

Update by LIBE following technical tripartite meeting on 9 March 2018. LIBE comments in **green**.
 Updated by the Presidency following Drafting Session on 23 March 2018. Presidency comments in **turquoise**.
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1	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			
2	COMMISSION PROPOSAL	PARLEMENT	COUNCIL POSITION	COMPROMISE
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(c) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:			
4	(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		(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,	

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	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.		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.	
5	(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.		(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.	
6	(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 and proportionate manner, in accordance with the provisions of Directive 2008/115/EC.	
7		<i>(3a) When implementing this Regulation, Member States should take due account of the best interests of the child, family life, the state of health of the third-country national concerned and whether the third-country national is a vulnerable person. In any event, any measures to return</i>		

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		<i>third-country nationals should fully respect the Charter of Fundamental Rights of the European Union and the principle of non-refoulement.</i>		
8	(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.		(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.	<p>Union wide connected with the hybridity issue, EP to insist on inserting 'Union wide'</p> <p>Regarding 'in accordance with': EP to accept council text. This is in line with the changes in article 2(c) & (d)</p>
9			<u>(4a) This Regulation does not affect the rights and obligations of the third-country nationals laid down in Directive 2008/115/EC. The alert in the SIS for the purpose of return does not, in itself, constitute a determination of the status of the third country national on the territory of Member States, especially in Member States other than the alert issuing Member State.</u>	EP to accept council text. extra safeguard for the TCN

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10	(5) Regulation (EU) 2018/xxx [border checks] ¹ and Regulation (EU) 2018/xxx [police and judicial cooperation] ² lay down the conditions for the establishment, operation and use of the Schengen Information System (SIS).		(5) Regulation (EU) 2018/xxx [border checks] ¹ and Regulation (EU) 2018/xxx [police and judicial cooperation] ² lay down the conditions for the establishment, operation and use of the Schengen Information System (SIS).	
11	(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.		(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 illegal immigration, secondary movements , and enhance cooperation between Member States' authorities.	<p>EP to accept council text on 'in accordance with'. This is in line with the changes in article 2(c) & (d)</p> <p>EP to insist on EC text last phrase, similar in substance.</p>

¹ Regulation (EU) 2018/... on the establishment, use and operation of the Schengen Information System for the purposes of border checks (OJ L ...).

² Regulation (EU) 2018/... on the establishment, use and operation of the Schengen Information System for the purposes of police and judicial cooperation in criminal matters (OJ L...).

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<p>12 (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.</p>	<p>(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 <i>issued</i> 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. <i>For the purpose of this Regulation, in order to reduce the administrative</i></p>	<p>(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. <u>In certain circumstances, where the risk of the return decision not being complied with is low,</u></p>	<p>LIBE proposal</p> <p>(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. <u>In certain circumstances, where the risk of the return decision not being complied with is low, namely during any period of detention or when the return decision is issued at the external border and is executed immediately, and in order to</u></p>
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		<i>burden, Member States should have the option not to enter data on third-country nationals subject to a return decision when those third-country nationals are placed in detention until removal.</i>	<u>namely during any period of detention or when the return decision is issued at the external border and is executed immediately, Member States may refrain from entering alerts on third-country nationals.</u>	<u>reduce the administrative burden, Member States may refrain from entering alerts on third-country nationals. :</u>
13	(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.	(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, <i>whether the third-country national has a right to appeal against the return decision, whether an appeal against the return decision is pending</i> , and whether the decision has been suspended or the removal has been postponed.	(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.	LIBE Proposal <i>Text should reflect the current operational text</i> (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, <i>whether the third country national has a right to appeal against the return decision, whether an appeal against the return decision is pending</i> , and whether the decision has been suspended or the removal has been postponed.
14		<i>(8a) Member States should make an existing alert related to return in SIS temporarily unavailable upon the suspension</i>		EP text can be dropped following agreement on 3(3)

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		<i>or postponement of the enforcement of the return decision issued in accordance with provisions respecting Directive 2008/115/EC or where an appeal has been lodged against a return decision which may lead to the suspension of its enforcement.</i>		
15	(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 ³ . Furthermore, in order to facilitate identification and detect multiple identities, the alert should	(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 Directive (EU) 2017/541 of the European Parliament and of the Council ⁴ . Furthermore, in order to facilitate identification and	(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 Directive 2017/541 on combating terrorism ³ .	TO BE DISCUSSED FURTHER (related to data category 4 (j) & (u))

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

⁴ **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).**

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	<p>include also a reference to the personal identification document and a copy of such document, if available.</p>	<p>detect multiple identities, the alert should include also a reference to the personal identification document and a copy of such document, if available.</p>	<p>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. <u>Dactyloscopic data should always be entered into the system when available.</u></p>	<p>Agreed at trilogue on 2018-03-22 (see also row 114).</p> <p>Given the reliability of identifying <i>persons</i> with fingerprints and facial images, these should always be entered in the alerts on return. As these may not be available, for instance, when a return decision is taken in absentia, it should be possible in those cases to exceptionally derogate from this requirement.</p> <p><u>Commission drafting suggestion (27/3)</u></p> <p><i>"Given the reliability of identifying third-country nationals with fingerprints and <u>photographs or facial images</u> these should always be entered in the alerts on return. As these may not be available, <u>for example</u>, when a return decision is taken in absentia, it should be possible in these cases to exceptionally derogate from this requirement."</i></p>
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16	<p>(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.</p>	<p>(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 in order to ensure efficient and swift cooperation among the Member States. Member States should be able to designate their SIRENE Bureau as their national authority.</p>	<p>(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. <u>The exchange of supplementary information, provided by the competent national authorities, should always be carried out through the SIRENE channel using the SIRENE Bureau as point of contact.</u></p>	<p>LIBE proposal</p> <p>(10) Each Member State should designate a national authority which is fully operational 24 hours a day, 7 days a week, and should ensure the exchange and availability of all supplementary information on third-country nationals subject to return in order to ensure efficient and swift cooperation among the Member States. <u>The exchange of supplementary information, provided by the competent national authorities, should always be carried out through the SIRENE channel using the SIRENE Bureau as point of contact.</u></p>
17	<p>(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.</p>	<p>(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 of the rate of successful appeals against return decisions in</p>	<p>(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.</p>	<p>EP to accept council text:</p> <p>-on ‘in accordance with’. This is in line with the changes in article 2(c) & (d)</p> <p>-regarding the residence permit, recital (14) talks about the consultation procedure, also referring to residence permits or long-stay visa.</p> <p>-appeals reference fall following the fall of article 4 (xb)</p>

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		accordance with provisions respecting Directive 2008/115/EC.		
18	(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.	(12) Alerts on return should be <i>automatically</i> deleted as soon as <i>the alert expires, in accordance with the review procedure. They should also be deleted as soon as</i> 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, <i>or, where necessary, in accordance with the provisions on the compatibility of alerts.</i> 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.	(12) Alerts on return should be deleted <u>without delay following the process in which</u> 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 <u>is</u> 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, <u>or if the competent authority has sufficient and convincing information that the third-country national has left the territory of EU and Schengen Associated States,</u> and the activation of the alert on the entry ban in SIS. <u>If the data of SIS shows that the return decision is accompanied by an entry ban, the enforceability of that entry ban should be ensured.</u>	‘REVIEW/COMPATIBILITY’ REFERENCE IS RELATED TO DISCUSSION IN BORDERS TEXT. LIBE PROPOSAL (12) Alerts on return should be <i>automatically</i> deleted as soon as the <i>alert expires, in accordance with the review procedure. They should also be deleted as soon as</i> the Member State or competent authority that issued the return decision in accordance with provisions respecting Directive 2008/115/EC has been <u>is</u> informed that the return has taken place, <i>or, where necessary, in accordance with the provisions on the compatibility of alerts.</i> 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, <u>or if the competent authority has sufficient and convincing information that the third-country national has left the territory of EU and Schengen Associated States,</u> and the activation of the alert on the entry ban in SIS. <u>If the data of SIS shows that the return</u>

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				<u>decision is accompanied by an entry ban, the enforceability of that entry ban should be ensured.</u>
19		<i>(12a) When a return decision is accompanied by an entry ban, even if an alert on return is not entered in SIS, the issuing Member State should ensure that the alert takes effect in SIS when the third-country national concerned leaves the territory of the Member States.</i>		
20	(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.	(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.	Insist on EP position
21	(14) This Regulation should establish mandatory rules for the consultation between national authorities to solve possible		(14) This Regulation should establish mandatory rules for the consultation between national authorities to solve possible	EP to accept council text follows discussions on art 8.

