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*Plenary sitting*

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**A10-0048/2026**

10.3.2026

**\*\*\*I**  
**REPORT**

on the 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 the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC  
(COM(2025)0101 – C10-0047/2025 – 2025/0059(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Malik Azmani

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the 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 the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC (COM(2025)0101 – C10-0047/2025 – 2025/0059(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2025)0101),
  - having regard to Article 294(2) and Article 79(2), point (c), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C10-0047/2025),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee,
  - having regard to the opinion of the Committee of the Regions,
  - having regard to Rule 60 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A10-0048/2026),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **||**.

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2025/0059 (COD)

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**

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), point (c), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union, in constituting an area of freedom, security and justice, should have ***an effective*** common policy on the return of third-country nationals with no right to stay in ***or enter*** the Union. An effective return policy is a key component of a credible migration management system ***and constitutes an essential element for combating illegal migration***.
- (2) This Regulation establishes a ***comprehensive*** common system for returning third-country nationals with no right to stay in ***or enter*** the Union based on a common procedure for return and readmission, ***effective cooperation with third countries, a system for the mutual recognition and enforcement of return decisions***, a system for preventing and managing the risk of absconding and cooperation based on mutual trust between Member States.
- (2a) ***This Regulation is aligned with the Treaty provisions according to which the Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental political and constitutional structures, including regional and local self-government. It shall also respect the essential State functions of the Member States, in particular ensuring territorial***

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<sup>1</sup> OJ C [...], [...], p. [...]

<sup>2</sup> OJ C [...], [...], p. [...]

***integrity, maintaining law and order and safeguarding national security, which remains the sole responsibility of each Member State.***

- (3) To contribute to the implementation of the comprehensive approach set out in the Regulation (EU) 2024/1351 of the European Parliament and of the Council<sup>3</sup>, a common system for effectively managing of the return of illegally staying third-country nationals should be put in place. That system should be based on integrated policy-making to ensure coherence and effectiveness of the actions and measures taken by the Union and its Member States acting within their respective competencies.
- (4) The European Council has consistently underlined the importance for determined action at all levels to facilitate, increase and speed up returns from the European Union ***including by strengthening the link between the issuance of a return decision and the effective departure of the third-country national concerned.*** The European Council in October 2024 invited the Commission to submit a new legislative proposal, as a matter of urgency.
- (5) The Strategic guidelines for legislative and operational planning within the area of freedom, security and justice adopted by the Justice and Home Affairs Council on 12 December 2024 recall that a successful return policy is a fundamental pillar of a comprehensive and credible Union asylum and migration system. To this end, the strategic guidelines call ***for the development and implementation of*** a more assertive and comprehensive approach to returns, by upgrading the legal framework as a matter of urgency.
- (6) An effective return policy should ensure coherence with and contribute to the integrity of the Pact on Migration and Asylum and contribute to ***preventing*** illegal immigration to the Union and ■ unauthorised movements between Member States of illegally staying third-country nationals to safeguard the area without internal border controls while respecting fundamental rights.
- (7) The Union and its Member States have been increasing efforts to make return policies more effective. Despite these efforts, the existing legal framework which consists of Council Directive 2001/40/EC<sup>4</sup> and Directive 2008/115/EC<sup>5</sup>, is no longer corresponding to the needs of the Union migration policy. Since the adoption of Directive 2008/115/EC in 2008, the area of freedom, security and justice and the Union's migration policy has considerably evolved. EU law in the area of migration has moved from legislation with minimum standards to bringing Member States' practices closer. The Commission sought to reform the return rules in 2018 with the

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<sup>3</sup> Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (OJ L 222, 22.5.2024, p. 1).

<sup>4</sup> Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (OJ L 222, 22.5.2024, p. 1).

<sup>5</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

proposal to recast the Return Directive<sup>6</sup>. The Commission has also sought to support Member States in using the flexibilities of Directive 2008/115/EC through Recommendations (EU) 2017/2338<sup>7</sup> and (EU) 2023/682<sup>8</sup>. However, the limits of the current legal framework have been reached.

- (8) A common procedure for *effective* return that is firm and fair should be set up to ensure that third-country nationals who do not, or no longer fulfil the conditions for entry, stay or residence on the territory of the Member States are returned in a humane *and sustainable* manner and with full respect for fundamental rights as well as international law *without undue delay*. Clear and transparent rules applicable in all Member States should provide certainty for the third-country national concerned and competent authorities. It is important to simplify, facilitate and speed up return procedures and ensure that return is not obstructed by unauthorised movements to other Member States.
- (9) The application of the rules pursuant to this Regulation should not affect the rules on access to international protection in accordance with Regulation (EU) 2024/1348 of the European Parliament and the Council<sup>9</sup>. Where relevant, the rules in this Regulation are complemented by the specific rules linking negative asylum decisions and return decisions for issuance and for remedies in Regulation (EU) 2024/1348 and the return border procedure set out in Regulation (EU) 2024/1349 of the European Parliament and the Council<sup>10</sup>.
- (10) This Regulation respects the fundamental rights of third-country nationals and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter') as well as the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 (the 'Geneva Convention'). It should be applied in compliance with the Charter, general principles of Union law and relevant international law.
- (11) The principle of non-refoulement and the prohibition of collective expulsion provided for in Article 19 of the Charter should be respected when applying this Regulation. No one may be removed, expelled or extradited to a third country where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.
- (12) The Member State on whose territory the illegally staying third-country national is detected is responsible for ensuring his or her return. Upon detection of illegal stay,

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<sup>6</sup> Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast). Brussels, 12.9.2018. COM(2018) 634 final, 2018/0329 (COD).

<sup>7</sup> Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks (OJ L 339, 19.12.2017, p. 83, ELI: <http://data.europa.eu/eli/reco/2017/2338/oj>).

<sup>8</sup> Commission Recommendation (EU) 2023/682 of 16 March 2023 on mutual recognition of return decisions and expediting returns when implementing Directive 2008/115/EC of the European Parliament and of the Council. C/2023/1763. OJ L 86, 24.3.2023, p. 58, ELI: <http://data.europa.eu/eli/reco/2023/682/oj>.

<sup>9</sup> Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L 222, 22.5.2024, p. 1, ELI: <http://data.europa.eu/eli/reg/2024/1348/oj>).

<sup>10</sup> Regulation (EU) 2024/1349 of the European Parliament and of the Council of 14 May 2024 establishing a return border procedure, and amending Regulation (EU) 2021/1148 (OJ L, 2024/1349, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1349/oj>).

Member States should swiftly identify the third-country national and verify possible security risks by querying the relevant Union and national databases. **It should be possible to rely upon an existing thorough assessment of all relevant circumstances made at previous stages of the procedure.**

- (13) ***In case of removal***, competent authorities should verify compliance with the principle of non-refoulement on the basis of an individual assessment taking into account all relevant circumstances. The third-country national concerned should submit as quickly as possible evidence relating to his or her own personal circumstances. It should be possible to rely upon an existing thorough assessment of all relevant circumstance made in previous stages of the procedure ***or in any other previous procedures***. Any change in circumstances and any new element evidencing a risk should be examined ***provided that they are substantiated and not considered to have been brought forward by the third-country national merely in order to delay or frustrate the removal.***
- (13a) ***Member States may refer the third-country national who indicates that the removal would breach the principle of non-refoulement to the appropriate procedure, including the asylum procedure in reference to Regulation (EU) 2024/1348. The Member State may refer the third-country national to the appropriate procedure also when its authorities designated as competent under national law become aware of relevant indications that the removal would breach the principle of non-refoulement.***
- (14) It is necessary that Member States can cooperate more flexibly, including through new bilateral agreements or arrangements, and in a more targeted manner to reduce ***and prevent*** movements of illegally staying third-country nationals across common internal borders while at the same time safeguarding the Schengen area without internal border controls.
- (15) Once it is established that the third-country national does not or no longer fulfil the conditions for entry, stay or residence on the territory of the Member States, a return decision should be swiftly issued based on an individual assessment taking into account all facts and circumstances. ***The return decision should state the obligation for the third-country national to leave the territory of the Member States. The country of return should, at the latest, be determined prior to removal and may be specified either in the return decision itself or in a separate decision ordering removal. Where the removal takes place to a third country which was not indicated in the initial return decision, that third country should be added to the removal order, the return decision should be amended, or a new return decision should be issued.***
- (15a) ***A third-country national subject to an obligation to leave should bear the primary responsibility for departing the territory of the Member States in accordance with the return decision.***
- (16) It is necessary to ensure that the essential elements of a return decision issued by a Member State are entered in a specific form as a European Return Order and made available in the Schengen Information System together with the alert on return or through bilateral information exchange with another Member State. The European Return Order should in turn support the recognition and enforcement of return decisions issued by another Member State where the third country national moves unauthorised to another Member State.

