Alerts on return should be deleted as soon as the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been informed that the return has taken place ***or that a residence permit or other authorisation offering a right to stay has been granted.*** Where a return decision is accompanied by an entry ban, the latter should be entered in SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases Member States should take

which the third-country national leaves the Schengen area and the activation of the alert on the entry ban in SIS.

all necessary measures to ensure that no time-gap exist between the moment in which the third-country national leaves the Schengen area and the activation of the alert on the entry ban in SIS.

Or. en

Amendment 65

Emil Radev

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) ***Alerts on return should be deleted as soon as the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been informed that the return has taken place.*** Where a return decision is accompanied by an entry ban, the latter should be entered in SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases Member States should take all necessary measures to ensure that no time-gap exist between the moment in which the third-country national leaves the Schengen area and the activation of the alert on the entry ban in SIS.

Amendment

(12) Where a return decision is accompanied by an entry ban, the latter should be entered in SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases Member States should take all necessary measures to ensure that no time-gap exist between the moment in which the third-country national leaves the Schengen area and the activation of the alert on the entry ban in SIS. ***Where a return decision is not accompanied by an entry ban, the alert on return information should be stored in SIS for a maximum period of five years starting from the time the competent authorities of the Member State issuing the alert on return are informed of the successful return of the person concerned.***

Or. bg

Amendment 66

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Where a return decision is accompanied by an entry ban, the latter should be entered in the SIS in accordance with Article 24(3) of Regulation (EU) 2018/xxx [border checks]. In such cases, Member States must take all necessary measures to ensure that there is no delay between the time the third-country national leaves the Schengen area and the time the alert on the entry ban is activated in the SIS.

Or. fr

Amendment 67

Jussi Halla-aho

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) When a return decision is accompanied by an entry ban, even if the alert on return is not entered in SIS the activation of the alert on the entry ban should follow immediately after the return has taken place.

Or. en

Justification

This amendment addresses the scenario in which the alert on return is not necessary, e.g. on the grounds that the person is detained until his or her return, but the return decision is accompanied by an entry ban.

Amendment 68

Marie-Christine Vergiat

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) SIS should contain a mechanism for notifying the Member States about the non-compliance of third-country nationals with an obligation to return within a given period of voluntary departure. The mechanism should support the Member States in fulfilling their obligations in accordance with Article 8(1) of Directive 2008/115/EC with regard to third-country nationals who have not complied with an obligation to return.

deleted

Or. fr

Amendment 69

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) SIS should contain a mechanism for notifying the Member States about the non-compliance of third-country nationals with an obligation to return within a given period of voluntary departure. The mechanism should support the Member States in fulfilling their obligations in accordance with Article 8(1) of Directive 2008/115/EC with regard to third-country nationals who have not complied with an obligation to return.

(13) SIS should contain a mechanism for notifying the Member States about the non-compliance of third-country nationals with an obligation to return within a given period of voluntary departure. The mechanism should support the Member States in fulfilling their obligations in accordance with Article 8(1) **and Article 11** of Directive 2008/115/EC with regard to third-country nationals who have not complied with an obligation to return.

Or. fr

Amendment 70

Emil Radev

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) **Alerts should be kept in SIS only for the time required to fulfil the purposes for which they were entered.** In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review period for alerts on third-country nationals is five years.

Amendment

(15) In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review period for alerts on third-country nationals is five years.

Or. bg

Amendment 71

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Alerts should be kept in SIS only for the time required to fulfil the purposes for which they were entered. In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review period for alerts on third-country nationals is five years.

Amendment

(15) Alerts should be kept in SIS only for the time required to fulfil the purposes for which they were entered. In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review period for alerts on **the return of** third-country nationals is five years.

Or. fr

Amendment 72

Eva Joly, Judith Sargentini

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Alerts should be kept in SIS only for the time required to fulfil the purposes for which they were entered. In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review

Amendment

(15) Alerts should be kept in SIS only for the time required to fulfil the purposes for which they were entered. In accordance with Article 34 of Regulation (EU) 2018/xxx [border checks] the review

period for alerts on third-country nationals is *five* years.

period for alerts on third-country nationals is *three* years.

Or. en

Amendment 73
Marie-Christine Vergiat

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing Member State information that is useful for the rapid identification and re-documentation of illegally staying third-country nationals, in view of their return to a third country. ***In individual cases, it should be possible to share such data and information with a third country for this purpose. Sharing*** of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and be conducted with the agreement of the Member State ***that*** issued the alert.

Amendment

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing Member State information that is useful for the rapid identification and re-documentation of illegally staying third-country nationals, in view of their return to a third country. ***The sharing*** of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and ***should*** be conducted with the agreement of the Member State ***which, if applicable, authorised the stay and*** issued the alert.

Or. fr

Amendment 74
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing

Amendment

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing

Member State information that is useful for the *rapid* identification and re-documentation of *illegally* staying third-country nationals, in view of their return to a third country. *In individual cases, it should be possible to share such data and information* with a third country *for this purpose*. Sharing of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and be conducted with the agreement of the Member State that issued the alert.

Member State information that is useful for the identification and re-documentation of *irregularly* staying third-country nationals, in view of their return to a third country. *Such data and information* should *not be shared* with a third country. Sharing of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and be conducted with the agreement of the Member State that issued the alert.

Or. en

Amendment 75
Jussi Halla-aho

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing Member State information that is useful for the rapid identification and re-documentation of illegally staying third-country nationals, in view of their return to a third country. *In individual cases, it should be possible to share such data and information with a third country for this purpose*. Sharing of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and be conducted with the agreement of the Member State that issued the alert.

Amendment

(16) Data processed in SIS or transferred through the exchange of supplementary information may provide to the enforcing Member State information that is useful for the rapid identification and re-documentation of illegally staying third-country nationals, in view of their return to a third country. *To facilitate the return, it should be possible to share such data and information with a third country*. Sharing of any personal data should be subject to clear conditions, should be carried out in accordance with the provisions of Regulation (EU) 2016/679 and be conducted with the agreement of the Member State that issued the alert.