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	conflicting instructions. Consultations should be carried out where third-country nationals who hold, or are being granted, a valid residence permit or other authorisation or right to stay by a Member State are subject to an alert on return issued by another Member State, or cases where conflicting situations may arise at entry in the territories of the Member States.		conflicting instructions. Consultations should be carried out where third-country nationals who hold, or are being granted, a valid residence permit or other authorisation or right to stay long-stay visa by a Member State are subject to an alert on return issued by another Member State if the return decision is accompanied by a refusal of entry and stay, or cases where conflicting situations may arise at entry in the territories of the Member States.	
22	(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.	(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 <i>the return of</i> third-country nationals is <i>three</i> years.	(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.	CONNECTED TO DISCUSSION ON THE BORDER PROPOSAL
23	(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		(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	

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	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.		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.	
24	(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.	EP to accept council text on 'in accordance with'. This is in line with the changes in article 2(c) & (d)
25	(18) Access to alerts on return should be granted to national		(18) Access to alerts on return should be granted to national	SHOULD FOLLOW ARTICLE 12

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	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.		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.	
26	(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.		(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.	
27	(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		(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	

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	<p>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.</p>		<p>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.</p>	
28	<p>(21) The provisions on responsibilities of the Member States and the European Agency on the operational management of large-scale IT systems in the area of freedom, security and justice, the entry and processing of alerts, the conditions to access and retention of</p>		<p>(21) The provisions on responsibilities of the Member States and the European Agency on the operational management of large-scale IT systems in the area of freedom, security and justice, the entry and processing of alerts, the conditions to access and</p>	

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	alerts, data processing, data protection, liability and monitoring and statistics as included in Regulation (EU) 2018/xxx [Border checks] should also apply to data entered and processed in SIS in accordance with this Regulation.		retention of alerts, data processing, data protection, liability and monitoring and statistics as included in Regulation (EU) 2018/xxx [Border checks] should also apply to data entered and processed in SIS in accordance with this Regulation.	
29		<i>(21a) This Regulation respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.</i>		
30		<i>21(b) This Regulation is without prejudice to the obligations deriving from the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.</i>		
31				LIBE proposal (see row 184): <i>(21c) Member States should implement this Regulation in full respect of fundamental rights and should always take into consideration the best interests of the child, family life, and the state of health or condition of vulnerability of the individuals concerned</i>
32	(22) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the		(22) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark	EP insists on EC original text.

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	<p>Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds, to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council⁵, upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>		<p>annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds, to the extent that it applies to third country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council⁴, upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>	
33	<p>(23) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with</p>		<p>(23) <u>This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁵; the United Kingdom is therefore not taking part in the adoption of</u></p>	<p>EP insists on EC original text.</p>

⁵ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

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Updated by the Presidency following Drafting Session on 23 March 2018. Presidency comments in turquoise.

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<p>Council Decision 2000/365/EC⁶; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Moreover, in accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by or subject to its application.</p>		<p><u>this Regulation and is not bound by it or subject to its application.</u> To the extent that it applies to third country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁵; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Moreover, in accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by or subject to its application.</p>	
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⁶ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

Update by LIBE following technical tripartite meeting on 9 March 2018. LIBE comments in **green**.

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<p>34 (24) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁷; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Moreover, in accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by or subject to its application.</p>		<p>(24) <u>This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁶; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</u> To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁶; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Moreover, in accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to</p>	<p>EP insists on EC original text.</p>
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⁷ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

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			Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by or subject to its application.	
35	(25) As regards Iceland and Norway, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen <i>acquis</i> ⁸ , which fall within the area referred to in Article 1, point C of Council Decision 1999/437/EC ⁹ .		(25) As regards Iceland and Norway, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen <i>acquis</i> ⁷ , which fall within the area referred to in Article 1, point C of Council Decision 1999/437/EC ⁸ .	EP insists on EC original text.
36	(26) As regards Switzerland, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil or who no		(26) As regards Switzerland, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil	EP insists on EC original text.

⁸ OJ L 176, 10.7.1999, p. 36.

⁹ *Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).*

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	longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i> ¹⁰ , which fall within the area referred to in Article 1, point C of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ¹¹ .		or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>⁹, which fall within the area referred to in Article 1, point C of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁰.	
37	(27) As regards Liechtenstein, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of		(27) As regards Liechtenstein, this Regulation constitutes, to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss	EP insists on EC original text.

¹⁰ OJ L 53, 27.2.2008, p. 52.

¹¹ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

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	<p>Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹², which fall within the area referred to in Article 1, point C of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹³.</p>		<p>Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹¹, which fall within the area referred to in Article 1, point C of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹².</p>	
38			<p><u>(27a) As regards Bulgaria, Romania and Croatia, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within, respectively the meaning of Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession, and should be read in conjunction with, respectively, Council Decision 2010/365/EU on the application of the provisions of</u></p>	

¹² OJ L 160, 18.6.2011, p. 21.

¹³ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

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			<u>the Schengen <i>acquis</i> relating to the Schengen Information System in the Republic of Bulgaria and Romania¹⁴ and Council Decision 2017/733 on the application of the provisions of the Schengen <i>acquis</i> relating to the Schengen Information System in the Republic of Croatia¹⁵.</u>	
39			<u>(27b) Concerning Cyprus this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within the meaning of Article 3(2) of the 2003 Act of Accession.</u>	
40	(28) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on [...],	(28) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 3 May 2017 ,	(28) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on [...],	
41		<i>(28a) No amendment or new provision in this Regulation should create unnecessary obstacles for Member States who will join or are in process of joining the Schengen area.</i>		

¹⁴ OJ L 166, 1.7.2010, p. 17.

¹⁵ OJ L 108, 26.4.2017, p. 31

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42	HAVE ADOPTED THIS REGULATION:		HAVE ADOPTED THIS REGULATION:	
43	<i>Article 1 Subject matter and scope</i>		<i>Article 1 Subject matter and scope</i>	<i>Article 1 Subject matter and scope</i>
44	This Regulation lays down the conditions and procedures for the entry and processing in the Schengen Information System (SIS), as established by Regulation (EU) 2018/xxx [border checks], of alerts in respect of third-country nationals subject to return decisions issued by the Member States in accordance with procedures respecting Directive 2008/115/EC, as well as for exchanging supplementary information on such alerts.		This Regulation lays down the conditions and procedures for the entry and processing in the Schengen Information System (SIS), as established by Regulation (EU) 2018/xxx [border checks], of alerts in respect of third-country nationals subject to return decisions issued by the Member States in accordance with procedures respecting Directive 2008/115/EC , as well as for exchanging supplementary information on such alerts.	Council text provisionally agreed together with the definitions in Article 2 (c) and (d). This Regulation lays down the conditions and procedures for the entry and processing in the Schengen Information System (SIS), as established by Regulation (EU) 2018/xxx [border checks], of alerts in respect of third-country nationals subject to return decisions issued by the Member States in accordance with procedures respecting Directive 2008/115/EC , as well as for exchanging supplementary information on such alerts.
45	<i>Article 2 Definitions</i>		<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>
46	For the purposes of this Regulation, the following definitions shall apply:		For the purposes of this Regulation, the following definitions shall apply:	For the purposes of this Regulation, the following definitions shall apply:
47	(a) ‘return’ means return as defined in Article 3(3) of Directive 2008/115/EC;		(a) ‘return’ means return as defined in Article 3(3) of Directive 2008/115/EC;	(a) ‘return’ means return as defined in Article 3(3) of Directive 2008/115/EC;

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48	(b) 'third-country national' means third-country nationals as defined in Article 3(1) of Directive 2008/115/EC;		(b) 'third-country national' means third-country nationals as defined in Article 3(1) of Directive 2008/115/EC;	(b) 'third-country national' means third-country nationals as defined in Article 3(1) of Directive 2008/115/EC;
49	(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;	(c) 'return decision' means a return decision as defined in Article 3(4) of Directive 2008/115/EC;
50	(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) of that respects Directive 2008/115/EC; ¹⁶	(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 that respects Directive 2008/115/EC; ¹⁷
51			<u>(da) 'alert' means a set of data, including, where applicable,</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of</i>

¹⁶ In line with the definition as in Article 2(12) of the Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, OJ L 251, p. 11.

¹⁷ In line with the definition as in Article 2(12) of the Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, OJ L 251, p. 11.

