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NO**

**NOTE**

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC

- General approach
- Statement by the IE delegation

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Delegations will find in the annex a statement by the IE delegation in relation to the abovementioned regulation.

**STATEMENT BY IRELAND**  
**on Variable Geometry and Hybrid Measures**

**Agreement of a General Approach to the Regulation on establishing a common system for the return of third-country nationals staying illegally in the EU**

Ireland is pleased that a General Approach has been reached on the Regulation on establishing a common system for the return of third-country nationals staying illegally in the EU.

Ireland notes that the General Approach has removed the hybrid elements of the original European Commission proposal.

There is nothing in the Treaties, Protocols or case law of the Court of Justice of the European Union which precludes, as a matter of principle, the adoption of hybrid measures; that is, a Union act which contains both provisions that constitute the development of the Schengen acquis and provisions that form part of the area of freedom, security and justice more broadly.

Ireland recalls that hybrid instruments are legally valid and can serve to reflect complex realities where the rules need to apply to both Schengen and non-Schengen situations.

Ireland recalls that a number of Union measure in the area of freedom, security and justice already combine, within a single instrument, provisions which constitute developments of the Schengen acquis and provisions which do not have that character. Indeed, there are situations when variable geometry and hybridity are the most appropriate way to ensure all elements are captured in a single measure and that the maximum number of Member States and Schengen associated countries can participate.

Ireland notes the indication of support should Ireland make a request to amend Council Decision 2002/192, in order to allow Ireland's participation in the Schengen acquis as regards returns, including the Regulation.

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