- (17) Often, and especially in cases where there is no cooperation by the third country national, it is difficult for the competent authorities to identify the country of return at the time of issuing the return decision. In such cases, the competent authorities should determine the country of return on the basis of the information available. **Member States may indicate none, one or more possible country of return in the return decision in accordance with national law.**
- (18) Where a third-country national present on the territory of a Member State is subject to an enforceable return decision from another Member State, that decision should be recognised and enforced. Recognition and enforcement of return decisions should facilitate and accelerate the return process on the basis of enhanced cooperation and mutual trust between Member States. They can also contribute to deterring irregular migration and discouraging unauthorised secondary movements within the Union, as well as limiting delays in the return process. The remedy against the return decisions should be exercised in the issuing Member State.
- (19) From the date of application of this Regulation, Member States should put in place legal and technical arrangements to ensure that the European Return Order can be made available through the Schengen Information System. By 1 July 2027, just over one year after the date of application of Regulation (EU) 2024/1351, the Commission should review whether Member States have established appropriate legal and technical arrangements to effectively process European Return Orders through the Schengen Information System. Based on that review, the Commission should adopt an implementing decision by which the recognition of enforceable return decisions, supported by the European Return Order, should become mandatory.
- (20) The effects of national return measures should continue to be given a Union dimension by establishing an entry ban prohibiting entry into and stay on the territory of all Member States. The length of an entry ban should be determined with due regard to all relevant circumstances of an individual case ■. When an illegally staying third-country national is detected during exit checks at the external borders, it could be appropriate to impose an entry ban in order to prevent future re-entry and therefore to reduce the risks of illegal immigration **while not preventing the swift departure of the third-country national.**
- (21) Third-country nationals can be returned by coercive measures through removal or by voluntarily complying with the obligation to leave. The two types of return should be linked to avoid gaps in the system. Whereas cooperating third-country nationals should continue to be returned primarily through voluntary return, reinforced rules on removal seek to ensure a direct and immediate consequence in case the third-country national does not respect the date by which they need to leave **or does not comply with the obligations provided under this regulation.** Coercive measures should be subject to the principles of proportionality and effectiveness with regard to the means used and objectives pursued. **The possibility for a third-country national to comply voluntarily with their return obligation should remain available at all stages of the procedure, including after they have become subject to removal.**
- (22) **While respecting the criminal justice systems of the Member States, common** rules are necessary to ensure that third-country nationals posing security risks and with no right to stay in the Union are efficiently identified and swiftly returned. It is necessary to ensure that relevant checks are carried out to identify and flag third-country nationals with security risks including by relying on the screening process as set out in

Regulation 2024/1356 of the European Parliament and of the Council<sup>11</sup>. For third-country nationals posing security risks, removal should be the rule, and it should be possible to derogate from the general rules in order to provide for longer entry bans, longer detention periods and from the use of the use of ■ detention facilities so that those who threaten the security of Union are swiftly removed. ***An indefinite entry ban may be imposed to thirdcountry nationals posing a security risk.***

- (23) New rules should extend the possibilities for Member States to ensure returns to third countries through additional tools. It should be possible to put in place specific agreements or arrangements with third countries for the purpose of providing Member States ***and the Union*** with more options for returns subject to the conditions that the international human right standards and the principle of *non-refoulement* are respected by the third country concerned. ■ .Such agreements or arrangements will constitute an implementation of Union law for the purposes of Article 51 (1) of the Charter.
- (24) A well-functioning Schengen area without internal borders relies on the effective and efficient application by the Member States of the relevant *acquis*. Council Regulation (EU) 2022/922 establishes an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* by means of periodic, unannounced and thematic evaluations, including in relation to the effective return of third-country nationals with no right to stay and the respect of fundamental rights. This mechanism allows to swiftly identify deficiencies that could disrupt the correct functioning of the Schengen area and ensures that those deficiencies are duly addressed.
- (25) The best interests of the child should be a primary consideration of Member States when applying return procedures, in accordance with Article 24 of the Charter and the 1989 United Nations Convention on the Rights of the Child. In assessing the individual best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development in the short, medium and long term, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. The unaccompanied minor should be guided by a representative through all the steps of the return process.
- (26) Where there are grounds for doubting as to whether or not the third-country national is a minor, an age assessment should be carried out. ***Any previous age assessment conducted by competent authorities, in particular an age assesment carried out as part of the asylum procedure, should be taken into account.*** For the purpose of ensuring coherence across migration management in the Union the same procedure as provided for in Regulation (EU) 2024/1348 of the European Parliament and of the Council<sup>12</sup> should be followed. When carrying out age assessments, Member States should in particular take into account relevant guidelines from the European Union Agency for Asylum.
- (27) To reinforce the effectiveness of the return procedure, clear ***obligations*** for third-country nationals should be established. Third country-nationals should cooperate

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<sup>11</sup> Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (OJ L 2024/1356, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1356/oj>).

<sup>12</sup> Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L 222, 22.5.2024, p. 1).

with the authorities at all stages of the return procedure. Third-country nationals should remain available and provide the necessary information to prepare the return. In case the obligations to cooperate are not respected, effective, *dissuasive* and proportionate consequences should be imposed, including for instance reduced benefits and allowances granted in accordance with national law, seizure of *identity or* travel documents or the extension of the duration of an entry ban. The competent authorities should inform the third-country national of the different steps of return procedure, their *rights and* obligations and the consequences of not complying with those obligations.

- (28) This Regulation should not affect the possibility for Member States to impose, where applicable, criminal sanctions in accordance with national criminal law to third-country nationals falling within the scope of this Regulation.
- (29) A set of legal remedies against decisions related to return should be established to guarantee effective protection of the interests of the individuals concerned. The necessary legal aid should be made available, upon request, to those who lack sufficient resources in cases of appeal or review before a judicial authority.
- (29a) *Legal assistance and representation should include the preparation of an appeal or request for review, comprising, at a minimum, the drafting of the procedural documents required under national law and, where a hearing takes place, participation in that hearing before a judicial authority, in order to ensure the right to an effective remedy and to a fair trial.***
- (30) To improve the effectiveness of the return procedures, while ensuring the respect of the right to an effective remedy in accordance with Article 47 of the Charter, appeals against return related decisions should be challenged as far as possible before one judicial level. The rules of this Regulation related to appeals and suspensive effect should comply with the right to an effective remedy as provided for in Article 47 of the Charter of Fundamental Rights.
- (30a) *This Regulation does not provide for the automatic suspensive effect of an appeal. However, a third-country national should be able to submit a request to suspend the enforcement of a return decision. In order to avoid duplication in the assessment of the risk of non-refoulement, reliance should be placed on previous assessments, including those carried out in the context of an asylum procedure. It should remain the responsibility of the third-country national to indicate, in a timely manner, any risk of non-refoulement and to request suspension of the return decision.***
- (31) Member States should be provided with the necessary tools for assessing, managing and preventing the risk of absconding. *Absconding includes actions such as leaving the the territory of the Member States without permission from the competent authorities, for reasons that are not beyond the control of the third-country national.* Common rules should streamline the assessment of this risk in individual cases and seek to increase the use of efficient alternatives to detention in Member States to effectively manage the return process.
- (32) It should be possible to impose detention when proportionate and necessary, following an individual assessment of each case, including consideration of any situation of vulnerability, only for the purpose of preparing return. For this purpose, detention could be imposed when there is a risk that third-country nationals abscond, when third-country nationals hamper or avoid return, or when they pose a security risk, or do not comply with alternatives to detention, or detention is necessary to determine or verify

identity or nationality. The authorities should act with due diligence and detention should be maintained only for as short a period as possible and may not exceed 24 months. Where national law provides for the detention of minors, the best interests of the child should be a primary consideration. ***Minors, as a rule, should not be detained and other*** less coercive alternative measures to detention should be used when they can be applied effectively to illegally staying third-country nationals.