Or. en

Amendment 76
Marie-Christine Vergiat

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) All sharing and re-use of data must be strictly supervised and limited to only what is specifically necessary.

Or. fr

Amendment 77
Marie-Christine Vergiat

Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to enter, update, delete and search alerts on return.

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to enter, update, delete and search alerts on return, ***in conditions that are strictly defined depending on the authorities concerned.***

Or. fr

Amendment 78

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to **enter, update, delete and** search alerts on return.

Amendment

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to search alerts on return.

Or. fr

Amendment 79

Eva Joly, Judith Sargentini

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for **illegal** stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and

Amendment

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for **irregular** stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and

enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to enter, update, delete and search alerts on return.

enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to enter, update, delete and search alerts on return.

Or. en

Amendment 80

Filiz Hyusmenova, Gérard Deprez

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to ***enter, update, delete and*** search alerts on return.

Amendment

(17) National authorities responsible for return may differ significantly among Member States, and such authorities may also vary within a Member State depending on the reasons for illegal stay. Judicial authorities may also issue return decisions in accordance with provisions respecting Directive 2008/115/EC, for instance as result of appeals against a refusal of granting an authorisation or right to stay, or as a criminal sanction. All national authorities in charge of issuing and enforcing return decisions in accordance with Directive 2008/115/EC should be entitled to access SIS in order to search alerts on return.

Or. en

Justification

The number of national authorities responsible for issuing a return decision/enforcing such decisions indeed vary greatly in the Member States, whereas in some Member States, there is a single administration that could enter/alter/delete data in the SIS. Granting all of the decision issuing/enforcing bodies an active access to the data in the SIS might create an administrative hurdle in Member States that opted for a centralized active access authority.

Amendment 81

Marie-Christine Vergiat

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The Member States are to designate the persons strictly entitled by the authorities to request information on the data recorded in the SIS. This access and entitlement must be subject to verification by an independent authority.

Or. fr

Amendment 82
Marie-Christine Vergiat

Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

(18) Access to alerts on return should be granted to national authorities referred to in points (a), (b),(c) and (d) of Article 29(1) and in Article 29(2) of Regulation (EU) 2018/xxx [border checks] for the purpose of identification and return of third-country nationals.

deleted

Or. fr

Amendment 83
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

(18) Access to alerts on return should be granted to national authorities referred to in points (a), (b),(c) and (d) of Article 29(1) and in Article 29(2) of Regulation (EU)

(18) Access to alerts on return should be granted to national authorities referred to in points (a), (b) and (d) of Article 29(1) and in Article 29(2) of Regulation (EU)

2018/xxx [border checks] for the purpose of identification and return of third-country nationals.

2018/xxx [border checks] for the purpose of identification and return of third-country nationals.

Or. en

Amendment 84
Marie-Christine Vergiat

Proposal for a regulation
Recital 19

Text proposed by the Commission

Amendment

(19) Regulation (EU) 2016/794 on the European Union Agency for Law Enforcement cooperation (Europol Regulation) provides that Europol supports and strengthens actions carried out by the competent authorities of Member States and their cooperation in combating terrorism and serious crime and provides analysis and threat assessments. In order to facilitate Europol in carrying out its tasks, in particular within the European Migrant Smuggling Centre, it is appropriate to allow Europol access to the alert category defined in this Regulation.

deleted

Or. fr

Amendment 85
Eva Joly, Judith Sargentini

Proposal for a regulation
Recital 19

Text proposed by the Commission

Amendment

(19) Regulation (EU) 2016/794 on the European Union Agency for Law Enforcement cooperation (Europol Regulation) provides that Europol

deleted

supports and strengthens actions carried out by the competent authorities of Member States and their cooperation in combating terrorism and serious crime and provides analysis and threat assessments. In order to facilitate Europol in carrying out its tasks, in particular within the European Migrant Smuggling Centre, it is appropriate to allow Europol access to the alert category defined in this Regulation.

Or. en

Amendment 86
Marie-Christine Vergiat

Proposal for a regulation
Recital 20

Text proposed by the Commission

Amendment

(20) Regulation (EU) 2016/1624 provides that the host Member State shall authorise the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks, deployed by the European Border and Coast Guard Agency, to consult European databases, where this consultation is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. The objective of the deployment of the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support teams is to provide for technical and operational reinforcement to the requesting Member States, especially to those facing disproportionate migratory challenges. Fulfilling the tasks assigned to the European Border and Coast Guard teams, teams of staff involved in return-related tasks and to the migration management

deleted

support teams, necessitates access to alerts on return SIS via a technical interface of European Border and Coast Gard Agency connecting to Central SIS.

Or. fr

Amendment 87

Eva Joly, Judith Sargentini

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Regulation (EU) 2016/1624 provides that the host Member State shall authorise the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks, deployed by the European Border and Coast Gard Agency, to consult European databases, where this consultation is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. The objective of the deployment of the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support teams is to provide for technical and operational reinforcement to the requesting Member States, *especially to those facing disproportionate migratory challenges*. Fulfilling the tasks assigned to the European Border and Coast Guard teams, teams of staff involved in return-related tasks and to the migration management support teams, necessitates access to alerts on return SIS via a technical interface of European Border and Coast **Gard** Agency connecting to Central SIS.

Amendment

(20) Regulation (EU) 2016/1624 provides that the host Member State shall authorise the members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks, deployed by the European Border and Coast Gard Agency, to consult European databases, where this consultation is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. The objective of the deployment of the European Border and Coast Guard teams, teams of staff involved in return-related tasks and the migration management support teams is to provide for technical and operational reinforcement to the requesting Member States. Fulfilling the tasks assigned to the European Border and Coast Guard teams, teams of staff involved in return-related tasks and to the migration management support teams, necessitates access to alerts on return SIS via a technical interface of European Border and Coast **Guard** Agency connecting to Central SIS.