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			<p><u>biometric data, entered in SIS allowing the competent authorities to identify a person with a view to taking specific action;</u></p>	<p><i>“non-return” specific definition are not needed. These are specific in the border proposal.</i></p>
52			<p><u>(db) ‘supplementary information’ means information not forming part of the alert data stored in SIS, but connected to SIS alerts, which is to be exchanged via the SIRENE Bureaux:</u></p> <p><u>(i) in order to allow Member States to consult or inform each other when entering an alert;</u></p> <p><u>(ii) following a hit in order to allow the appropriate action to be taken;</u></p> <p><u>(iii) when the required action cannot be taken;</u></p> <p><u>(iv) when dealing with the quality of SIS data;</u></p> <p><u>(v) when dealing with the compatibility and priority of alerts;</u></p> <p><u>(vi) when dealing with rights of access;</u></p>	<p><i>Due to the inclusion of article 3 to article 13, the separate mentioning of “non-return” specific definition are not needed. These are specific in the border proposal.</i></p>

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53		<i>(da) 'removal' means removal as defined in point 5 of Article 3 of Directive 2008/115/EC;</i>	<u>(dc) 'removal' means removal as defined in Article 3(5) of Directive 2008/115/EC;</u>	<u>(dc) 'removal' means removal as defined in Article 3(5) of Directive 2008/115/EC;</u>
54	(e) 'voluntary departure' means voluntary departure as defined in Article 4(8) of Directive 2008/115/EC;		(e) 'voluntary departure' means voluntary departure as defined in Article 4 3(8) of Directive 2008/115/EC;	(e) 'voluntary departure' means voluntary departure as defined in Article 4 3(8) of Directive 2008/115/EC;
55			<u>(ea) 'issuing Member State' means the Member State which entered the alert in SIS;</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not needed. These are specific in the border proposal.</i>
56			<u>(eb) 'granting Member State' means the Member State which considers granting or extending or has granted or extended a residency permit or long stay visa and is involved in the consultation procedure;</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not needed. These are specific in the border proposal.</i>
57			<u>(ec) 'personal data' means any information relating to an identified or identifiable natural person ('data subject');</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not needed. These are specific in the border proposal.</i>
58			<u>(ed) "executing Member State" means the Member State</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of</i>

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			<u>which takes or has taken the required actions following a hit;</u>	<i>“non-return” specific definition are not needed. These are specific in the border proposal.</i>
59	(f) ‘CS-SIS’ means the technical support function of the Central SIS as referred to in Article 4(1)(a) of Regulation (EU) 2018/xxx [border checks].		(f) ‘CS-SIS’ means the technical support function of the Central SIS as referred to in Article 4(1)(a) of Regulation (EU) 2018/xxx [border checks];	(f) ‘CS-SIS’ means the technical support function of the Central SIS as referred to in Article 4(1)(a) of Regulation (EU) 2018/xxx [border checks];
60			<u>(g) ‘residence permit’ means residence permit as defined in Article 2(16) of Regulation (EU) 2016/399;</u>	<u>Provisionally agreed (subject to political acceptance of new Articles 8 A to F. (2018-03-19)</u> <u>(g) ‘residence permit’ means residence permit as defined in Article 2(16) of Regulation (EU) 2016/399;</u> <i>Or Due to the inclusion of article 3 to article 13, the separate mentioning of “non-return” specific definition are not needed. These are specific in the border proposal.</i>
61			<u>(h) ‘long-stay visa’ means long-stay visa as defined in Article 1(1) of the</u>	<u>Provisionally agreed (subject to political acceptance of new Articles 8 A to F. (2018-03-19)</u>

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			<u>Regulation (EU) No 265/2010¹⁸</u> ;	<u>(h) 'long-stay visa' means long-stay visa as defined in Article 1(1) of the Regulation (EU) No 265/2010¹⁹</u> ; Or <i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not needed. These are specific in the border proposal.</i>
62			<u>(i) a 'match' means the occurrence of the following steps:</u> <u>(1) a search is conducted by an end-user;</u> <u>(2) the search reveals an alert entered by another Member State in SIS;</u> <u>(3) data concerning the alert in SIS match the search data;</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not needed. These are specific in the border proposal.</i>
63			<u>(ia) a 'hit' means any match which fulfils the following criteria:</u>	<i>Due to the inclusion of article 3 to article 13, the separate mentioning of "non-return" specific definition are not</i>

¹⁸ Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa (OJ L 85, 31.3.2010. p. 1).

¹⁹ Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa (OJ L 85, 31.3.2010. p. 1).

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			<p><u>(a) it has been confirmed:</u></p> <p><u>(i) by the end-user;</u></p> <p><u>or</u></p> <p><u>(ii) where the match concerned was based on the comparison of biometric data by the competent authority in accordance with national procedures;</u></p> <p><u>and</u></p> <p><u>(b) further actions are requested;</u></p>	<p><i>needed. These are specific in the border proposal.</i></p>
64			<p><u>(j) ‘end-users’ mean competent authorities directly searching CS-SIS, N.SIS or a technical copy thereof.</u></p>	<p><i>Due to the inclusion of article 3 to article 13, the separate mentioning of “non-return” specific definition are not needed. These are specific in the border proposal.</i></p>
65			<p><u>(k) ‘threat to public health’ means to public health as defined in Article 2(21) of Regulation (EU) 2016/399;</u></p>	<p><i>Due to the inclusion of article 3 to article 13, the separate mentioning of “non-return” specific definition are not needed. These are specific in the border proposal.</i></p>
66			<p><u>(l) ‘external borders’ means external borders as defined in Article 2(2) of Regulation (EU) 2016/399.</u></p>	<p><i>Due to the inclusion of article 3 to article 13, the separate mentioning of “non-return” specific definition are not</i></p>

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				<i>needed. These are specific in the border proposal.</i>
67	<i>Article 3 Entry of data in SIS</i>		<i>Article 3 Entry of data in SIS</i>	<i>Article 3 Entry of data in SIS</i>
68	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.	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 23a of	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.	LIBE insists on immediately 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 immediately when the return decision is issued in accordance with provisions respecting Directive 2008/115/EC 2nd part of the EP amendment: To be updated after the SIS II-Borders checks discussions

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		<p><i>Regulation (EU) 2018/xxx [border checks].</i></p> <p><i>Member States may elect not to enter data on third-country nationals subject to a return decision issued in the circumstances referred to in Article 2(2)(a) of Directive 2008/115/EC when it concerns third-country nationals who are placed in detention until removal.</i></p>		
69			<p><u>1a. Member States may refrain from entering data in SIS on third-country nationals subject to a return decision when that decision concerns third-country nationals who are detained pending removal. When the third-country nationals concerned are released from</u></p>	<p>LIBE insists on “immediately” should be similar to paragraph 1</p> <p><u>1a. Member States may refrain from entering data in SIS on third-country nationals subject to a return decision when that decision concerns third-country nationals who are detained pending removal. When the third-country nationals concerned are released from detention without being removed, data on the third-country nationals subject to a return decision shall be entered in SIS without delay.</u></p>

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			<u>detention without being removed, data on the third-country nationals subject to a return decision shall be entered in SIS without delay.</u>	
70			<u>1b Member States may also refrain from entering data on third-country nationals subject to a return decision in SIS when the decision is issued at the external border of a Member State and is executed immediately.</u>	LIBE accepts the Council position The “immediately” here is not linked to the horizontal discussion <u>1b Member States may also refrain from entering data on third-country nationals subject to a return decision in SIS when the decision is issued at the external border of a Member State and is executed immediately.</u>
71	2. The period for voluntary departure granted to third-country nationals subject to a return decision issued in accordance with provisions	2. The period for voluntary departure granted to third-country nationals subject to a return decision issued in accordance with	2. The period for voluntary departure granted to third-country nationals subject to a return decision issued in accordance with	LIBE insists on “immediately” as the rights of persons are directly affected <u>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 in accordance with Article 7 of Directive 2008/115/EC, and its prolongation, shall be immediately recorded in the alert without delay.</u>

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	respecting Directive 2008/115/EC shall be immediately recorded in the alert.	provisions respecting Directive 2008/115/EC shall be immediately recorded in the alert. <i>Where this period is extended, the alert shall be immediately updated accordingly.</i>	<u>provisions respecting Directive 2008/115/EC in accordance with Article 7 of Directive 2008/115/EC, and its prolongation</u> , shall be immediately recorded in the alert without delay .	
72	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.	3. <i>The issuing Member State shall make an alert in SIS on a return decision unavailable in the following circumstances:</i>	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.	LIBE insists on “immediately” as the rights of persons are directly affected Presidency compromise, supported by COM: 3. The suspension and the postponement of the enforcement of the return decision issued in accordance with provisions respecting Directive 2008/115/EC, including as a result of the lodging of an appeal, shall be immediately recorded without delay in the alert.
73		(a) <i>where enforcement of the return decision has been postponed or suspended; or</i>		EP is ready to drop if the proposal above is acceptable.
74		(b) <i>where an appeal has been lodged against a return decision which may lead to the suspension of its enforcement.</i>		EP is ready to drop if the proposal above is acceptable.