- (33) Returning third-country nationals who pose a security risk requires specific measures aimed at protecting the rights and freedoms of others. It should therefore be possible to detain such third-country nationals for a longer period, while any such detention has to comply with the principle of proportionality.
- (34) Third-country nationals in detention should be treated in a humane and dignified manner with respect for their fundamental rights and in compliance with international and national law, taking into account the practical guidelines from the Council of Europe Committee for the prevention of torture and inhuman and degrading treatment. Detention ***may*** take place in specialised detention facilities or dedicated branches of other facilities. Prison accommodation may be resorted to when a Member State cannot provide for such facility keeping the third-country nationals separate from ordinary prisoners. ***Third-country nationals who pose a security risk may be placed under enhanced security arrangements within detention facilities.***
- (35) The grounds for detention set out in this Regulation are without prejudice to other grounds for detention, including detention grounds within the framework of criminal proceedings, which are applicable under national law and unrelated to the third-country national's illegal stay.
- (36) The obligation of any State to readmit its own nationals represents a fundamental principle of state sovereignty and international cooperation. The duty of States to readmit their own nationals is considered a principle of customary international law. The existence of such a duty is further evidenced by the consistent practice of States in implementing readmission agreements and arrangements, combined with their recognition of this principle as a necessary aspect of international cooperation in managing migration.
- (37) A systematic and coordinated approach to readmission among Member States is crucial to facilitate the return of third-country nationals. Insufficient follow up to enforceable return decisions risks hampering the efficiency of the common approach to returns. Enforceable return decisions should be systematically followed by all necessary measures to implement the return, including the submission of readmission requests to third countries' authorities, in cases where nationality is in doubt or a travel document needs to be obtained.
- (38) While readmission also depends on the cooperation of third countries, a coherent approach should be taken among Member States to increase the efficiency and effectiveness of readmission procedures, and to ensure unity among Member States. Transparency and coordination on engagement with third countries, including in the context of negotiating readmission instruments, should be ensured to strengthen a coherent Union approach. To ensure effective returns, communication with relevant third country entities for the purpose of the readmission procedure should not amount to diplomatic recognition of the third-country entities concerned.

- (39) Effective return procedures rely on efficient administrative cooperation and information sharing between Member States. The exchange of information including the sharing of data on the identity and nationality of the third-country nationals, their travel documents and other relevant information should be based on clear rules, including those set out in Regulation (EU) 2018/1860 of the European Parliament and of the Council<sup>13</sup>. These rules should respect the principles of data protection and the rights of the individual concerned, ensuring that such information is accurate and is only used for the purposes of return, readmission, and reintegration, and is protected against unauthorised access, disclosure, or use.
- (40) Member States should take the necessary measures to ensure competent authorities respect Directive [...] amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime to encourage crime reporting and foster trust in the justice system.
- (41) Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>14</sup> applies to the processing of personal data for the purposes of this Regulation. Regulation (EU) 2018/1725 of the European Parliament and of the Council applies to the processing of personal data by the Union institutions and bodies for the purposes of this Regulation. In view of the important reasons of public interest behind readmission, the transfer of personal data of third country nationals subject to a return decision, including data relating to their identity, travel documents, other relevant data as well as, in duly justified cases, data concerning their criminal convictions and health, could be necessary for the purposes of readmission and reintegration. Such transfers must be carried out in accordance with Chapter V of Regulation (EU) 2016/679 and Chapter V of Regulation (EU) 2018/1725<sup>15</sup>, as applicable, as well as with the principles of non-refoulement, proportionality and necessity and the Charter of Fundamental Rights of the European Union.
- (42) Obstacles to cooperation and communication among Member State authorities responsible for the asylum and the return procedures represent a key structural challenge for a more efficient return process. Competent authorities involved in the different phases of the return process should work and coordinate closely. Where Member States designate law enforcement authorities as competent authorities under this Regulation, it should be understood that this designation is limited to such authorities when acting in their capacity of enforcing return decisions. Law enforcement authorities acting in their capacity as investigative authorities in criminal proceedings should not be covered by such a designation.
- (43) A common system for returns should make full use of digital systems supporting managing returns, readmission and reintegration either operationally managed on

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<sup>13</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, ELI: <http://data.europa.eu/eli/reg/2018/1860/oj>).

<sup>14</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

<sup>15</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

Union level or by the Member States, with an emphasis on efficient administrative procedure, cooperation, information sharing and interoperability.

- (44) The Union provides financial and operational support in order to achieve an effective implementation of this Regulation. To the extent that activities should be financed by the Asylum and Migration Fund thematic facility, these may be implemented under the direct, indirect or shared management. Member States should make best use of the available Union financial instruments, programmes and projects in the field of return, in particular under Regulation (EU) 2021/1147 of the European Parliament and of the Council<sup>16</sup>, as well as of the operational assistance by the European Border and Coast Guard Agency according to Regulation (EU) 2019/1896 of the European Parliament and of the Council<sup>17</sup>. Such support should be used in particular for establishing return management systems and programmes for providing logistical, financial and other material or in-kind assistance to support the return of illegally staying third-country nationals.
- (44a) *The external dimension of return policy should form an integral part of the Union's comprehensive approach to migration management. To that end, the Union and the Member States should pursue balanced and comprehensive partnerships with third countries, in which return, readmission and reintegration constitute core components of their engagement. The coordinated use of all relevant Union policies and instruments, including visa policy, trade, development cooperation and diplomatic tools, should contribute to supporting predictable and effective readmission procedures and may take into account the level of cooperation of the third country concerned.***
- (44b) *In order to strengthen the external dimension of the Union return policy and ensure coherence across Union instruments, the information gathered pursuant to this Regulation regarding cooperation of third countries on readmission should contribute to the Union's existing mechanisms assessing such cooperation. In particular, the data and information collected under this Regulation should support the annual assessment carried out by the Commission pursuant to Article 25a of the Visa Code of Regulation (EC) No 810/2009. That assessment should rely, inter alia, on objective indicators relating to the effectiveness of return and readmission procedures, including the proportion of third-country nationals effectively returned in relation to the total number of enforceable return decisions for which readmission was requested.***
- (45) The collection and analysis of reliable and comparable statistics on return, readmission, and reintegration are essential for monitoring the effectiveness of this Regulation and for identifying areas for improvement, as they provide valuable insights into the efficiency of return procedures, the cooperation of third countries, and the outcomes of reintegration efforts. Common standards and definitions for the collection and reporting of relevant data should be established to enable the

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<sup>16</sup> Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/1147/oj>).

<sup>17</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).

Commission and the Member States to assess the impact of this Regulation and to contribute to making informed decisions on future policy developments.

- (46) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to establish the European Return Order and the common form of readmission requests. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>18</sup>.
- (47) Directive 2001/40/EC, 2008/115/EC and Council Decision 2004/191/EC should be repealed.
- (48) Since the objectives of the Regulation to improve the efficiency of return to safeguard the area without internal borders, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action to ensure a common and coherent approach among Member States, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (49) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and 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 Council<sup>19</sup> - upon the Schengen *acquis*, 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.
- (50) 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 provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>20</sup>; Ireland is therefore not taking part in the adoption of this Regulation and, subject to the application of Article 4 of Protocol 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, is not bound by it or subject to its application. [Nevertheless, to the extent that this Regulation does not constitute a development of the Schengen *acquis*, Ireland has, in accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the

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<sup>18</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

<sup>19</sup> 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 2016/399, 15.3.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/399/oj>).