Or. en

Amendment 88
Maria Grapini

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ‘return decision’ means a return decision as defined in Article 3(4) of Directive 2008/115/EC;

deleted

Or. ro

Amendment 89
Miriam Dalli, Péter Niedermüller, Emilian Pavel

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ‘return decision’ means a return decision as defined in Article 3(4) of Directive 2008/115/EC;

(c) ‘return decision’ means a return decision as defined in Article 3(4) of Directive 2008/115/EC ***once, if requested, any appeal with suspensive effect has been exhausted in accordance with Article 13(1) of that Directive or the time period for lodging such appeal has expired, and any period for voluntary departure has passed in accordance with Article 7(1) of that Directive;***

Or. en

Justification

The definition of ‘return decision’ is specified to mean a final return decision in accordance to the Returns Directive, respecting Art.13 which lays down provisions for a time period by which an appeal must be lodged and Art. 7, which allows for a period in which a voluntary return may occur prior to a forced return. Therefore, both time periods and possibilities must be exhausted, if requested, for a return decision to be considered a ‘return decision’ in the context of this legislation

Amendment 90
Marie-Christine Vergiat

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) ‘return decision’ means a return decision as defined in Article 3(4) of Directive 2008/115/EC;

Amendment

(c) ‘return decision’ means a return decision as defined in Article 3(4) of Directive 2008/115/EC **and in respect of which all possible avenues of appeal have been exhausted or declared inadmissible**;

Or. fr

Amendment 91
Maria Grapini

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) ‘return decision **issued in accordance with provisions respecting Directive 2008/115/EC**’ means **a return decision within the meaning of point (c) and** an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return, **issued under the conditions of Article 2(2)** of Directive 2008/115/EC;

Amendment

(d) ‘return decision’ means an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return **that respects the provisions** of Directive 2008/115/EC;

Or. ro

Amendment 92
Marie-Christine Vergiat

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) ‘return decision issued in accordance with provisions respecting Directive 2008/115/EC’ means a return decision within the meaning of point (c) and an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return, issued under the conditions of Article 2(2) of Directive 2008/115/EC;

(d) ‘return decision issued in accordance with provisions respecting Directive 2008/115/EC’ means a return decision within the meaning of point (c) and an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return, issued under the conditions of Article 2(2)(b) of Directive 2008/115/EC;

Or. fr

Amendment 93
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) ‘return decision issued in accordance with provisions respecting Directive 2008/115/EC’ means a return decision within the meaning of point (c) and an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be **illegal** and imposing or stating an obligation to return, issued under the conditions of Article 2(2) of Directive 2008/115/EC;

Amendment

(d) ‘return decision issued in accordance with provisions respecting Directive 2008/115/EC’ means a return decision within the meaning of point (c) and an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be **irregular** and imposing or stating an obligation to return, issued under the conditions of Article 2(2) of Directive 2008/115/EC;

Or. en

Amendment 94
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) ‘entry ban’ means any administrative or judicial decision or act

prohibiting entry into and stay on the territory of Member States for a fixed period.

Or. fr

Amendment 95

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 2 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) ‘illegal stay’ means an illegal stay as defined in point 3 of Article 3 of Directive 2008/115/EC;

Or. fr

Amendment 96

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 2 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) ‘removal’ means removal as defined in point 5 of Article 3 of Directive 2008/115/EC;

Or. fr

Amendment 97

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 2 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) ‘suspension indicator’ means a marker that an issuing Member State may add to an alert on return where enforcement of a return decision is suspended or postponed.

Or. fr

Amendment 98

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

1. Data on third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be entered in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS without delay when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC.

Amendment

1. Data on third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be entered ***immediately*** in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS without delay when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC, ***and in accordance with the provisions on the compatibility of alerts laid down in Article 23b of Regulation (EU) 2018/xxx.***

Or. fr

Amendment 99

Miriam Dalli, Péter Niedermüller

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

1. Data on third-country nationals subject to a return decision issued in

Amendment

1. Data on third-country nationals subject to a return decision issued in

accordance with provisions respecting Directive 2008/115/EC shall be entered in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS without delay when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC.

accordance with provisions respecting Directive 2008/115/EC **and not or no longer subject to any suspensive appeal** shall be entered in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS without delay when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Justification

This text has been amended to reflect the principles adopted in line with the above definition of 'return decision'. The wording is changed to reflect that if a return decision is entered into the system, it must be in accordance with the Returns directive and not or no longer subject to a suspensive appeal

Amendment 100 **Filiz Hyusmenova**

Proposal for a regulation **Article 3 – paragraph 1**

Text proposed by the Commission

1. Data on third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be entered in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS **without delay** when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC.

Amendment

1. Data on third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be entered in SIS for the purpose of verifying that the obligation to return has been complied with and for supporting the enforcement of the decision. An alert shall be entered in SIS **as soon as possible** when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Justification

Granting all of the decision issuing/enforcing bodies an active access to the data in the SIS by entering, updating and deleting alerts might create an administrative hurdle for Member States where there is a single body responsible for introducing data in the SIS. For Member States with such centralised active-access structures a certain procedural time, albeit as quick as possible, should be envisaged.

Amendment 101

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States may refrain from entering an alert if the return decision does not set a deadline for voluntary departure and the third-country national is placed in detention prior to removal.

Or. fr

Justification

The aim of the regulation at hand is to enhance cooperation among Member States in enforcing return decisions. If the third-country national is placed in detention before removal, the return is carried out by the Member State itself.

Amendment 102

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. The period for voluntary departure granted to third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be immediately recorded in the alert.

2. The period for voluntary departure granted to third-country nationals subject to a return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be immediately recorded in the alert. ***Any extension of a***

period for voluntary departure shall also be immediately recorded in the alert.

Or. en

Amendment 103

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. The suspension and the postponement of the enforcement of the return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be immediately recorded in the alert.