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75		<i>In such circumstances, the alert shall be unavailable to end users. It shall be accessible only to the SIRENE Bureaux until the return decision is upheld or the decision is overturned. If the return decision is overturned the alert shall be deleted immediately.</i>		EP is ready to drop if the proposal above is acceptable.
76	<i>Article 4 Data categories</i>		<i>Article 4 Data eCategories <u>of data</u></i>	<i>Article 4 Data cCategories <u>of data</u></i>
77	Data entered in SIS in accordance with Article 3 of this Regulation shall contain only the following:		Data entered in SIS in accordance with Article 3 of this Regulation shall contain only the following:	Data entered in SIS in accordance with Article 3 of this Regulation shall contain only the following:
78	(a) surname(s);		(a) surname(s);	(a) surname(s);
79	(b) forename(s);		(b) forename(s);	(b) forename(s);
80	(c) name(s) at birth;		(c) name(s) at birth;	(c) name(s) at birth;
81	(d) previously used names and aliases;		(d) previously used names and aliases;	(d) previously used names and aliases;
82	(e) any specific, objective, physical characteristics not subject to change;	<i>deleted</i>	(e) any specific, objective, physical characteristics not subject to change;	EP to insist on deletion
83	(f) place of birth;		(f) place of birth;	(f) place of birth;
84	(g) date of birth;		(g) date of birth;	(g) date of birth;
85	(h) sex;	(h) <i>gender</i> ;	(h) sex <u>gender</u> ;	(h) <i>gender</i> ;

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86	(i) nationality / nationalities;		(i) nationality / nationalities;	(i) nationality / nationalities;
87	(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 Articles 3 to 12 and 14 of Directive (EU) 2017/541;	(j) whether the person concerned	EP to accept council text <i>These are so called warning markers with purpose of alarming the official checking the database, the official will see this information first</i>
88			<u>i.</u> is armed;	EP to accept council text
89			<u>ii.</u> <u>is</u> violent;	EP to accept council text
90			<u>iii.</u> has <u>absconded or</u> escaped;	EP to accept council text
91			<u>iv.</u> <u>poses a risk of suicide;</u>	EP to accept council text
92			<u>v.</u> <u>poses a threat to public health;</u> or	EP to accept council text
93			<u>vi.</u> is involved in an <u>terrorism-related</u> activity as referred to in Articles 1, 2, 3 and 4 of Council Framework Decision 2002/475/JHA on combating terrorism;	The Council will come back on this point
94	(k) reason for the alert;		(k) reason for the alert;	(k) reason for the alert;
95	(l) authority issuing the alert;		(l) authority issuing the alert;	(l) authority issuing the alert;

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96	(m) a reference to the decision giving rise to the alert;		(m) a reference to the decision giving rise to the alert;	(m) a reference to the decision giving rise to the alert;
97	(n) action to be taken;		(n) action to be taken;	(n) action to be taken;
98	(o) link(s) to other alerts issued in SIS;		(o) link(s) to other alerts issued in SIS;	(o) link(s) to other alerts issued in SIS;
99			(oa) <u>whether the return decision is issued in relation to a third-country national who poses a threat to public policy, public security or national security;</u>	EP to accept council text <i>These categories contain information about the underlying basis on which the return decision was taken, this is different from the warning markers above.</i>
100			(ob) <u>type of offence;</u>	EP to accept council text <i>idem</i>
101	(p) the category of the person's identification document;		(p) the category of the person's identification document(s);	(p) the category of the person's identification document(s);
102	(q) the country of issue of the person's identification document;		(q) the country of issue of the person's identification document(s);	(q) the country of issue of the person's identification document(s);
103	(r) the number(s) of the person's identification document;		(r) the number(s) of the person's identification document(s);	(r) the number(s) of the person's identification document(s);

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104	(s) the date of issue of the person's identification document;		(s) the date of issue of the person's identification document(s);	(s) the date of issue of the person's identification document(s);
105	(t) photographs and facial images;		(t) photographs and facial images;	(t) photographs and facial images;
106	(u) dactylographic data;	(u) <i>fingerprint</i> data;	(u) dactylographic data;	EP to insist on EP position
107	(v) a colour copy of the identity document;		(v) a colour copy, whenever possible in colour , of the identity document(s);	EP to accept council text <i>Clear preference for colour copies, but does allow non-colour copies to be entered where no colour copy is available.</i>
108	(w) period for voluntary departure;		(w) last date of the period for voluntary departure, if granted ;	(w) last date of the period for voluntary departure, if granted ;
109	(x) whether the return decision issued in accordance with provisions respecting Directive 2008/115/EC has been suspended or the enforcement of the decision has been postponed.		(x) whether the return decision issued in accordance with provisions respecting Directive 2008/115/EC has been suspended or the enforcement of the decision has been postponed;	EP Commission drafting suggestion ok, following 3(3) (x) whether the return decision issued in accordance with provisions respecting Directive 2008/115/EC has been suspended or the enforcement of the decision has been postponed; Commission drafting suggestion (27/3) Alignment with compromise on Article 3(3):

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				"(x) whether the return decision has been suspended or the enforcement of the decision has been postponed, including as a result of the lodging of an appeal"
110		<i>(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.</i>		<p>EP to withdraw its AM</p> <p><i>New texts on data category (p) to (s) allow for multiple ID documents to be inserted, furthermore the aliases data category allows for plus multiple names are allowed under the aliases. Therefore this am is covered in current text.</i></p>
111		<i>(xb) whether the return decision issued in accordance with provisions respecting Directive 2008/115/EC can be appealed;</i>		EP is ready to drop following discussion in shadow meeting of 20/3
112		<i>(xc) whether an appeal is pending against the return decision issued in accordance with provisions respecting Directive 2008/115/EC.</i>		EP is ready to drop linked to 3(3)
113			<u>(v) whether the return decision is accompanied by an</u>	<p>Provisionally agreed (subject to political acceptance of new Articles 8 A to F. (2018-03-19)</p> <p><u>(v) whether the return decision is accompanied by an entry ban</u></p>

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			<u>entry ban constituting the basis for an alert for refusal of entry and stay pursuant to Article 24(3) of Regulation xxx [Border Checks].</u>	<u>constituting the basis for an alert for refusal of entry and stay pursuant to Article 24(3) of Regulation xxx [Border Checks].</u>
114	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 <i>points</i> (a), (g), (k), (m), (n), <i>(w) and at least either (t) or (u). For the purposes of identification with a high degree of accuracy, fingerprint data shall always be preferred over photographs and facial images.</i> When available, all other data listed above shall also be entered.	<u>All data listed above shall be entered, where available.</u> An alert may not be entered without the data referred to in (a), (g), (k), (m), (n) and (w) <u>(y)</u> . When available, all other data listed above shall also be entered.	Agreed at trilogue on 2018-03-22 (see also row 15). The minimum set of data necessary in order to enter an alert in SIS shall be the data as referred to in points (a), (g), (k), (m), (n), (w) and (y) of the first paragraph. The other data listed in that paragraph shall also be entered in SIS, if available.
115	<i>Article 5 Authority responsible for the exchange of supplementary information</i>		<i>Article 5 Authority responsible for the exchange of supplementary information</i>	<i>Article 5 Authority responsible for the exchange of supplementary information</i>
116	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].	Each Member State shall designate <i>a national authority that is fully operational 24 hours a day, 7 days a week, to ensure the exchange and availability of all</i> supplementary information on third-country nationals <i>who are the subject of a return decision</i> in accordance with the provisions of the SIRENE Manual laid down in Article 8 of Regulation (EU) 2018/xxx [<i>border</i> checks].	Each Member State shall designate an authority responsible for the exchange of supplementary information on third-country nationals subject to return (<u>the SIRENE Bureau</u>) in accordance with the provisions of the SIRENE Manual laid down in Article 8 of Regulation (EU) 2018/xxx [Border checks].	<u>PRES compromise proposal:</u> Each Member State shall designate <i>a national authority that is fully operational 24 hours a day, 7 days a week, responsible for the exchange and availability of all</i> supplementary information on third-country nationals subject to return (<u>the SIRENE Bureau</u>) in accordance with the provisions of the SIRENE Manual laid down in Article 8