<sup>20</sup> 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, ELI: <http://data.europa.eu/eli/dec/2002/192/oj>).

area of freedom, security and justice, annexed to the TEU and the TFEU, notified [, by letter of ...] its wish to take part in the adoption and application of this Regulation.]

[or]

[In addition, to the extent that this Regulation does not constitute a development of the Schengen *acquis*, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is therefore not bound by it or subject to its application.]

- (51) 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 provisions of the Schengen *acquis* 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 latters' association with the implementation, application and development of the Schengen *acquis*<sup>21</sup>, which fall within the area referred to in Article 1, point C, of Council Decision 1999/437/EC.
- (52) As regards Switzerland, 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 provisions of the Schengen *acquis* 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 *acquis*<sup>22</sup>, 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<sup>23</sup>.
- (53) 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 provisions of the Schengen *acquis* within the meaning 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*, 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/EU<sup>24</sup>.

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<sup>21</sup> OJ L 176, 10.7.1999, p. 36, ELI: [http://data.europa.eu/eli/agree\\_internation/1999/439\(1\)/oj](http://data.europa.eu/eli/agree_internation/1999/439(1)/oj).

<sup>22</sup> OJ L 53, 27.2.2008, p. 52.

<sup>23</sup> 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, ELI: <http://data.europa.eu/eli/dec/2008/146/oj>).

<sup>24</sup> 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

- (54) Where this Regulation refers to an obligation to leave the European Union, this should be understood as an obligation to leave the territory of all the Member States to which this Regulation applies, including in the light of the preceding recitals.
- (55) The European Data Protection Supervisor was consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 and delivered its opinion on [...].

HAVE ADOPTED THIS REGULATION:

## **Chapter I**

### **GENERAL PROVISIONS**

#### *Article 1*

##### **Subject matter**

1. This Regulation establishes a common system for the return of third-country nationals staying illegally in the Union, in accordance with fundamental rights recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter') as well as applicable obligations under international law, including on refugee protection and human rights.
2. The objective of this Regulation is to ensure ***compliance with the obligation to leave the territory of the Union and*** effective return and readmission of illegally staying third-country nationals in line with the comprehensive approach as set out in Articles 3, Article 4, point (h), and Article 5, point (e), of Regulation (EU) 2024/1351.

#### *Article 2*

##### **Scope**

1. This Regulation applies to third-country nationals staying illegally on the territory of the Member States.
2. This Regulation shall not apply to persons enjoying the right of free movement under Union law, as defined in Article 2, point (5), of Regulation (EU) 2016/399.

#### *Article 3*

##### **Derogations**

1. Member States may derogate from the provisions of this Regulation for the following third-country nationals:
  - a. those subject to a refusal of entry ■ in accordance with Article 14 of Regulation (EU) 2016/399;

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abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19, ELI:  
<http://data.europa.eu/eli/dec/2011/350/oj>).

- b. those who are apprehended or intercepted by the competent authorities in connection with the illegal border 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.
- ba. third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, as defined in national law, or who are subject to an extradition procedure;*
- bb. third-country nationals posing security risks.*
2. When Member States apply derogations pursuant to paragraph 1 of this Article, they shall rely on national law for the purpose of ensuring the return of these categories of third-country nationals and respect the principle of non-refoulement. The following Articles shall apply: Article 12(4) and Article 12(5), Article 14(2), Article 14(6), point (c), Article 14(6), point (e), Article 34 and Article 35.
- 2a. This Regulation does not affect the competences of the Member States to adopt other measures in accordance with Article 4(2) of the Treaty on European Union and Articles 72 and 347 of the Treaty on the Functioning of the European Union.*
- 2b. This Regulation shall be without prejudice to the competence of Member States to provide, in accordance with their national law, for criminal sanctions in relation to the illegal stay of a third-country national. The application of such criminal sanctions shall not undermine, delay or otherwise impede the effective implementation of the return procedures and removal measures provided for in this Regulation.*

#### Article 4

#### Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20 of the Treaty on the Functioning of the European Union and who is not a person enjoying the right of free movement under Union law, as defined in Article 2, point 5, of Regulation (EU) 2016/399;
- (2) ‘illegal stay’ means the presence, on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils, the conditions of entry, as set out in Article 6 of Regulation (EU) 2016/399 or other conditions for entry, stay or residence in that Member State;
- (3) ‘country of return’ means, *without prejudice to the order in which they may apply*, one of the following:
- (a) a third country that is the country of origin of the third-country national;
  - (b) a third country that is the country of formal habitual residence of the third-country national;
  - (c) a third country of transit on the way to the Union in accordance with Union or Member States' readmission agreements or arrangements;

- (d) a third country, other than the one referred to in points (a) **and** (b) **■**, where the third-country national has a right to enter and reside;
  - (e) a safe third country in relation to which the application for international protection of a third-country national has been rejected as inadmissible, pursuant to Article 59(8) of Regulation (EU) 2024/1348;
  - (f) the first country of asylum in relation to which the application for international protection of a third-country national has been rejected as inadmissible, pursuant to Article 58(4) of Regulation (EU) 2024/1348;
  - (g) a third country **other than the ones referred to in points (a), (b) and (d)**, with which there is an agreement or arrangement on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation.
- (4) ‘return decision’ means an administrative or judicial decision, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to leave the European Union;
  - (5) ‘removal’ means the enforcement of the return decision **or a removal order** by the competent authorities through the physical transportation out of the territory of the Member State;
  - (6) ‘voluntary return’ means compliance by the illegally staying third-country national with the obligation to leave the territory of the Member States within the date set out in the return decision in accordance with Article 13 of this Regulation;
  - (7) ‘absconding’ means the action by which the third-country national does not remain available to the competent administrative or judicial authorities **■**;
  - (8) ‘entry ban’ means an administrative or judicial decision or act prohibiting entry into and stay on the territory of the Member States **■**;
  - (9) ‘readmission procedure’ means all steps conducted by a competent authority or, where relevant, by the European Border and Coast Guard Agency (‘Frontex’), in relation to the confirmation of nationality of a third-country national, the issuance of a travel document for the third-country national and the organisation of a return operation;
  - (10) ‘readmission application’ means a request for the purpose of readmission submitted by a competent authority **or supported by Frontex** to a competent authority of a third country consisting of a request for confirmation of nationality and a request for issuance of a travel document, as relevant(11) ‘return operation’ means an operation that is organised or coordinated by a competent authority **or supported by Frontex** by which third-country nationals from one or more Member States are returned;
  - (12) ‘readmission instrument’ means a legally binding or non-binding instrument, containing provisions on the cooperation between a Member State or the Union and a third country on the readmission procedure, such as readmission or other international agreements and arrangements;
  - (13) ‘other authorisation offering a right to stay’ means any document issued by a Member State to a third-country national authorising the stay on its territory, which is not a residence permit within the meaning of Article 2, point 16, of Regulation (EU) 2016/399 or a long-stay visa within the meaning of Article 2, point 14, of Regulation

(EU) 2018/1860 and with the exception of the document referred to in Article 6 of Directive (EU) 2024/1346 of the European Parliament and of the Council<sup>25</sup>.

#### *Article 5*

### **Fundamental rights**

When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter, with relevant international law, with the obligations related to access to international protection, in particular the principle of non-refoulement, and with fundamental rights.

## **Chapter II RETURN PROCEDURE**

### **SECTION 1**

#### **START OF THE RETURN PROCEDURE**

### **I**

### **SECTION 2**

#### **PROCEDURE ORDERING RETURN**

#### *Article 7*

### **Issuance of a return decision**

1. A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States ***imposing the obligation to leave the territory of the Member States***, without prejudice to the exceptions referred to in Article 8.
2. The return decision shall be issued in writing and give reasons in fact and in law as well as information about available legal remedies and time-limits to seek those remedies. The return decision shall be notified to the third-country national ***as soon as possible in accordance with the national law of the Member State concerned. Where the whereabouts of the third-country national are unknown, the return decision shall be considered duly notified in accordance with national law.***
3. Competent authorities may decide not to provide or may decide to limit the information on reasons in fact, where national law provides for the right to information to be restricted or where it is necessary to safeguard public order, public security or national security and for the prevention, investigation, detection and prosecution of criminal offences. In such cases, the third-country national shall be informed of the essence of the grounds on which a return decision is taken for the purpose of access to an effective remedy.