Amendment

3. The suspension and the postponement of the enforcement of the return decision issued in accordance with provisions respecting Directive 2008/115/EC shall be immediately recorded in the alert, ***and a suspension indicator shall be added to the alert. Where a suspension indicator has been added, the alert shall only be accessible to SIRENE bureaux; it shall not be searchable by end-users; and the action called for shall not be enforced.***

Or. fr

Justification

The functionality exists for alerts for surrender and extradition purposes. SIRENE bureaux retain access, in particular where data quality is concerned.

Amendment 104

Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point e

Text proposed by the Commission

(e) any specific, objective, physical characteristics not subject to change;

Amendment

deleted

Amendment 105
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 4 – paragraph 1 – point e

Text proposed by the Commission

(e) any specific, objective, physical characteristics not subject to change;

Amendment

(e) any specific, objective, physical characteristics not subject to change, ***not linked to special categories of personal data defined in Article 9 of Regulation (EU) 2016/679, such as ethnicity, religion, disability, gender or sexual orientation;***

Or. en

Amendment 106
Emilian Pavel

Proposal for a regulation
Article 4 – paragraph 1 – point h

Text proposed by the Commission

(h) *sex*;

Amendment

(h) ***gender***;

Or. en

Amendment 107
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Article 4 – paragraph 1 – point h

Text proposed by the Commission

(h) *sex*;

Amendment

(h) ***gender***;

Or. fr

Amendment 108
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) *whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism;* **deleted**

Or. fr

Amendment 109
Jussi Halla-aho

Proposal for a regulation
Article 4 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in **Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism;** (j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in **Titles II, III and IV of Directive (EU) 2017/541;**

Or. en

Justification

Reference to the provisions of the new terrorist directive on terrorist offences and offences related to a terrorist group (title II), offences related to terrorist activities (title III) as well as aiding, abetting, inciting and attempting such offences (title IV).

Amendment 110
Miriam Dalli, Péter Niedermüller, Emilian Pavel

Proposal for a regulation

Article 4 – paragraph 1 – point j

Text proposed by the Commission

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in Articles **1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism**;

Amendment

(j) whether the person concerned is armed, violent, has escaped or is involved in an activity as referred to in Articles **3, 4, 12 and 14 of Directive (EU) 2017/541**;

Or. en

Justification

The offences referred to in the existing Council Directive on SIS II are replaced by the same offences laid down in Directive (EU) 2017/541.

Amendment 111

Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point k

Text proposed by the Commission

(k) reason for the alert;

Amendment

(k) ***the*** reason for ***the alert and a reference to the decision giving rise to*** the alert;

Or. fr

Amendment 112

Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point m

Text proposed by the Commission

(m) ***a reference to the decision giving rise to the alert***;

Amendment

deleted

Or. fr

Amendment 113
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point n

Text proposed by the Commission

Amendment

(n) *action to be taken;* *deleted*

Or. fr

Amendment 114
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point t

Text proposed by the Commission

Amendment

(t) photographs *and facial images*; (t) photographs;

Or. fr

Amendment 115
Miriam Dalli, Péter Niedermüller, Emilian Pavel

Proposal for a regulation
Article 4 – paragraph 1 – point u

Text proposed by the Commission

Amendment

(u) *dactylographic* data; (u) *fingerprint* data;

Or. en

Justification

In order to ensure proportionality of the Regulation, fingerprint data is preferred over dactylographic data generally. More so, fingerprint data and facial image data are biometric data normally stored in other large EU data systems, such as the Eurodac system.

Amendment 116

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 4 – paragraph 1 – point u

Text proposed by the Commission

Amendment

(u) *dactylographic* data;

(u) *fingerprint* data;

Or. en

Justification

This amendment aims at aligning this Regulation with the Eurodac Regulation, defining fingerprint data.

Amendment 117

Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point u

Text proposed by the Commission

Amendment

(u) *dactylographic data*;

(u) *fingerprints*;

Or. fr

Amendment 118

Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point v

Text proposed by the Commission

Amendment

(v) *a colour copy of the identity document*;

deleted

Or. fr

Amendment 119

Emilian Pavel

Proposal for a regulation
Article 4 – paragraph 1 – point v

Text proposed by the Commission

(v) a **colour** copy of the identity document;

Amendment

(v) a copy of the identity document;

Or. en

Amendment 120
Jussi Halla-aho

Proposal for a regulation
Article 4 – paragraph 1 – point x a (new)

Text proposed by the Commission

Amendment

(xa) data referred to in points (a) to (d), (f) to (i), (p) to (s) and (v) of any other identification document(s) carried by the person.

Or. en

Amendment 121
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 4 – paragraph 1 – point x a (new)

Text proposed by the Commission

Amendment

(xa) whether the return decision issued in accordance with provisions respecting Directive 2008/115/EC can be appealed;

Or. en

Amendment 122
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 4 – paragraph 1 – point x b (new)

Text proposed by the Commission

Amendment

(xb) whether an appeal is pending against the return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Amendment 123
Jussi Halla-aho

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

An alert may not be entered without the data referred to in (a),(g),(k),(m),(n) and (w). When available, all other data listed above shall also be entered.

An alert may not be entered without the data referred to in (a),(g),(k),(m),(n) and (w), **when such data is available**. When available, all other data listed above shall also be entered.

Or. en

Amendment 124
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

An alert may not be entered without the data referred to in (a),(g),(k),(m),(n) **and** (w). When available, all other data listed above shall also be entered.

An alert may not be entered without the data referred to in (a),(g),(k), **(l)**, (m),(n), **(w), (x), (xa) and (xb)**. When available, all other data listed above shall also be entered.

Or. en

Amendment 125

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

Each Member State shall designate **an** authority responsible for the exchange of supplementary information on third-country nationals subject **to** return in accordance with the provisions of the SIRENE Manual laid down in Article 8 of Regulation (EU) 2018/xxx [**Border** checks].