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		<i>Member States may designate their SIRENE Bureau as their national authority.</i>		<p>of Regulation (EU) 2018/xxx [Border checks].</p> <p>As discussed the provision should be aligned to the provisional agreement on the borders text:</p> <p>Each Member State shall designate a national authority which that is fully operational 24 hours a day, 7 days a week and shall ensure, responsible for the exchange and availability of all supplementary information on third-country nationals subject to return (the SIRENE Bureau) in accordance with the provisions of the SIRENE Manual laid down in Article 8 of Regulation (EU) 2018/xxx [Border checks].</p> <p>Presidency will revert to EP on this point.</p>
117	<i>Article 6 Confirmation of return</i>		<i>Article 6 <u>Hits at the external borders at exit</u> - <u>Confirmation of return</u></i>	<p>Council text provisionally agreed</p> <p><i>Article 6</i> <u>Hits at the external borders at exit</u> - <u>Confirmation of return</u></p>
118	1. 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		1. Where a third country national who is the subject of an alert on return is identified when <u>In the event of a hit on an alert on return concerning a third country national who is exiting the territory of the Member States</u> through the external borders of a Member State, the <u>executing</u>	<p>Council text provisionally agreed</p> <p>1. Where a third country national who is the subject of an alert on return is identified when <u>In the event of a hit on an alert on return concerning a third country national who is exiting the territory of the Member States</u> through the external borders of a Member State, the <u>executing</u></p>

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	Member State through the exchange of supplementary information:		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:	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:
119	(a) the fact that the third-country national has been identified;		(a) the fact that the third-country national has been identified;	(a) the fact that the third-country national has been identified;
120	(b) the location and time of the check;		(b) the location and time of the check;	(b) the location and time of the check;
121	(c) whether the third-country national has left the territory of the Member States;		(c) whether <u>the fact that</u> the third-country national has left the territory of the Member States;	(c) whether <u>the fact that</u> the third-country national has left the territory of the Member States;
122	(d) whether the return was a voluntary compliance with an obligation to return or was enforced;		(d) whether the return was a voluntary compliance with an obligation to return or was enforced;	(d) <u>the fact that the third-country national was subject to removal.</u>
123	(e) the third-country of destination.		(e) the third-country of <u>first</u> destination.	Provisionally agreed at trilogue on 2018-03-22 (e) the third-country of destination.
124	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		Where a third-country national, who is the subject of an alert on return, exits <u>the territory of the Member States</u> through the external border of the issuing	Agreed at trilogue on 2018-03-22. Where a third-country national, who is the subject of an alert on return, exits <u>the territory of the Member States</u>

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	communicated to the competent authority in accordance with national law.		Member State, the confirmation of return shall be communicated sent to the competent authority of that Member State in accordance with national law procedures .	through the external border of the issuing Member State, the confirmation of return shall be communicated sent to the competent authority of that Member State in accordance with national law procedures .
125	2. The issuing Member State shall immediately delete the alert following the receipt of the confirmation of return.		2. The issuing Member State shall immediately delete the alert without delay following the receipt of the confirmation of return. Where applicable, an alert for refusal of entry or stay shall be issued without delay pursuant to Article 24(3) of Regulation (EU) 2018/xxx [border checks].	Provisionally agreed: (2018-03-19) 2. The issuing Member State shall immediately delete the alert without delay following the receipt of the confirmation of return. Where applicable, an alert for refusal of entry or stay shall be issued without delay pursuant to Article 24(3) of Regulation (EU) 2018/xxx [border checks].
126	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	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 Council ¹⁸ ('the Agency') on the number of confirmed returns, on	3. The Member States shall provide on a monthly quarterly 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	Agreed at trilogue on 2018-03-22. 3. The Member States shall provide on a monthly quarterly 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

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<p>Parliament and of the Council²⁰ ('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.</p>	<p>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. <i>The Agency shall compile the monthly statistics into an annual report which shall be published in accordance with Article 11.</i></p>	<p>Parliament and of the Council²¹ ('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.</p>	<p>Parliament and of the Council²² ('the Agency') on the number of confirmed returns <u>and on the number of those confirmed returns where the third-country national was subject to removal.</u> <i>The Agency shall compile the monthly quarterly statistics into the annual report referred to in Article 11.</i> Those statistics shall not contain personal data.</p> <p>"The Member States shall provide on a quarterly 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 Council ('the Agency') on the number of confirmed returns <u>and on the number of those confirmed returns where the third-country national was subject to removal.</u> <u>The Agency shall compile the quarterly statistics into the annual report referred to in Article 11.</u></p>
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²⁰ 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).

²¹ 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).

²² 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).

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				Those statistics shall not contain personal data."
127	<p><i>Article 7</i></p> <p><i>Non-compliance with return decisions issued in accordance with provisions respecting Directive 2008/115/EC</i></p>		<p><i>Article 7</i></p> <p><i>Non-compliance with return decisions issued in accordance with provisions respecting Directive 2008/115/EC</i></p>	<p>Provisionally agreed: (2018-03-19)</p> <p><i>Article 7</i></p> <p><i>Non-compliance with return decisions issued in accordance with provisions respecting Directive 2008/115/EC</i></p>
128	<p>1. CS-SIS shall notify the Member States about their alerts on return for which the period for voluntary departure has expired.</p>	<p>1. CS-SIS shall automatically 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 been issued to the third-country national concerned.</p>	<p>1. CS-SIS shall notify the issuing Member States about their alerts on return for which the period for voluntary departure has expired.</p>	<p>LIBE proposal to which the Presidency agreed (2018-03-19)</p> <p>1. CS-SIS shall automatically notify the issuing Member States about their alerts on return for which the period for voluntary departure including any possible extensions has expired.</p>
129	<p>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</p>	<p>2. Without prejudice to Article 6, 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</p>	<p>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</p>	<p>EP ready to accept council text, but insists on "immediate" consultation. The rights of the TCN are directly affected here</p>

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	<p>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.</p>	<p>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 the action to be taken. <i>The issuing Member State shall be obliged to communicate the preferred course of action without delay.</i></p>	<p>return has not been complied with, that authority <u>Without prejudice to the procedure referred to in Article 6(1) and 8A, in the event of a hit on an alert on return the executing Member State shall immediately</u> consult the issuing Member State through the exchange of supplementary information in order to determine without delay the action measures to be taken <u>in accordance with national law implementing Directive 2008/115/EC.</u>²³</p>	<p>Commission drafting suggestion (27/3) "Without prejudice to the procedure referred to in Article 6(1), 8A <u>and 8E,...</u>"</p>
130	<p><i>Article 8</i> <i>Consultation procedure</i></p>		<p><i>Article 8</i> <i>Consultation procedure</i></p>	<p><i>Article 8</i> (deleted) (2018-03-23)</p>
131	<p>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</p>	<p>1. <i>Before</i> a Member State <i>formally decides to grant</i> 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 <i>provide a</i> reply within seven days. <i>The final decision on whether to grant a</i></p>	<p>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</p>	<p>(deleted) (2018-03-23)</p>

²³ As regards the issue of "immediately" vs "without delay", MS supported the PRES suggestion to defend the general approach.

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	a right to stay decides to grant it, the alert on return shall be deleted.	<i>residence permit or other authorisation offering a right to stay to a third-country national rests with the consulting Member State.</i> If a residence permit or other authorisation offering a right to stay <i>is granted</i> the alert on return shall be deleted <i>immediately</i> .	authorisation offering a right to stay decides to grant it, the alert on return shall be deleted. ²⁴	
132	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.	2. <i>Before</i> a Member State <i>decides to enter</i> 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. <i>If the Member State that issued the permit decides to maintain it, the alert on return shall not be entered.</i>	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. ²⁵	(deleted) (2018-03-23)

²⁴ Paragraph moved to new Article 8B.

²⁵ Paragraph moved to new Article 8C.

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133	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.		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.²⁶	(deleted) (2018-03-23)
134	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.	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 inform <i>the issuing Member State as soon as possible and in any event within 12 hours</i> through the exchange of supplementary information in order to delete the alert.	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.²⁷	(deleted) (2018-03-23)
135	5. Member States shall provide on an annual basis statistics to the Agency about the consultations		5. — Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in	(deleted) (2018-03-23)

²⁶ Paragraph moved to new Article 8E.

²⁷ Paragraph moved to new Article 8A

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	carried out in accordance with paragraphs 1, 2, 3 and 4.		accordance with paragraphs 1, 2, 3 and 4. ²⁸	
136			<p style="text-align: center;"><i>Article 8A</i> <u>Hits at the external borders at entry</u></p>	<p style="text-align: center;"><i>Article 8A</i> <u>Hits at the external borders at entry</u></p> <p>(2018-03-23)</p> <p>EP is considering accepting the Council text on Article 8A subject to the following comments and proposals:</p> <p>-depends on an agreement on the data to be entered (Art. 4) and an agreement on the issue of immediacy</p>
137			<p><u>In the event of a hit on an alert on return concerning</u> Where a third-country national who is the subject of an alert on return is identified when <u>entering the territory of the Member States</u> through the external borders <u>the following procedure shall apply</u>;</p>	<p><u>In the event of a hit on an alert on return concerning</u> Where a third-country national who is the subject of an alert on return is identified when <u>entering the territory of the Member States</u> through the external borders <u>the following procedure shall apply</u>;</p>
138				<p>Council will revert to EP on this point. (2018-03-23)</p> <p>Should be immediately <u>2 times</u></p>

²⁸ Paragraph moved to new Article 8F.