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<sup>25</sup> Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection (OJ L, 2024/1346, 22.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1346/oj>).

4. When a country of return cannot be determined on the basis of the information available to the competent authorities at the time of issuing the return decision, a return decision may indicate provisionally *none*, one or more countries of return.
  - 4a. *The country of return may be determined either in the return decision or after the issuance of the return decision, in the removal order referred to in Article 12(2).*
  - 4b. *Where a third-country national decides to return voluntarily to a country of return other than that specified in the return decision, the issuance of a new decision determining the country of return is not required.*
5. The third-country national shall, upon request, be provided with a written or oral translation of the main elements of the return decision, as referred to in paragraph 2, including information on the available legal remedies in a language the third-country national understands or may reasonably be presumed to understand. For that purpose, the *competent authorities may, where appropriate, rely on standardised translation templates or machine-assisted translation tools.*
6. The return decision pursuant to paragraph 2 shall be issued in the same act or *in a separate act* at the same time and together with the decision ending a legal stay of a third-country national, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law.
7. Upon issuance of the return decision, its main elements shall be inserted into the form ('European Return Order') established pursuant to paragraph 8 and shall be made available through the Schengen Information System in accordance with Regulation (EU) 2018/1860 or through information exchange pursuant to Article 38.
8. The Commission shall adopt an implementing act to establish the form of the European Return Order referred to in paragraph 7. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 49(2).
9. This Article shall not affect Member States' decisions to grant at any moment an autonomous residence permit, long-stay visa or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on their territory. In such cases, an issued return decision shall be withdrawn or suspended for the duration of the validity of the residence permit, long-stay visa or other authorisation offering a right to stay.
10. The Member State that issues a return decision in accordance with this Article shall take all necessary measures in accordance with this Regulation to ensure effective return.

#### *Article 8*

##### **Exceptions from the obligation to issue a return decision**

1. Competent Member States authorities may decide not to issue a return decision in one of the following cases where the third-country national is:
  - a. transferred to another Member State in accordance with the procedure provided for in Article 23a of Regulation (EU) 2016/399;
  - b. transferred to another Member State pursuant to bilateral agreements or arrangements or based on cooperation between Member States in accordance with Article 44;

- c. a person whose illegal stay is detected in connection with border checks carried out at exit at the external border in accordance with Article 8 of Regulation (EU) 2016/399 or equivalent checks pursuant to national law, **■** and avoiding as much as possible to postpone the departure of the third-country national concerned.
2. A return decision shall not be issued in cases where the third-country national is holding a valid residence permit, a long-stay visa or other authorisation offering a right to stay issued by another Member State **■**.
3. In cases referred to in paragraph 2, the Member State shall require the third-country national to go to the territory of that other Member State immediately. Where the third-country national does not comply, or where the third-country national's immediate departure is required for reasons of public policy, public security or national security, Member States may request cooperation from the other Member States pursuant to Article 44 or issue a return decision in accordance with Article 7.
4. A return decision shall not be issued in cases where the third-country national is the subject of an enforceable return decision issued by another Member State. In this case, the procedure described in Article 9 shall apply.

#### *Article 9*

#### **Recognition and enforcement of return decisions issued by another Member State**

1. The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable return decision ***and, where relevant, a removal order*** issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1) ***and Article 12(2)***, based on the European Return Order referred to in Article 7(7), and it shall on this basis order the removal pursuant to Article 12.
2. By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether the legal and technical arrangements put in place by the Member States to make available the European Return Order through the Schengen Information System referred to in Article 7(7) are effective. The Commission shall inform the European Parliament and the Council of the results of its assessment. The implementing decision shall be adopted in accordance with the procedure referred to in Article 49(2).
  - 2a. ***Member States shall not be required to take administrative decisions or acts for the purposes of recognition. The recognition need not take the form of an administrative procedure.***
  - 2b. ***Member States shall, at the request of the Commission, provide the information necessary for carrying out the assessment referred to in paragraph 2 of this Article, in particular statistics on the number of third-country nationals removed or returned on the basis of recognised return decisions and, where relevant, decisions ordering removal issued by another Member State within a specified period. The Commission shall, where possible, make use of the information made available pursuant to Regulation (EC) No 862/2007 of the European Parliament and of the Council.***

3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions *and, where relevant, removal orders*, issued by other Member States pursuant to Article 7(1) *and Article 12(2)*, to third-country nationals illegally present on their territory based on the European Return Order referred to in Article 7(7), and they shall order their removal in accordance with Article 12.
4. For the purposes of applying paragraph 3, a Member State may decide not to recognise or enforce a return decision of the issuing Member State where the enforcement is manifestly contrary to public policy in the enforcing Member State, *where the return of the third-country national can be carried out in a more expeditious manner* or where the third-country national is to be removed to a different third country than indicated in the return decision *or removal order* of the issuing Member State.
5. Where a Member State does not recognise or enforce a return decision *or removal order* pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7.
6. The enforcing Member State shall suspend the enforcement of return where the effects of the return decision *or the removal order* in the issuing Member State are suspended.
7. Where the issuing Member State *suspends or* withdraws the return decision or when the return decision is annulled by *an administrative or* judicial authority, the enforcing Member State shall issue a return decision subject to the conditions set out in Article 7.
8. *Upon request, the* issuing Member State shall provide the enforcing Member State with all available data and documents necessary for the purpose of enforcing the return decision *or removal order*, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.
9. The enforcing Member State may ask Frontex to support the enforcement of the return decision in accordance with Chapter II, Section 8, of Regulation (EU) 2019/1896. When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing Member State, the issuing Member State shall compensate the enforcing Member State with an amount that shall not exceed the actual costs incurred by the enforcing Member State. The Commission shall adopt an implementing decision to determine the appropriate criteria for determining the amount and practical arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).
10. The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.

### SECTION 3 ENTRY BAN

#### *Article 10*

#### **Issuance of an entry ban**

1. Return decisions shall be accompanied by an entry ban when:
  - a. the third-country national is subject to removal in accordance with Article 12;

- b. the obligation to *leave the territory of the Member States* has not been complied with within the time limits set in accordance with Article 13;
  - c. the third-country national poses a security risk in accordance with Article 16.
2. In cases other than those listed in paragraph 1, competent authorities shall determine whether or not a return decision *or a removal order* shall be accompanied by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national.
  3. The entry ban shall be issued as part of the return decision or *as part of the decision ordering the removal or* separately in writing. It shall be notified to the third-country national in a language that the third-country national understands or may reasonably be presumed to understand. *For that purpose, competent authorities may, where appropriate, rely on standardised translation templates or machine-assisted translation tools.*
  4. Competent authorities may impose an entry ban without issuing a return decision to a third-country national who has been illegally staying on the territory of the Member States and whose illegal stay is detected in connection with border checks carried out at exit in accordance with Article 8 of Regulation (EU) 2016/399, █ and avoiding as much as possible to postpone the departure of the third-country national concerned. *Taking into account the specific circumstances of the individual case, Member States may impose an entry ban after the third-country national has departed from the territory.*
    - 4a. *Where an illegally staying third-country national departs from the territory of the Member States before a return decision is issued, the competent authorities may impose an entry ban without issuing a return decision.*
    - 4b. *Where the grounds for issuing an entry ban have arisen after a return decision is issued, the competent authorities may impose an entry ban without issuing a new return decision.*
  5. Competent authorities may refrain from issuing an entry ban in individual cases for humanitarian reasons, *if the third-country national is a victim of human trafficking* or if the third-country national duly cooperates with the competent authorities, *including* by enrolling in a return and reintegration programme.
  6. The length of the entry ban shall be determined with due regard to all relevant circumstances of the individual case █
  7. █
  - 7a *Member States may impose a permanent entry ban on persons falling within the scope of Article 16(1), where this is justified and proportionate in view of the security risk posed by the third-country nationals.*
  8. The period of the entry ban shall start from the date on which the third-country national left the territory of the Member States.