Amendment

Each Member State shall designate **a national authority that is fully operational 24 hours a day, 7 days a week, and is** responsible for the exchange of supplementary information on third-country nationals **who are the** subject of a return **decision ('Migration Office')** in accordance with the provisions of the SIRENE Manual laid down in Article 8 of Regulation (EU) 2018/xxx [**border** checks]. **The Migration Office shall be the Member States' single contact point for the exchange of supplementary information on return alerts and shall make it possible for the appropriate measures to be taken when a third-country national has been registered in the SIS for that purpose and is found following a hit on a return alert.**

Or. fr

Amendment 126

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Where a third-country national who is the subject of an alert on return is identified when exiting through the external borders of a Member State, the Member State that identified the third-country national concerned shall communicate the

Amendment

Where a third-country national who is the subject of an alert on return is identified when exiting through the external borders of a Member State, the Member State that identified the third-country national concerned shall communicate the

following information to the issuing Member State through the exchange of supplementary information:

following information *immediately* to the issuing Member State through the exchange of supplementary information:

Or. fr

Amendment 127
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) *the third-country of destination.* *deleted*

Or. en

Amendment 128
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Where a third-country national, who is the subject of an alert on return, exits through the external border of the issuing Member State, the confirmation of return shall be communicated to the competent authority in accordance with national law.

Where a third-country national who is the subject of an alert on return exits through the external border of the issuing Member State, the confirmation of return shall be communicated *immediately* to the competent authority in accordance with national law.

Or. fr

Amendment 129
Emil Radev

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. The issuing Member State shall immediately delete the alert following the receipt of the confirmation of return.

Amendment

2. The issuing Member State shall immediately delete the alert following the receipt of the confirmation of return ***and only if an entry ban has become active in accordance with Article 24(3) of Regulation (EU) 2018/xxx [Border checks].***

Or. bg

Amendment 130

Emil Radev

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Where there is no entry ban alert or it has not become active, the alert on return information on third country nationals shall continue to be stored in SIS for a maximum period of five years starting from the time the competent authorities of the Member State issuing the alert on return are informed of the successful return of the person concerned.

Or. bg

Amendment 131

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. The Member States shall provide on a monthly basis statistics to the European Agency for the operational management of large-scale information

3. The Member States shall provide on a monthly basis statistics to the European Agency for the operational management of large-scale information

systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council³⁶ ('the Agency') on the number of confirmed returns, on whether the return was carried out in voluntary compliance with an obligation to return or was enforced, and on the *third countries of destination*. Those statistics shall not contain personal data.

³⁶ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p.1).

systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council³⁶ ('the Agency') on the number of confirmed returns, on whether the return was carried out in voluntary compliance with an obligation to return or was enforced, *on the number of successful appeals against return decisions* and on the *number of conflicting instructions or conflicting information inserted in the database*. Those statistics shall not contain personal data.

³⁶ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p.1).

Or. en

Amendment 132

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. CS-SIS shall notify the Member States about their alerts on return for which the period for voluntary departure has expired.

Amendment

1. CS-SIS shall notify the Member States about their alerts on return for which the period for voluntary departure has expired *and for which the period for voluntary departure has not been extended or a residence permit or other authorisation offering a right to stay has been issued to the third-country national concerned*.

Or. en

Amendment 133

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. CS-SIS shall notify the Member States about their alerts on return for which the period for voluntary departure has expired.

Amendment

1. CS-SIS shall **automatically** notify the Member States about their alerts on return for which the period for voluntary departure has expired.

Or. fr

Amendment 134

Miriam Dalli, Péter Niedermüller

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. Where a third-country national **who is** subject of an alert on return is identified by a competent authority and it has been ascertained by the same authority that the obligation to return has not been complied with, that authority shall immediately consult the issuing Member State through the exchange of supplementary information in order to determine without delay the action to be taken.

Amendment

2. Where a third-country national subject of an alert on return is identified by a competent authority and it has been ascertained by the same authority that the obligation to return has not been complied with, that authority shall immediately consult the issuing Member State, **which remains responsible for the enforcement of such a decision**, through the exchange of supplementary information in order to determine without delay the action to be taken.

Or. en

Justification

Member States issuing a Return Decision remain responsible for the enforcement of that decision. Clarity is needed to make sure that responsibility is not shifted from the issuing Member State.

Amendment 135

Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. Where a third-country national who is subject of an alert on return is identified by a competent authority and it has been ascertained by the same authority that the obligation to return has not been complied with, that authority shall ***immediately consult*** the issuing Member State through the exchange of supplementary information ***in order to determine without delay the action to be taken.***

Amendment

2. Where a third-country national who is subject of an alert on return is identified by a competent authority and it has been ascertained by the same authority that the obligation to return has not been complied with, that authority shall ***notify*** the issuing Member State through the exchange of supplementary information. ***The competent authority shall take all necessary measures with a view to return in accordance with national law transposing Directive 2008/115/EC.***

Or. en

Justification

Link with Returns Directive that regulates return procedures in Member States.

Amendment 136

Jussi Halla-aho

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. Where a third-country national who is subject of an alert on return is identified by a competent authority and it has been ascertained ***by the same authority*** that the obligation to return has not been complied with, that authority shall immediately consult the issuing Member State through the exchange of supplementary information in order to determine ***without delay*** the action to be taken.

Amendment

2. Where a third-country national who is subject of an alert on return is identified by a competent authority and it has been ascertained that the obligation to return has not been complied with, that authority shall immediately consult the issuing Member State through the exchange of supplementary information in order to determine the action to be taken ***and the issuing Member State shall be obliged to communicate without delay the preferred course of action.***

Justification

Member States should be jointly responsible for the measures ensuring that each third-country national subject of an alert on return is swiftly returned when intercepted anywhere in the territory of the Member States.