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			<p><u>(a) Where the return decision is accompanied by an entry ban, the executing Member State that identified the third-country national concerned shall immediately inform, without delay the issuing Member State, through the exchange of supplementary information. The issuing Member State shall delete the alert on return and issue a refusal of entry and stay alert pursuant to Article 24(3) of Regulation xxx [Border Checks];</u></p>	<p><u>(a) Where the return decision is accompanied by an entry ban, the executing Member State that identified the third country national concerned shall immediately inform, without delay the issuing Member State, through the exchange of supplementary information. The issuing Member State shall immediately delete the alert on return and issue a refusal of entry and stay alert pursuant to Article 24(3) of Regulation xxx [Border Checks];</u></p>
139			<p><u>(b) Where the return decision is not accompanied by an entry ban, the executing Member State shall inform the issuing Member State, through the exchange of supplementary information, in order to delete the alert on return.</u></p> <p><u>The decision on the entry of the third-country national shall be taken by the executing Member</u></p>	<p>Council will revert to EP on this point. (2018-03-23)</p> <p>Updated LIBE proposal:</p> <p><u>(b) Where the return decision is not accompanied by an entry ban, the executing Member State shall immediately inform the issuing Member State, through the exchange of supplementary information, in order to delete immediately the alert on return.</u></p> <p><u>The decision on the entry of the third-country national shall be taken by the executing Member State in accordance with the Schengen Borders Code.</u></p>

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			<u>State in accordance with the Schengen Borders Code.</u>	
140			<i>Article 8B</i> <u>Consultation procedure when granting or extending a residence permit or long-stay visa</u>	Article 8B <u>Consultation procedure when granting or extending a residence permit or long-stay visa</u> (2018-03-23)
141			1. Where a Member State considers granting <u>or extending</u> a residence permit or other authorisation offering a right to stay <u>long-stay visa</u> to a third-country national who is the subject of an alert on return, <u>accompanied by an entry ban</u> , entered by another Member State, the Member States involved shall <u>consult each other, through the exchange of supplementary</u>	EP accepts the Council (2018-03-19). 1. Where a Member State considers granting <u>or extending</u> a residence permit or other authorisation offering a right to stay <u>long-stay visa</u> to a third-country national who is the subject of an alert on return, <u>accompanied by an entry ban</u> , entered by another Member State, the Member States involved shall <u>consult each other, through the exchange of supplementary information</u> , according to the following rules:

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			information , according to the following rules:	
142			<u>(a) the granting Member State shall consult the issuing Member State prior to granting or extending the residence permit or long-stay visa;</u>	Provisionally agreed (2018-03-23) <u>(a) the granting Member State shall consult the issuing Member State prior to granting or extending the residence permit or long-stay visa;</u>
143			<u>(b) the issuing Member State shall reply to the consultation request within fourteen calendar days;</u>	<u>(b) the issuing Member State shall reply to the consultation request within [...] calendar days;</u> EP ready to accept 14 calendar days, conditional on the various 'immediate' request.
144			<u>(c) the absence of a reply by the deadline referred to in point b) shall mean that the issuing Member State does not object to the granting or extending of the residence permit or long-stay visa;</u>	Provisionally agreed (2018-03-23) <u>(c) the absence of a reply by the deadline referred to in point b) shall mean that the issuing Member State does not object to the granting or extending of the residence permit or long-stay visa;</u>
145			<u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the issuing Member</u>	Provisionally agreed (2018-03-23) <u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the issuing Member State and shall consider, in accordance</u>

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			<u>State and shall consider, in accordance with national law, any threat to public policy or public security which the presence of the third country national in question on the territory of the Member States may pose;</u>	<u>with national law, any threat to public policy or public security which the presence of the third country national in question on the territory of the Member States may pose;</u>
146			<u>(e) the granting Member State shall notify the issuing Member State about its decision; and</u>	Provisionally agreed (2018-03-23) <u>(e) the granting Member State shall notify the issuing Member State about its decision; and</u>
147			<u>(f) where the granting Member State notifies the issuing Member State that it decides to grant or extend the residence permit or long-stay visa, the issuing Member State shall delete the alert on return.</u>	Provisionally agreed (2018-03-19) (f) where the granting Member State notifies the issuing Member State that it <u>intends</u> decides to grant or extend the residence permit, or long-stay visa <u>or other authorisation offering a right to stay</u> or that it <u>decided to do so</u>, the issuing Member State shall delete the alert on return. The final decision on whether to grant a residence permit, a long-stay visa or other authorisation offering a right to stay to a third-country national rests with the consulting Member State.
148				Council will revert to EP on this point. (2018-03-23)

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			<p><u>2. Where a Member State considers granting or extending a residence permit or long-stay visa to a third-country national who is the subject of an alert on return, which is not accompanied by an entry ban, entered by another Member State, the granting Member State shall inform the issuing Member State that it intends to grant or has granted a residence permit or a long-stay visa. The issuing Member State shall without delay delete the alert on return.</u></p>	<p>LIBE proposal:</p> <p><u>2. Where a Member State considers granting or extending a residence permit or long-stay visa to a third-country national who is the subject of an alert on return, which is not accompanied by an entry ban, entered by another Member State, the granting Member State shall inform without delay the issuing Member State that it intends to grant or has granted a residence permit or a long-stay visa. The issuing Member State shall without delay delete the alert on return</u></p>
149			<p><i><u>Article 8C</u></i> <i><u>Consultation procedure when issuing a return decision concerning a third country national holding a valid residence permit or long-stay visa</u></i></p>	<p>EP is considering accepting the Council text on Article 8C subject to the following comments and proposals:</p> <p>Provisionally agreed (2018-03-23)</p> <p><i><u>Article 8C</u></i> <i><u>Consultation procedure when issuing a return decision concerning a third country national holding a valid residence permit or long-stay visa</u></i></p>
150			<p>Where a Member State <u>has issued a return decision and it</u> considers</p>	<p>Provisionally agreed. (2018-03-19)</p> <p>Where a Member State <u>has issued a return decision in accordance with</u></p>

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		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 <u>stay a long-stay visa issued granted</u> by another Member State, the involved Member States shall <u>exchange supplementary information</u> according to the following rules:	Article 6(2) of Directive 2008/115/EC and it 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 <u>stay a long-stay visa issued granted</u> by another Member State, the involved Member States shall <u>exchange supplementary information</u> according to the following rules:
151		<u>(a) the Member State that has taken the return decision shall inform the granting Member State about the decision;</u>	Provisionally agreed (2018-03-23) <u>(a) the Member State that has taken the return decision shall inform the granting Member State about the decision;</u>
152		<u>(b) the exchange of information referred to in point a) shall contain sufficient information about the reasons for the return decision;</u>	Provisionally agreed (2018-03-23) <u>(b) the exchange of information referred to in point a) shall contain sufficient information about the reasons for the return decision;</u>
153		<u>(c) the granting Member State shall consider on the basis of the information</u>	Provisionally agreed (2018-03-23) <u>(c) the granting Member State shall consider on the basis of the information provided by</u>

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			<u>provided by the Member State that has taken the return decision whether there are reasons for withdrawing the residence permit or long-stay visa;</u>	<u>the Member State that has taken the return decision whether there are reasons for withdrawing the residence permit or long-stay visa;</u>
154			<u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the Member State that has taken the return decision and shall consider, in accordance with national law, any threat to public policy or public security which the presence of the third country national in question on the territory of the Member States may pose; and</u>	Provisionally agreed (2018-03-23) <u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the Member State that has taken the return decision and shall consider, in accordance with national law, any threat to public policy or public security which the presence of the third country national in question on the territory of the Member States may pose; and</u>
155			<u>(e) the granting Member State shall notify the Member State that has taken the return decision within fourteen calendar days</u>	<i>EP ready to accept 14 calendar days, conditional on the various 'immediate' request.</i> <u>LIBE proposal:</u> <u>(e) within seven calendar days after the receipt of the information request the granting Member State shall notify the Member State that has taken the return decision about its</u>

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			<u>after the receipt of the information request about its decision; the deadline may be extended upon the reasoned request of the granting Member State.</u>	decision or where it was impossible to take a decision within that period shall make a; the deadline may be extended upon the reasoned request of the granting Member State to prolong the time period for the response. The period may be extended for a maximum of further fourteen calendar days.
156				Council will revert to EP on this point. (2018-03-23) Updated LIBE proposal (2018-03-19) (f) where the granting Member State notifies the Member State that has taken the return decision that it maintains the residence permit or long-stay visa or other authorisation offering a right to stay the Member State that has taken the return decision shall not enter the alert on return.
157			<u>Article 8D</u> <u>A posteriori consultation procedure after entering an alert on return</u>	Provisionally agreed (2018-03-23) <u>Article 8D</u> <u>A posteriori consultation procedure after entering an alert on return</u> EP is considering accepting the Council text on Article 8D subject to the following comments and proposals:
158				Provisionally agreed: (2018-03-19)

