

**P6\_TA(2008)0293**

**Common standards and procedures in Member States for returning illegally staying third-country nationals \*\*\*I**

**European Parliament legislative resolution of 18 June 2008 on the proposal for a directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (COM(2005)0391 – C6-0266/2005 – 2005/0167(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0391),
  - having regard to Article 251(2) and Article 63(3)(b) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0266/2005),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Development (A6-0339/2007),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

**P6\_TC1-COD(2005)0167**

**Position of the European Parliament adopted at first reading on 18 June 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2008/.../EC.)*

*Statements to the Minutes of the Council at the moment of the adoption of the Act*

1. *The Council states that the implementation of this Directive should not be used in itself as a reason to justify the adoption of provisions less favorable to persons to whom it applies.*
2. *The Commission states that the review of the SIS II (envisaged under the review clause of Article 24(5) of Regulation (EC) No 1987/2006), will be an opportunity to propose an obligation to register in the SIS entry bans issued under this Directive.*
3. *The Commission commits itself to assist Member States in finding possibilities for mitigating the financial burden resulting from the implementation of Article 13(4) (free legal aid) in Member States in a spirit of solidarity.*

*The Commission underlines that possibilities exist under the European Return Fund (Decision No 575/2007/EC) to co-finance national action promoting the application of Article 13(4) (free legal aid) in Member States:*

*- Actions related to the specific objective of "promoting an effective and uniform application of common standards on return" (Article 3 (c)) may include support for the "enhancement of the capacity of competent authorities to take high quality return decisions" (Article 4(3)(a)). The presence of appropriate legal safeguards, including the principle of equality of arms, enhances the potential for high quality decisions.*

*- In accordance with Priority 4 of the strategic guidelines for the Return Fund (Decision 2007/837/EC), the Community contribution may be increased up to 75% for actions which ensure a "fair and effective implementation of common standards" on return in Member States. This means that measures related to the provision of Article 13(4) (free legal aid) may be co-financed up to 75 % under the European Return Fund.*

*The Commission encourages Member States to take this fact into account when choosing the priorities for their national programmes and when programming actions under priority 4 of the strategic guidelines.*

4. *The Commission states that in its assessment under Article 19(2) it will consider additional impact on the administration of justice in the Member States.*