Amendment 137

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The action called for must be carried out in accordance with the EU return acquis and other provisions of national and EU legislation applicable to the individual case, which include:

(a) issuing a return decision in accordance with provisions respecting Directive 2008/115/EC;

(b) passing the third-country national back to the issuing Member State under an existing bilateral agreement or arrangement in accordance with Article 6(3) of Directive 2008/115/EC; or

(c) recognising the return decision of the issuing Member State pursuant to Directive 2001/40/EC.

In applying this Regulation, the Member States shall prioritise the recognition of the return decision of the issuing Member State pursuant to Directive 2001/40/EC.

Or. fr

Amendment 138

Maria Grapini

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall first consult, through the exchange of supplementary information, the Member State that entered the alert. The Member State that entered the alert shall reply within seven days. If *the* Member State *considering* granting a residence permit or other authorisation offering a right to stay *decides to grant it*, the alert on return shall be deleted.

Amendment

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall first consult, through the exchange of supplementary information, the Member State that entered the alert. The Member State that entered the alert shall reply within seven days. If *no reply is received within seven days, the requesting* Member State *may assume that the Member State that entered the alert has no concerns regarding the granting of citizenship*, a residence permit or other authorisation offering a right to stay. *If citizenship, a residence permit or other authorisation offering a right to stay is granted*, the alert on return shall be deleted.

Or. ro

Amendment 139

Eva Joly, Judith Sargentini

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall *first consult, through the exchange of supplementary information*, the Member State that entered the alert. *The Member State that entered the alert shall reply within seven days*. If the Member State

Amendment

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall *inform* the Member State that entered the alert. If the Member State considering granting a residence permit or other authorisation offering a right to stay decides to grant it, the alert on return shall be deleted.

considering granting a residence permit or other authorisation offering a right to stay decides to grant it, the alert on return shall be deleted.

Or. en

Amendment 140
Marie-Christine Vergiat

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall first consult, through the exchange of supplementary information, the Member State that entered the alert. The Member State that entered the alert shall reply within seven days. If the Member State considering granting a residence permit or other authorisation offering a right to stay decides to grant it, the alert on return shall be deleted.

Amendment

1. Where a Member State considers granting a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an alert on return entered by another Member State, the former shall first consult, through the exchange of supplementary information, the Member State that entered the alert. The Member State that entered the alert shall reply within seven days. If the Member State considering granting a residence permit or other authorisation offering a right to stay decides to grant it, the alert on return shall be deleted *immediately*.

Or. fr

Amendment 141
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

2. *Where a Member State considers entering an alert for return concerning a third-country national who is the holder*

Amendment

deleted

of a valid residence permit or other authorisation offering a right to stay issued by another Member State, it shall inform through the exchange of supplementary information the Member State that issued the permit in order to allow that Member State to decide whether there are reasons justifying its withdrawal. The Member State that issued the permit shall provide a definite reply within seven days.

Or. en

Amendment 142
Marie-Christine Vergiat

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

2. Where a Member State considers entering an alert for return concerning a third-country national who is the holder of a valid residence permit or other authorisation offering a right to stay issued by another Member State, it shall inform through the exchange of supplementary information the Member State that issued the permit in order to allow that Member State to decide whether there are reasons justifying its withdrawal. The Member State that issued the permit shall provide a definite reply within seven days.

Amendment

2. Where a Member State considers entering an alert for return concerning a third-country national who is the holder of a valid residence permit or other authorisation offering a right to stay issued by another Member State, it shall inform through the exchange of supplementary information the Member State that issued the permit in order to allow that Member State to decide whether there are reasons justifying its withdrawal. The Member State that issued the permit shall provide a definite reply within seven days. ***The alert may not be made without the agreement of the Member State that issued the residence permit or authorisation offering a right to stay.***

Or. fr

Amendment 143
Marie-Christine Vergiat

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. *In the event of a hit on an alert on return concerning a third-country national who is the holder of a valid residence permit or other authorisation offering a right to stay, the Member State that identified the third-country national concerned shall consult immediately the involved Member States, through the exchange of supplementary information, in order to determine the action to be taken.* **deleted**

Or. fr

Amendment 144
Marie-Christine Vergiat

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. *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 immediately inform, through the exchange of supplementary information, the issuing Member State in order to delete the alert.* **deleted**

Or. fr

Amendment 145
Lorenzo Fontana

Proposal for a regulation

Article 8 – paragraph 5

Text proposed by the Commission

5. Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in accordance with paragraphs 1, 2, 3 and 4.

Amendment

5. Member States shall provide on an annual basis **accurate** statistics to the Agency about the consultations carried out in accordance with paragraphs 1, 2, 3 and 4.

Or. it

Amendment 146

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 8 – paragraph 5

Text proposed by the Commission

5. Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in accordance with paragraphs 1, 2, 3 and 4.

Amendment

5. Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in accordance with paragraphs 1, 3 and 4.

Or. en

Amendment 147

Emil Radev

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority. ***Alerts on return shall also be deleted when the third-country national concerned can demonstrate that they have left the territory of the Member States in compliance with a return decision issued in accordance with***

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority.

*provisions respecting Directive
2008/115/EC.*

Or. bg

Amendment 148
Miriam Dalli, Péter Niedermüller

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted **when** the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted **when** the third-country national concerned can demonstrate that they have left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted **as soon as** the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted **promptly once** the third-country national concerned can demonstrate that they have left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Justification

Wording is amended for legal certainty.

Amendment 149
Marie-Christine Vergiat

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be **immediately** deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts

also be deleted when the third-country national concerned can demonstrate that they have left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

on return shall also be deleted when the third-country national concerned can demonstrate that they have left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. fr

Amendment 150
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted when the third-country national ***concerned can demonstrate that they have*** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted when the third-country national ***has*** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Amendment 151
Filiz Hyusmenova

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the

competent authority. Alerts on return shall also be deleted when the third-country national concerned **can demonstrate that they have** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

competent authority. Alerts on return shall also be deleted when the third-country national concerned **has** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. en

Justification

The obligation to demonstrate the act of leaving should not be lying with the third country national, especially given the existence of elaborate border security systems that could testify to that effect.