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			<p><u>Where it emerges that an alert on return has been issued for a third-country national who holds a valid residence permit or long-stay visa granted by another Member State, the issuing Member State may decide to withdraw the return decision. In the case of such withdrawal it shall immediately delete the alert on return. However, where the issuing Member State decides to maintain the return decision, the Member States in question shall exchange supplementary information according to the following rules:</u></p>	<p><u>Where it emerges that an alert on return has been issued in accordance with Article 6(2) of Directive 2008/115/EC for a third-country national who holds a valid residence permit or long-stay visa granted by another Member State, the issuing Member State may decide to withdraw the return decision. In the case of such withdrawal it shall immediately delete the alert on return. However, where the issuing Member State decides to maintain the return decision, the Member States in question shall exchange supplementary information according to the following rules:</u></p> <p><u>Commission drafting suggestion (27/3)</u> "Where it emerges that an alert on return has been issued in accordance with Article 6(2) of Directive 2008/115/EC for a third-country national who holds a valid residence permit or long-stay visa granted by another Member State, the issuing Member State may decide to withdraw the return decision. In the case of such withdrawal it shall immediately delete the alert on return. However, where the issuing Member State decides to maintain the return decision <u>in accordance with Article 6(2) of Directive 2008/115/EC</u>, the involved Member States in question shall exchange supplementary information according to the following rules:"</p>
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159			<u>(a) the issuing Member State shall inform the granting Member State about the return decision;</u>	Provisionally agreed (2018-03-23) <u>(a) the issuing Member State shall inform the granting Member State about the return decision;</u>
160			<u>(b) the exchange of information referred to in point a) shall contain sufficient information about the reasons for the alert on return;</u>	Provisionally agreed (2018-03-23) <u>(b) the exchange of information referred to in point a) shall contain sufficient information about the reasons for the alert on return;</u>
161			<u>(c) the granting Member State shall consider on the basis of the information provided by the issuing Member State whether there are reasons for withdrawing the residence permit or long-stay visa;</u>	Provisionally agreed (2018-03-23) <u>(c) the granting Member State shall consider on the basis of the information provided by the issuing Member State whether there are reasons for withdrawing the residence permit or long-stay visa;</u>
162			<u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the issuing Member State and shall consider, in</u>	Provisionally agreed (2018-03-23) <u>(d) when making the relevant decision, the granting Member State shall take into account the reasons for the decision of the issuing Member State and shall consider, in accordance with national law, any threat to public</u>

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			<u>accordance with national law, any threat to public policy or public security which the presence of the third country national in question on the territory of the Member States may pose; and</u>	<u>policy or public security which the presence of the third country national in question on the territory of the Member States may pose; and</u>
163			(e) <u>the granting Member State shall notify the issuing Member State within fourteen calendar days after the receipt of the information request about its decision; the deadline may be extended upon the reasoned request of the granting Member State.</u>	<p><i>EP ready to accept 14 calendar days, conditional on the various 'immediate' request.</i></p> <p><u>LIBE proposal:</u></p> <p>(e) within <u>seven</u> calendar days after the receipt of the information request the granting Member State shall notify the issuing Member State about its decision or where it was impossible to take a decision within that period shall make a; the deadline may be extended upon the reasoned request of the granting Member State to prolong the time period for the response. The period may be extended for a maximum of further fourteen calendar days.</p>
164				<p>Council will revert to EP on this point. (2018-03-23)</p> <p>Updated LIBE proposal: (2018-03-19)</p> <p>(f) where the granting Member State notifies the issuing Member State that it</p>

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				<p>maintains the residence permit or long-stay visa or other authorisation offering a right to stay the issuing Member State shall immediately delete the alert on return</p>
165			<p><i><u>Article 8E</u></i> <i><u>Consultation procedure in case of a hit concerning a third country national holding a valid residence permit or a long-stay visa</u></i></p>	<p>To be further discussed and awaiting feedback from the Presidency</p> <p>Commission to provide wording to clarify action to be taken at the external border and within the territory</p> <p>Provisionally agreed (2018-03-23)</p> <p><i><u>Article 8E</u></i> <i><u>Consultation procedure in case of a hit concerning a third country national holding a valid residence permit or a long-stay visa</u></i></p>
166			<p><u>1. Where a Member State encounters a hit on an alert on return entered by a Member State in respect of a third-country national who is the holder of a valid residence permit or long-stay visa granted by another Member State, the involved Member States shall exchange supplementary</u></p>	<p>Awaiting reply from COM (2018-03-19)</p> <p><u>1. Where a Member State encounters a hit on an alert on return entered by a Member State in respect of a third-country national who is the holder of a valid residence permit or long-stay visa granted by another Member State, the involved Member States shall exchange supplementary information, according to the following rules:</u></p>

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			<u>information, according to the following rules:</u>	
167			<u>(a) the executing Member State shall inform the issuing Member State about the situation and the issuing Member State shall initiate the procedure laid down in Article 8D;</u>	Awaiting reply from COM (2018-03-19) <u>(a) the executing Member State shall inform the issuing Member State about the situation and the issuing Member State shall initiate the procedure laid down in Article 8D;</u>
168			<u>(b) the issuing Member State shall notify the executing Member State about the final outcome of the exchange of information.</u>	Awaiting reply from COM (2018-03-19) <u>(b) the issuing Member State shall notify the executing Member State about the final outcome of the exchange of information.</u>
169			<u>2. Where a Member State has encountered a hit on an alert on return, at the external border, the decision on the entry of the third-country national shall be taken by the executing Member State in accordance with the Schengen Borders Code.</u>	Awaiting reply from COM (2018-03-19) <u>2. Where a Member State has encountered a hit on an alert on return, at the external border, the decision on the entry of the third-country national shall be taken by the executing Member State in accordance with the Schengen Borders Code.</u> <u>Commission drafting suggestion (27/3)</u> "Where the situation described in paragraph 1 occurs at the external borders upon entry, the procedure referred to in Article 8A [hits at the external borders upon entry] shall be

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				launched. The decision on the entry of the third-country national shall be taken by the executing Member State in accordance with the Schengen Borders Code."
170			<i><u>Article 8F</u></i> <i><u>Statistics of the consultation procedure</u></i>	LIBE considers that the statistics should cover all provisions of Art. 8A to E Provisionally agreed (2018-03-23) <i><u>Article 8F</u></i> <i><u>Statistics of the consultation procedure</u></i>
171			Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in accordance with <u>Articles 8B(1), 8C and 8D and the instances in which the consultation deadline was not met.</u>	Member States shall provide on an annual basis statistics to the Agency about the consultations carried out in accordance with <u>Articles 8B(1), 8C and 8D and the instances in which the consultation deadline was not met.</u>
172	<i>Article 9</i> <i>Deletion of alerts</i>		<i>Article 9</i> <i>Deletion of alerts</i>	<i>Article 9</i> <i>Deletion of alerts</i>
173	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	1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted <i>as soon as</i> the decision upon which the alert was	1. Without prejudice to Articles 6 and 8, alerts on return shall be deleted when the decision upon which the alert was based has	Council will revert to EP on this point. (2018-03-23) EP proposal: 1. Without prejudice In addition to Articles 6 and 8 A-E , alerts on return shall be deleted when the decision upon which the alert was based has been withdrawn or annulled by the competent authority.

