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2017/0144 (COD)**

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**'I' ITEM NOTE**

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From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	10940/17 + ADD 1
No. prev. doc.:	15534/18
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European criminal records information system (ECRIS-TCN system) and amending Regulation (EU) No. 1077/2011 - Confirmation of the final compromise text with a view to agreement

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In relation to the inclusion of fingerprints in the ECRIS-TCN system (see point (b) of Article 5(1)), the Commission presents the following declaration for the minutes of the meeting of Coreper:

*"The Commission regrets that the co-legislators have decided to limit the inclusion of fingerprints of convicted third country nationals and dual EU/third country nationals in the ECRIS-TCN system. Since fingerprints are currently the most reliable form of identification of individuals, the Commission regrets these limitations on the inclusion of fingerprints, which in its view will make the ECRIS-TCN system less effective in achieving its aim of ensuring that criminal records information is reliably made available for the purposes of criminal procedures, preventing child abuse, granting licences and other legitimate purposes laid down in national law in line with the Directive."*

In relation to the "no-opinion clause" (see Article 35(2), second subparagraph), the Commission presents the following declaration for the minutes of the meeting of Coreper:

*"The Commission underlines that it is contrary to the letter and to the spirit of Regulation (EU) No 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke point b) of the second subparagraph of Article 5(4) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to point b) of the second subparagraph of that Article cannot be simply seen as a discretionary power of the legislator, but must be interpreted in a restrictive manner and thus must be justified."*

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