Amendment 152

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted **when** the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted when the third-country national concerned **can demonstrate that they have** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Amendment

1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted **as soon as** the decision upon which the alert was based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted when the third-country national concerned **has** left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC.

Or. fr

Amendment 153

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Alerts on return shall be deleted automatically as soon as they expire, in accordance with Article 34 of Regulation 2018/xxx [border checks] relating to the consideration period.

Or. fr

Amendment 154

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 9 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Alerts on return shall be deleted where necessary in accordance with the provisions on the compatibility of alerts laid down in Article 23b of Regulation 2018/xxx [border checks].

Or. fr

Justification

At present, only one alert may be entered for the same person by each Member State, and several Member States may enter an alert on the same person if the alerts are compatible. Provisions therefore need to be laid down to make it possible for an alert on return to be deleted if the Member State concerned wishes, for example, to enter an arrest alert, or other form of alert.

Amendment 155

Jussi Halla-aho

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. Alerts on return entered in respect of a person who has acquired citizenship of a Member State or of any State whose

2. Alerts on return entered in respect of a person who has acquired citizenship of a Member State or of any State whose

nationals are beneficiaries of the right of free movement within the Union shall be deleted as soon as the issuing Member State becomes aware, or is informed pursuant to Article 39 of Regulation (EU) 2018/xxx [border checks], that the person in question has acquired such citizenship.

nationals are beneficiaries of the right of free movement within the Union shall be deleted as soon as the issuing Member State becomes aware, or is informed pursuant to Article 39 of Regulation (EU) 2018/xxx [border checks], that the person in question has acquired such citizenship. ***This is without prejudice to the right of a Member State to keep in its national files data contained in an alert issued in SIS by that Member State in respect of a person who has acquired residency or citizenship of another Member State after the consultation procedure referred to in Article 8.***

Or. en

Justification

A Member State may have a specific interest in retaining information about a certain individual with a link to that Member State even if the person later acquires residency or citizenship of another Member State.

Amendment 156

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. Alerts on return entered in respect of a person who has acquired citizenship of a Member State or of any State whose nationals are beneficiaries of the right of free movement within the Union shall be deleted as soon as the issuing Member State becomes aware, or is informed pursuant to Article 39 of Regulation (EU) 2018/xxx [border checks], that the person in question has acquired such citizenship.

Amendment

2. Alerts on return entered in respect of a person who has acquired ***a residence permit, authorisation offering a right to stay or*** citizenship of a Member State or of any State whose nationals are beneficiaries of the right of free movement within the Union shall be deleted as soon as the issuing Member State becomes aware, or is informed pursuant to Article 39 of Regulation (EU) 2018/xxx [border checks], that the person in question has acquired such ***residence permit, other authorisation offering a right to stay or*** citizenship.

Amendment 157
Marie-Christine Vergiat

Proposal for a regulation
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Third-country nationals who are the subject of an alert shall have the right to appeal, and the right to obtain the information which gave rise to the alert in order to assert their right of access to personal data; they shall also have the right to amend and delete the information pertaining to them and to appeal with the necessary guarantees with regard to the principles of protection of individuals and respect for fundamental rights as defined by European and international law, even if they are not on EU territory while the procedure is taking place.

Or. fr

Amendment 158
Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

Data processed in SIS and the related supplementary information pursuant to this Regulation may be transferred or made available to a **third-country** in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only for the purpose of identification of and issuance of an identification or travel document to an

Data processed in SIS and the related supplementary information pursuant to this Regulation may be transferred or made available to a **third country** in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only for the purpose of identification of and issuance of an identification or travel document to an illegally staying-third country national in

illegally staying-third country national in view of return.

view of return *and only where the following conditions are met:*
(a) the third country explicitly agrees to use the data only for the purpose for which they were provided, to respect that which is lawful and necessary for the purposes set out in paragraph 1, and to delete the data concerned when their retention can no longer be justified;
(b) the third-country national concerned has been informed that his or her personal data may be shared with the authorities of a third country;
(c) no information regarding the fact that an illegally staying third-country national has made an application for international protection in a Member State shall be disclosed to a third country, particularly where that country is also the applicant's country of origin.
Data processed in SIS and the related supplementary information exchanged pursuant to this Regulation shall not be made available to a third country where the return decision has temporarily been suspended or postponed in line with Article 3(3).

Or. fr

Amendment 159

Miriam Dalli, Péter Niedermüller, Emilian Pavel

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Data processed in SIS and the related supplementary information pursuant to this Regulation may be transferred or made available to a third-country in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only for the purpose of identification of and issuance of an

Amendment

Data processed in SIS and the related supplementary information *exchanged* pursuant to this Regulation may be transferred or made available to a third-country in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only *if the following cumulative*

identification or travel document to an *illegally staying-third* country national *in view of* return.

conditions are satisfied:

(a) the data is transferred or made available solely for the purpose of identification of and issuance of an identification or travel document to an irregularly staying third-country national in view of return;

(b) the third-country national concerned has been informed that his or her personal information will be shared with authorities of a third country.

No information regarding the fact that an irregularly staying third-country national has made an application for international protection in a Member State shall be disclosed to the alleged actor(s) of persecution or serious harm in full accordance with Article 30 of Directive 2013/32/EU of the European Parliament and of the Council^{1a}.

Transfers of personal data to third countries or international organisations pursuant to paragraph 2 shall not prejudice the right of the third country national as regards non-refoulement. Data processed in SIS and the related supplementary information exchanged pursuant to this Regulation shall not be made available to a third country where the return decision has temporarily been suspended or postponed in accordance with Article 3(3).

^{1a} *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).*

Or. en

Justification

Building upon Amendment 27, it is important to reinstate the importance of ensuring that the principle of non-refoulement is respected. Reference is made to Article 30 of the Asylum Procedures directive since it prohibits member states from disclosing information about a protection application to the alleged actor/s of persecution or harm.