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	<p>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.</p>	<p>based has been withdrawn or annulled by the competent authority. Alerts on return shall also be deleted when the third-country national <i>has, or can later demonstrate that she or he has</i> left the territory of the Member States in compliance with a return decision issued in accordance with provisions respecting Directive 2008/115/EC</p>	<p>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.</p>	<p>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.</p> <p><u>Commission drafting suggestion (27/3)</u></p> <p>"In addition to Articles 6 and 8 A-E, 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 <u>the respective</u> return decision issued in accordance with provisions respecting Directive 2008/115/EC."</p>
174		<p><i>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 review period.</i></p>		<p>Covered by Article 13 (deleted)</p>
175		<p><i>1b. Alerts on return shall be deleted where necessary in</i></p>		<p>To be discussed after discussion on Article 23a on border checks</p>

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		<i>accordance with the provisions on the compatibility of alerts laid down in Article 23a of Regulation 2018/xxx [border checks].</i>		Provisionally agreed (2018-03-23) (deleted)
176	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.	2. Alerts on return entered in respect of a person who has acquired <i>a residence permit, authorisation offering a right to stay or</i> 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 <i>residence permit, other authorisation offering a right to stay or</i> citizenship.	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 <u>under</u> the Union law 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.	Accept Council text (2018-03-19) 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 <u>under</u> the Union law 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.
177	<i>Article 10 Transfer of personal data to third countries for the purpose of return</i>		<i>Article 10 Transfer of personal data to third countries for the purpose of return</i>	<i>Article 10 Transfer of personal data to third countries for the purpose of return</i>
178	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	Data processed in SIS and the related supplementary information <i>exchanged</i> pursuant to this Regulation may be transferred or made available to a <i>third country</i> in accordance with Chapter V of Regulation (EU) 2016/679 with the authorisation of the issuing	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	Revised Presidency compromise: 1. By way of derogation from Article 45 of Regulation (EU) 2018/ xxx [border checks], the data referred to in Article 4 (a), (b), (c), (d), (e), (f), (g), (h), (i), (p), (q), (r), (s), (t), (u) and (v) and the related supplementary

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	identification of and issuance of an identification or travel document to an illegally staying-third country national in view of return.	Member State only <i>when the following conditions are satisfied:</i>	the purpose of identification of and issuance of an identification or travel document to an illegally staying-third country national in view of return.	information may be transferred or made available to a third country only when the following conditions are satisfied: UPDATED LIBE proposal following discussions held at technical meeting on 19/3 1. By way of derogation from Article 45 of Regulation (EU) 2018/ xxx [border checks], the data referred to in Article 4 (a), (b), (c), (d), (e) , (f), (g), (h), (i), (p), (q), (r), (s), (t), (u) and (v) and the related supplementary information may be transferred or made available to a third country only when the following conditions are satisfied:
179		<i>(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 illegally staying third-country national in view of return;</i>		<i>(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 illegally staying third-country national in view of return;</i>
180		<i>(aa) the third country explicitly agrees to use the data solely for the purpose for which they were provided, to respect that which is lawful and necessary for the purposes set out in point (a), and to delete that data where it is no</i>		<i>(aa) before transferring data to a third country the controller of the data shall assess all the circumstances surrounding the data transfer and has on the basis of that assessment provided</i>

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		<i>longer justified to keep it; and</i>		<i>suitable safeguards with regard to the protection and use of the personal data.</i>
181		<i>(b) the third-country national concerned has been informed that his or her personal data and supplementary information will be shared with the authorities of a third country.</i>		<i>(b) the third-country national concerned has been informed that his or her personal data and supplementary information will be shared with the authorities of a third country.</i>
182		<i>No information regarding the fact that an application for international protection has been made in a Member State shall be disclosed to an alleged actor of persecution or serious harm in compliance with Article 30 of Directive 2013/32/EU or where that country is also the applicant's country of origin.</i>		UPDATED LIBE proposal (2018-03-19) 2. The transfer of the data to a third country shall be carried out in accordance with the relevant provisions of Union law, in particular provisions on data protection, including Chapter V of Regulation (EU) 2016/679, and, where applicable, readmission agreements, and the national law of the Member State transferring the data.
183		<i>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 been made unavailable in accordance with Article 3(3).</i>		EP proposal (2018-03-19): 3. Transfers of personal data to third countries pursuant to this Article shall not prejudice the rights of applicants for and beneficiaries of international protection, in particular as regards non-refoulement, and the prohibition to disclose or obtain information in accordance with article 30 of Directive 2013/32/EU.

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				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 enforcement of the return decision has been suspended or postponed including as a result of the lodging of an appeal
184		<i>Article 10 a</i> <i>Non-refoulement, best interests of the child, family life and state of health</i>		<i>Article 10 a</i> <i>Non-refoulement, best interests of the child, family life and state of health</i>
185		<i>Member States shall implement this Regulation in full respect of fundamental rights and the principle of non-refoulement and shall always take into consideration the best interests of the child, family life, and the state of health or condition of vulnerability of individuals concerned.</i>		<p>Council will revert to EP on this point. (2018-03-23)</p> <p>LIBE comment</p> <p>As part of an overall compromise this provision could become a recital to be added after the suggested recital 21(b) of Parliament to read:</p> <p>21(c) Member States should implement this Regulation in full respect of fundamental rights and should always take into consideration the best interests of the child, family life, and the state of health or condition of vulnerability of the individuals concerned.</p>

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				(deleted) (see row 31)
186	<i>Article 11 Statistics</i>		<i>Article 11 Statistics</i>	<i>Article 11 Statistics</i>
187	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	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), (xb) and (xc) 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	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	Council will revert to EP on this point. (2018-03-23) LIBE suggested compromise based on the discussions held; parts in [] depends on other Articles under discussion: 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), (xb) and (xc) 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

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	accordance with Article 6(3) and Article 8(5) of this Regulation. Those statistics shall not contain personal data.	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.	the data provided by the Member States in accordance with Article 6(3) and Article 8(5) of this Regulation. ²⁹ Those statistics shall not contain personal data.	the data provided by the Member States in accordance with Article 6(3) and Article 8F (5) of this Regulation. Those statistics shall not contain personal data. Those statistics shall be included in the annual report provided for in Article 54 of Regulation (EU) 2018/xxx [border checks].
188		<i>All statistics shall be compiled by the Agency in an annual report which shall be published. The report shall be transmitted to the European Parliament, the Council and the Commission.</i>		AM may be withdraw if annual, public report as well as transmission to the EP is ensured in Article 54 of the borders text.
189	<i>Article 12 Right to access data in SIS</i>		<i>Article 12 Right to access data in SIS</i>	<i>Article 12 Right to access data in SIS</i>
190	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 purpose of identification and return of third-country nationals.		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 purpose of identification and return of third-country nationals.	EP to accept council text <i>Rules regarding access should follow what is decided in the borders proposal, otherwise problems can be foreseen regarding compatibility of alerts where one authority has access while the other does not.</i> <i>As explained in technical trilogue, this phrase “for the purpose” is technically not correct. As the consultation</i>

²⁹ Deleted to align with Article 6(3).

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				<i>procedure (art 8B) allows for a check in the system when a MS intends to grant a person a residence permit or long-stay visa, this phrase needs to be adjusted in order to allow for that to happen. Strictly speaking “for the purpose of identification and return of third country nationals” does’t allow for that.</i>
191	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].		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] <u>and Article 46 of Regulation (EU) 2018/xxx [police cooperation and judicial cooperation in criminal matters].</u>	Linked to Schengen relevance issue.
192	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		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	

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	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].		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] and Articles 48 and 49(1) of Regulation (EU) 2018/xxx [police cooperation and judicial cooperation in criminal matters] .	Linked to Schengen relevance issue.
193	<i>Article 13 Applicability of the provisions of Regulation (EU) 2018/xxx [Border checks]</i>		<i>Article 13 Applicability of the provisions of Regulation (EU) 2018/xxx [Border checks]</i>	<i>Article 13 Applicability of the provisions of Regulation (EU) 2018/xxx [Border checks]</i>
194	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	As far as not established in this Regulation, the provisions on responsibilities of the Member States and the Agency, the entry, processing, updating and	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	LIBE could accept “entry and processing of alerts” but maintains its positions as regards the reference to Article 3 and 23a. As far as not established in this Regulation, the provisions on responsibilities of the Member States and the Agency, the entry and processing, updating and compatibility of alerts, the conditions to access and retention of alerts, data processing, data protection, liability and monitoring and statistics laid

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	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.	compatibility of alerts, the conditions to access and retention of alerts, data processing, data protection, liability and monitoring and statistics laid down in Articles 3, 6 to 19, Article 20(3)-(4) as well as in Articles 21, 22, 23a , 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.	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.	down in Articles 3, 6 to 19, Article 20(3) and (4) as well as in Articles 21, 22, 23a , 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.
195	<i>Article 14 Entry into force</i>		<i>Article 14 Entry into force</i>	<i>Article 14 Entry into force</i>
196	This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.		This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.
197	It shall apply from the date fixed by the Commission in accordance with Article 58(2) of Regulation (EU) 2018/xxx [border checks].		It shall apply from the date fixed by the Commission in accordance with Article 58(2) of Regulation (EU) 2018/xxx [border checks].	It shall apply from the date fixed by the Commission in accordance with Article 58(2) of Regulation (EU) 2018/xxx [border checks].
198			<u>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</u>	<u>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</u>
199				

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200	Done at Brussels, <i>For the European Parliament</i> <i>For the Council</i> <i>The President</i> <i>The President</i>		Done at Brussels, <i>For the European Parliament</i> <i>The President</i>	Done at Brussels, <i>For the European Parliament</i> The President
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