Amendment 160
Marie-Christine Vergiat

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

Data processed in SIS and the related supplementary information pursuant to this Regulation may be transferred or made available to a **third-country** in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, **only for the purpose of identification of and issuance of an identification or travel document to an illegally staying-third country national in view of return.**

Amendment

Data processed in SIS and the related supplementary information pursuant to this Regulation may **not** be transferred or made available to a **third country** in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State.

Or. fr

Amendment 161
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

Data processed in SIS **and the related supplementary information pursuant to** this Regulation may be transferred **or made available** to a third-country in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only for the purpose of identification of and issuance of an identification or travel document to an **illegally** staying-third country national in view of return.

Amendment

Only data processed in SIS **referred to in Article 4(a), (b), (c), (f), (h), (i), (p), (q), (r), (s), (t) and (v) of** this Regulation may be transferred to a third-country in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing Member State, only for the purpose of identification of and issuance of an identification or travel document to an **irregularly** staying-third country national in view of return.

Or. en

Amendment 162

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

Without prejudice to the provisions on statistics in Article 54 of Regulation (EU) 2018/xxx [Border checks], the Agency shall produce daily, monthly and annual statistics, both in total number and per each Member State on the number of alerts on return entered in SIS, including on the data referred to in Article 4(x) of this Regulation, on the notifications referred to in Article 7(1) of this Regulation and the number of alerts on return deleted due to compliance with an obligation to return. The Agency shall produce monthly and annual statistics about the data provided by the Member States in accordance with Article 6(3) and Article 8(5) of this Regulation. Those statistics shall not contain personal data.

Amendment

Without prejudice to the provisions on statistics in Article 54 of Regulation (EU) 2018/xxx [Border checks], the Agency shall produce daily, monthly and annual statistics, both in total number and per each Member State on the number of alerts on return entered in SIS, including on the data referred to in Article 4(x), **(xa) and (xb)** of this Regulation, on the notifications referred to in Article 7(1) of this Regulation and the number of alerts on return deleted due to compliance with an obligation to return. The Agency shall produce monthly and annual statistics about the data provided by the Member States in accordance with Article 6(3) and Article 8(5) of this Regulation. Those statistics shall not contain personal data.

Or. en

Amendment 163

Eva Joly, Judith Sargentini

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

1. Access to data entered in SIS and the right to search such data shall be reserved to the national authorities referred to in points (a), (b), (c) and (d) of Article 29(1) and in Article 29 (2) of Regulation (EU) 2018/ xxx [Border checks] for the

Amendment

1. Access to data entered in SIS and the right to search such data shall be reserved to the national authorities referred to in points (a), (b) and (d) of Article 29(1) and in Article 29 (2) of Regulation (EU) 2018/ xxx [Border checks] for the purpose

purpose of identification and return of third-country nationals.

of identification and return of third-country nationals.

Or. en

Amendment 164
Marie-Christine Vergiat

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. *Europol shall have within their mandate the right to access and search data entered in SIS for the purpose of supporting and strengthening action by the competent authorities of the Member States and their mutual cooperation in preventing and combating migrant smuggling and facilitation of irregular migration in accordance with the conditions laid down in Article 30 of Regulation (EU) 2018/ xxx [Border checks].*

deleted

Or. fr

Amendment 165
Eva Joly, Judith Sargentini

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. *Europol shall have within their mandate the right to access and search data entered in SIS for the purpose of supporting and strengthening action by the competent authorities of the Member States and their mutual cooperation in preventing and combating migrant smuggling and facilitation of irregular*

deleted

migration in accordance with the conditions laid down in Article 30 of Regulation (EU) 2018/ xxx [Border checks].

Or. en

Amendment 166
Marie-Christine Vergiat

Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. Members of the European Border and Coast Guard teams or teams of staff involved in return-related tasks as well as the members of the migration management support teams shall have within their mandate the right to access and search data entered in SIS for the purpose of carrying out border checks, border surveillance and return operations via the technical interface set up and maintained by the European Border and Coast Guard Agency as referred to and in accordance with the conditions laid down in Articles 31 and Article 32(2) of Regulation (EU) 2018/ xxx [Border checks].

deleted

Or. fr

Amendment 167
Miriam Dalli, Péter Niedermüller

Proposal for a regulation
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12 a

In accordance with Article 49 of Regulation (EU) 2016/XXX [Border checks], any person may bring an action before the courts or the competent authority under the law of any Member State against a decision to enter a return alert or to access, rectify, delete or erase information or to obtain compensation in connection with a return alert relating to that person.

Or. en

Justification

This new Article reinforces Article 49 of the Border Checks Proposal. This means that in accordance with this proposal, there is a judicial due process in case someone believes that their information is incorrect or should be deleted.

Amendment 168

Gérard Deprez, Louis Michel, Petr Ježek

Proposal for a regulation

Article 13 – paragraph 1

Text proposed by the Commission

As far as not established in this Regulation, the provisions on responsibilities of the Member States and the Agency, the entry **and processing** of alerts, the conditions to access and retention of alerts, data processing, data protection, liability and monitoring and statistics laid down in Articles 6 to 19, Article 20(3)-(4) as well as in Articles 21, 22, 28, 29(4) and 33 to 54 of Regulation (EU) 2018/ xxx [Border checks] shall apply to data entered and processed in SIS in accordance with this Regulation.

Amendment

As far as not established in this Regulation, the provisions on responsibilities of the Member States and the Agency, the entry, **processing, updating and compatibility** of alerts, the conditions to access and retention of alerts, data processing, data protection, liability and monitoring and statistics laid down in Articles 6 to 19, Article 20(3)-(4) as well as in Articles 21, 22, 28, 29(4) and 33 to 54 of Regulation (EU) 2018/ xxx [Border checks] shall apply to data entered and processed in SIS in accordance with this Regulation.

Or. fr