#### *Article 11*

#### **Withdrawal, suspension or shortening of the duration of an entry ban**

1. An entry ban may be withdrawn, suspended or its duration shortened *by the issuing Member State* where the third-country national *demonstrates that he or she has returned voluntarily in compliance with a return decision.* ■
  2. An entry ban may also be withdrawn, suspended or its duration shortened in justified individual cases, including for humanitarian reasons, taking into account all relevant circumstances.
  3. The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban.
- 3a. Member States may make the withdrawal of an entry ban conditional upon the reimbursement of the costs incurred for the removal of the third-country national.*

## SECTION 4 ENFORCEMENT OF RETURN

### *Article 12*

#### **Removal**

1. The third-country national subject to a return decision shall be removed when:
  - a. the third-country national is refusing to cooperate with the authorities during the return process;
  - b. the third-country national moves to another Member State without authorisation, including during the period set in accordance with Article 13;
  - c. the third-country national falls within the scope of Article 16;
  - d. the third-country national has not left the territory of Member States by the date set in accordance with Article 13;

*da. The competent authorities consider that removal is necessary and proportionate, in accordance with national law, for reasons other than those listed in points (a) to (d).*
2. Member States' competent authorities may issue a separate administrative or judicial decision in writing ordering the removal.
- 2a. Member States shall determine the country of return, as referred to in Article 4(3), prior to carrying out the removal. Where a country of removal has not previously been determined in the return decision or where the country of removal differs from the country designated in the return decision, the Member State shall notify the third country national in accordance with the national law of the Member State concerned.*
3. ■ *In the event that a third-country national indicates or the authorities of the Member State become aware that the removal would breach the principle of non-refoulement, the competent authorities shall refer the third-country national to the appropriate procedure, including the asylum procedure in accordance with Regulation (EU) 2024/1348, where applicable, or assess, in accordance with national law, whether the removal is in compliance with the the principle of non-refoulement. Member States may rely on an existing thorough assessment of all relevant circumstances in previous stages of the procedure and, where relevant, the asylum procedure.* ■ The third-country national concerned shall bring forward as soon as possible any relevant elements concerning his or

her own personal circumstances *in order to substantiate the claim that the execution of the return decision would expose them to a concrete and individual risk of serious harm in the country of return.*

4. Coercive measures taken to ensure removal shall be necessary and proportionate and shall, in any case, not exceed the threshold of reasonable force. They shall be implemented in accordance with national law respecting fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned.
5. In carrying out removals by air, Member States shall take into account the common guidelines on security provisions for joint removals by air set out in the Annex to Council Decision 2004/573/EC<sup>26</sup>.
6. **Nothing in this article shall prevent Member States from permitting or facilitating voluntary return of a third country national.** In such cases, competent authorities shall closely monitor the compliance of the third-country national, including by organising transport assistance to the relevant point of departure from the Union.

### Article 13

#### Voluntary return

1. When the third-country national is not subject to removal in accordance with Article 12, the return decision shall indicate a date by which the third-country national shall leave the territory of the Member States and shall state the possibility for the third-country national to leave earlier.
2. The date referred to in paragraph 1 shall be determined with due regard to the specific circumstances of the individual case *and may indicate that the third country national shall leave the territory of the Member States immediately.* The date by which the third-country national shall leave shall not exceed 30 days from the date of notification of the return decision.
3. Member States may, *upon request of the third country national,* provide for a longer period or extend the period to leave their territory in accordance with paragraph 1 taking into account the specific circumstances of the individual case, **Member States may shorten the departure period in case of non-compliance with the obligations to cooperate as set out in Article 21.**
4. The third-country national shall leave the territory of the Member States by the date determined pursuant to paragraph 1. If not, the third-country national shall be subject of removal in accordance with Article 12.

### Article 14

#### Conditions for postponing removal

1. Removal pursuant to Article 12 shall be postponed in the following circumstances:
  - a. when *it is established that* it would violate the principle of non-refoulement; or

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<sup>26</sup> Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (OJ L 261, 6.8.2004, p. 28, ELI: <http://data.europa.eu/eli/dec/2004/573/oj>).

- b. when and for as long as suspension of the return decision in accordance with Article 28 is in place.
2. Removal pursuant to Article 12 may be postponed **■**, taking into account the specific circumstances of the individual case **and provided that there is no risk of absconding in accordance with Article 30**.
3. If the third-country national requests postponement of removal, the request shall be duly substantiated.
4. When taking a decision in accordance with paragraph 1 or paragraph 2, Member States shall provide the third-country national concerned with a written confirmation setting out the period of postponement and their rights during that period. ***A translation of the confirmation may be communicated orally to the third-country national in a language that he or she understands, or may reasonably be presumed to understand, including, where necessary, through the use of interpretation services.***
5. The decision to postpone removal **■** shall be **■** reviewed, **■** ***in case of change of relevant circumstances.***
6. **■** 7. If the removal is postponed, the measures set out in **Articles 21, 29** and 31 may be applied when the conditions are fulfilled.

#### Article 15

##### Monitoring of removal

1. Member States shall provide for an independent mechanism to monitor the respect of fundamental rights during removal operations. **■** ***Member States shall be able to have recourse to already existing monitoring mechanisms, including those established in Regulation (EU) 2024/1356 and in Regulation (EU) 2024/1348.***
2. **■**
3. **■**

#### Article 16

##### Return of third-country nationals posing security risks

1. This Article shall apply to third-country nationals where:
  - a. they pose a threat to public policy, to public security or to national security;
  - b. there are ***clear indications*** for believing that they have committed a serious criminal offence as referred to in Article 2(2) of Council Framework Decision 2002/584/JHA<sup>27</sup> ***or have committed a criminal offence punishable by a custodial sentence of at least two years under national law;***
  - c. there are clear indications of his or her intention to commit an offence pursuant to point (b) of this paragraph in the territory of a Member State.

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<sup>27</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision (OJ L 190, 18.7.2002, p. 1, ELI: [http://data.europa.eu/eli/dec\\_framw/2002/584/oj](http://data.europa.eu/eli/dec_framw/2002/584/oj)).

- ca. *there are clear indications that the person is involved in any of the offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council<sup>28</sup>;*
  - cb. *there are clear indications that they pose any other security threat as identified under national law.*
2. Third-country nationals falling within the scope of this Article shall be subject to removal in accordance with Article 12.
    - 2a. *Paragraph 1, points (b) and (c), shall apply to persons who incite or otherwise participate in the commission of the crimes or acts referred to therein.*
    - 2b. *Member States shall take the necessary measures to ensure that return decisions concerning third-country nationals falling within the scope of this Article are dealt with and executed as a matter of priority.*
  3. By way of derogation from the relevant provisions of this Regulation, third-country nationals falling within the scope of this Article may be:
    - a. subject to an *indefinite* entry ban ■
    - b. detained in accordance with Article 29(3), point (c);
    - c. detained in prisons and, *where possible*, be kept separated from ordinary prisoners;
    - d. subject to detention for a period that exceeds the maximum duration referred to in Article 32(3) and that is determined by a judicial authority taking into account the circumstances of the individual case, and that is subject to a review by a judicial authority at least every three months.
  4. By way of derogation from the provisions of Article 28(2) and (3), the enforcement of a return decision issued to a third-country national falling within the scope of this Article shall not be suspended unless there is a risk to breach the principle of non-refoulement.
    - 4a. *Member States may rely on an existing thorough assessment of all relevant circumstances carried out by the competent authorities at previous stages, including in the context of asylum, visa, border control or screening procedures.*

#### *Article 17*

##### **Return to a third country with which there is an agreement or arrangement**

1. Return within the meaning of Article 4, first paragraph, point (3)(g) of illegally staying third-country nationals requires an agreement or arrangement to be concluded *by the Union or one or more Member States* with a third country. Such an agreement or arrangement may only be concluded with a third country where international human rights standards and principles in accordance with international law, including the principle of non-refoulement, are respected.
2. An agreement or arrangement pursuant to paragraph 1 shall set out the following:

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<sup>28</sup> *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, ELI: <http://data.europa.eu/eli/dir/2017/541/oj>).*

- a. the procedures applicable to the transfer of illegally staying third-country nationals from the territory of the Member States to the third country referred to in paragraph 1;
  - b. the conditions for the stay of the third-country national in the third country referred to in paragraph 1, including the respective obligations and responsibilities of the Member State and of that third country;
  - c. █
  - d. the obligations of the third country referred to in the second sentence of paragraph 1;
  - e. █
  - f. the consequences to be drawn in case of violations of the agreement or arrangement or significant change adversely impacting the situation of the third country.
- 2a. ***Where an agreement or arrangement pursuant to paragraph 1 sets out the modalities of onward return to a country of return referred to in Article 4(3) the agreement or arrangement shall, in addition to paragraph 2, set out the following:***
- (a) the consequences in case onward return is not possible;***
  - (b) the respective obligations and responsibilities of the Member State or the Union and of that third country;***
  - (c) the consequences to be drawn in case of a significant change adversely impacting the situation of the third country;***
  - (d) an independent body or mechanism to monitor the effective application of the agreement or arrangement.***
- The agreement or arrangement pursuant to the first subparagraph may include the conditions for detention in the third country.***
3. Prior to concluding an agreement or arrangement pursuant to paragraph 1, ***with a third country that shares a common border with those Member States.*** Member States shall inform the Commission and the other Member States ***of any bilateral or multilateral agreements or arrangements concluded in accordance with paragraph 1, prior to their entry into force, or, where an agreement or arrangement is to be applied provisionally, before the beginning of its provisional application. The Commission and the other Member States shall also be informed of any subsequent changes to, or the termination of, such agreements or arrangements.***
  4. Unaccompanied minors █ shall not be returned to a third country referred to in paragraph 1.

## SECTION 5 RETURN OF MINORS

### *Article 18*

#### **Best interests of the child**

The best interests of the child shall be a primary consideration when applying the provisions in accordance with this Regulation.

## Article 19

### Age assessment of minors

Where, as a result of statements by the third-country national, available documentary evidence or other relevant indications, there are doubts as to whether or not he or she is a minor, the competent authority may undertake a multi-disciplinary assessment, including a psychosocial *and medical* assessment, which shall be carried out by qualified professionals, to determine the third-country national's age. Article 25 of Regulation (EU) 2024/1348 shall apply by analogy to such assessment.

*Where there are reasonable grounds to consider that a person claiming to be a minor may pose a threat to public order or national security, the competent authorities shall ensure that the age assessment procedure is conducted as a matter of priority and without undue delay, in full respect of the principles of necessity and proportionality.*

*The competent authority may rely on previous age assessment conducted in previous states of the return or other relevant procedures. A Member State may recognise age assessment decisions taken by other Member States where the age assessments were carried out in compliance with Union law.*

*A refusal to undergo an age assessment, including the medical examination shall not prevent the determining authority from taking a decision on the age of the third-country national.*

## Article 20

### Return of unaccompanied minors

1. **Assistance** by appropriate bodies other than the authorities enforcing return shall be provided in accordance with the best interests of the child.
2. A representative or a person *designated* to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that the minor understands *or may reasonably be presumed to understand*. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.
3. The unaccompanied minor shall be heard, either directly or through the representative or trained person referred to in paragraph 2, including in the context of the determination of the best interests of the child. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return.

## Chapter III

# OBLIGATIONS OF THE THIRD-COUNTRY NATIONAL

### *Article 21*

#### **Obligation to cooperate**

1. Third-country nationals shall ***comply with the obligation to leave the territory of the Member States and they shall*** have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.
2. Third-country nationals shall:
  - a. remain ***available to the authorities*** on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State;
  - aa not physically obstruct the enforcement of the return;***
  - b. provide, **■** without undue delay, all information and physical ***and digital*** documentation, ***including copies and electronic records*** necessary for establishing or verifying identity or otherwise relevant within the return and readmission procedure that they possess;
  - c. not destroy or otherwise dispose of such documents, use aliases with fraudulent intent, provide other false information in an oral or written form, ***mislead the authorities or withhold relevant information, provide forged documents*** or otherwise fraudulently oppose the return or readmission procedure;
  - d. provide an explanation in case they are not in possession of an identity or travel document;
  - e. provide information on the third countries transited, ***the travel routes used, or other third countries with which he or she may have a connection or through which he or she may have transited;***
  - f. provide biometric data as defined in Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council<sup>29</sup>;

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<sup>29</sup> Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of ‘Eurodac’ for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council (OJ L, 2024/1358, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1358/oj>).

- g. provide, *when requested by the competent authorities* precise contact details, including current place of residence, address, telephone number where they may be reached and, where available, an electronic mail address;
- h. provide, without undue delay, information on any changes to the contact details referred to in point (g);
- i. *comply with any measure imposed under* Articles 23 and 31 throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return;
- j. provide all required information and statements in the context of requests lodged with the competent authorities of relevant third countries for the purpose of obtaining travel documents and cooperate with these authorities of third countries, as necessary;
- k. when necessary, appear in person or **■** by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality *and to acquire travel documents*;
- l. where required by competent authorities, participate in return and reintegration counselling;

*la comply with other relevant additional measures in relation to return under national law.*

*Obligations imposed upon the third-country national under this Article shall be without prejudice to obligations and measures not related to return provided for under national law.*

3. The information and **■** documentation or, where not available, copies thereof, referred to in paragraph 2, point (b), shall include in particular the third-country nationals' statements and any documentation in their possession regarding:
  - a. their name, date and place of birth, gender and nationality or nationalities or the fact that the third-country national is stateless;
  - b. their family members and other personal details of the third-country national if relevant for carrying out the return or readmission procedure or for the determination of the country of return;
  - c. the type, number, period of validity and issuing country of any identity or travel document of the third-country nationals and other documents provided by them which the competent authority deems relevant for the purposes of identifying them, for carrying out the return or readmission procedure and for the determination of the country of return;
  - d. any residence permits or other authorisation offering the third-country nationals a right to stay issued by another Member State or by a third country;
  - e. any return decision, *removal order or entry ban* issued by another Member State;
  - f. country or countries and place or places of previous residence, travel routes, *countries transited* and travel documentation.
4. Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-

country national immediately receives photocopies or ***other appropriate proof of retention of the documents***. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.

5. The third-country national shall accept any communication from the competent authorities, using the most recent contact details indicated by himself or herself to the competent authorities. Member States shall either establish in national law the method of communication and the point in time at which the communication is considered received by and notified to the third-country national or make use of digital systems developed and/or supported by the Union for the purpose of such communication.
6. A third-country national may be searched or his or her personal belongings may be searched ***and seized, including digital and electronic devices and other items of relevance***, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation ***may be carried out without the consent of the third-country national and*** shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.

***Any measure imposed in accordance with the first subparagraph of this paragraph shall respect the fundamental rights and be subject to the safeguards and remedies provided for in Union and national law.***

## *Article 22*

### **Consequences of non-compliance with the obligation to cooperate**

In case of non-compliance with the obligations set out in Article 21 ***(1) and (2)***, points (a) to (k), Member States shall provide for a possibility to impose, following an individual assessment, effective, proportionate and dissuasive measures ***or sanctions*** on the third-country national, out of the following:

- (1) refusal or reduction of certain benefits and allowances granted under Member State law to the third-country nationals concerned unless this would lead to the persons' inability to make provision of their basic needs;
  - (2) refusal or reduction of incentives granted to promote voluntary return in accordance with Article 13 or reduced assistance in return and reintegration programmes pursuant to Article 46(3);
  - (3) seizure of identity or travel documents provided that the third-country national receives a copy;
  - (4) refusal or withdrawal of work permit, pursuant to national law;
  - (5) extension of the duration of an entry ban in line with Article 10(7);
  - (6) financial penalties.
- (6a) criminal sanctions, including imprisonment, in accordance with national law*** incentivise the compliance with the obligations to leave and cooperate third-country nationals shall, for the duration of the return procedure, be subject to one or more of the following measures:

- a. ***obligation to remain within*** a geographical area within the Member State's territory in which they are able to move freely;
  - b. ***obligation to reside*** ■ at a specific address ***or place designated by the competent authority***;
  - c. reporting to the competent authorities at a specified time or at reasonable intervals.
  - ca. ***other measures than those referred to in points (a) to (c) where provided for in national law.***
2. Paragraph 1 shall only be applied to the extent that it is compatible with the special needs of vulnerable persons and the best interests of the child.
  3. Upon request, competent authorities may grant the third-country national permission to:
    - a. temporarily leave the geographical area for duly justified urgent and serious family reasons or necessary medical treatment which is not available within the geographical area;
    - b. reside temporarily outside the place designated in accordance with paragraph 1, point (b);
    - c. temporarily not comply with the reporting obligation.
  4. Decisions regarding the permissions listed in paragraph 3, first subparagraph, shall be taken objectively and impartially on the merits of the individual case ■ .
  5. The third-country national shall not be required to request permission to attend appointments with authorities and courts ***where it would otherwise have violated the obligations in paragraph 1, and where*** the attendance of that third-country national is necessary. The third-country national shall notify the competent authorities of such appointments.
  6. The ***third-country national shall be informed of the*** decisions taken in accordance with paragraph 1, points (b) and (c), ***and the consequences of non compliance with those decisions, and shall*** be made in writing, be proportionate and take into account specific circumstances of the third-country national concerned.

## Chapter IV SAFEGUARDS AND REMEDIES

### SECTION 1 PROCEDURAL SAFEGUARDS

#### *Article 24*

#### **Right to information**

1. Third-country nationals subject to the return procedure shall be informed ■ about the following:
  - a. the purpose, duration and steps of the return procedure as well as information on the available legal remedies and the time-limits to seek those remedies;

- b. the rights and obligations of third-country nationals during the return procedure as set out in Article 21 and Article 23, the consequences of non-compliance pursuant to Article 22 **and 29(3), point (e)**, the existence of an alert on return on the person in the Schengen Information System and the recognition and enforcement of a return decision issued by another Member State in accordance with Article 9;
  - c. return and reintegration counselling and programmes pursuant to Article 46;
  - d. their procedural rights and obligations throughout the return procedure in accordance with this Regulation and national law, **including** the right to legal assistance and representation pursuant Article 25.
2. The information provided shall be given without undue delay in simple and accessible language and in a language which the third-country national understands or is reasonably supposed to understand, including through written or oral translation and interpretation as necessary. That information shall be provided by means of standard information sheets, either in paper or in electronic form. In the case of **unaccompanied** minors, the information shall be provided in a child-friendly and age-appropriate manner with the involvement of the holder of parental responsibility or the representative referred to in Article 20(2). ■

#### *Article 25*

#### **Legal assistance and representation**

1. In the case of an appeal or a review before a judicial authority in accordance with Article 27, Member States shall, at the request of the third-country national, ensure that free legal assistance and representation is made available as necessary to ensure the right to an effective remedy and fair trial.
2. **Member States shall ensure that unaccompanied minors are represented and assisted in such a way so as to enable them to benefit from the rights and comply with the obligations under this Regulation** shall automatically be provided with free legal assistance and representation.
3. ■
4. Free legal assistance and representation shall be provided by legal advisers or other suitably qualified persons **or organisations**, as admitted or permitted under national law, whose interests do not conflict or could not potentially conflict with those of the third-country national.
5. The provision of free legal assistance and representation in the appeal procedure may be excluded by the Member States where:
  - a. the third-country national is considered to have sufficient resources to afford legal assistance and representation at his or her own cost;
  - b. it is considered that the appeal has no tangible prospect of success or is abusive;
  - c. the appeal or review is at a second level of appeal or higher, as provided for under national law, including re-hearings or reviews of appeal;
  - d. the third-country national is already assisted or represented by a legal adviser.
6. The third-country national requesting free legal assistance and representation shall disclose his or her financial situation.

7. With the exception of any assistance provided to unaccompanied minors, and in line with the respect of the essence of the right to an effective remedy, Member States may:
  - a. impose monetary or time limits on the provision of free legal assistance and representation, provided that such limits are not arbitrary and do not unduly restrict access to free legal assistance and representation ■ ;
  - b. request total or partial reimbursement of any costs incurred where the third-country national's financial situation has improved during the return procedure or where the decision to provide free legal assistance and representation was taken on the basis of false information supplied by the third-country national; ***third-country nationals shall immediately inform the competent authorities of any significant change in their financial situation;***
  - c. provide that, as regards fees and other costs and reimbursements, the treatment of third-country nationals shall be equal to, but not more favourable than, the treatment generally given to their nationals in matters pertaining to legal assistance.
8. Member States shall lay down specific procedural rules governing the manner in which requests for free legal assistance and representation are filed and processed, or apply existing rules for domestic claims of a similar nature, provided that those rules do not render access to free legal assistance and representation excessively difficult or impossible.
9. Where a decision not to grant free legal assistance and representation is taken by an authority which is not a judicial authority on the grounds that the appeal is considered to have no tangible prospect of success or to be abusive, the applicant shall have the right to an effective remedy before a judicial authority against that decision. ■
10. Member States may provide for free legal assistance and representation in the administrative procedure in accordance with national law.

## SECTION 2 REMEDIES

### *Article 26*

#### **The right to an effective remedy**

1. The third-country national concerned shall be afforded an effective remedy to challenge the decisions referred to in Article 7, Article 10 and Article 12(2) before a competent judicial authority.
2. The effective remedy shall provide for a full ■ examination of both points of facts and points of law, ***including compliance with the requirements arising from the principle of non-refoulement.***
3. ■

### *Article 27*

#### **Appeal before a competent judicial authority**

1. For the purpose of ensuring the right to an effective remedy in accordance with Article 26, Member States shall lay down in their national law reasonable time limits for the competent judicial authority of first instance to examine the decisions referred to in Article

7, Article 10 and Article 12(2), providing for an adequate and complete examination of the appeal. The period for lodging an appeal before a judicial authority of first instance shall not exceed 14 days.

2. Time limits referred to in paragraph 1 shall start to run from the date when any of the decisions referred to in Article 7, Article 10 and Article 12(2) are notified to the third-country national, or from another date to be determined by national law, notably when the third-country national concerned has absconded.
  3. Where a return decision is based on, or issued in, the same act as a decision refusing or ending the legal stay, the time limits to appeal the return decision may be those laid down in national law for appealing a decision ending or refusing legal stay.
  4. Where an entry ban **and/or a decision ordering the removal** is issued together with a return decision as referred to in Article 7, it shall be appealed against jointly with that return decision, before the same judicial authority and within the same judicial proceedings and the same time limits. Where an entry ban **and/or a decision ordering the removal is** issued separately from the return decision or is the only decision to be challenged, it may be appealed against separately. The time limits to bring such separate judicial proceedings shall be the same as those laid down in case where the entry ban is jointly appealed against with the return decision
  5. Where the documents are not submitted in due time, as determined by the competent judicial authority, in the event that the translation is to be provided by the applicant, or where documents are not submitted in time for the judicial authority to ensure that they are translated in the event that the translation is ensured by the competent judicial authority, the judicial authority may refuse to take those documents into account.
- 5a. *In the context of the recognition and enforcement of return decisions issued by another Member State, as provided for in Article 9, the remedy against the decisions referred to in Articles 7 and 10 and Article 12(2) shall be exercised in the issuing Member State.***

#### Article 28

##### Suspensive effect

1. ***This Regulation does not provide for the automatic suspensive effect of an appeal.*** The enforcement of the decisions issued pursuant to Article 7, Article 10 and Article 12(2) ***may, upon request or ex officio, be suspended by the competent judicial authority until the expiry of the time limit within which the third-country national may exercise the right to an effective remedy or, where an appeal has been lodged, pending the outcome of the appeal*** before a judicial authority of first instance referred to in Article 27 **█**. ***This shall be without prejudice to provisions of national law according to which remedies before a court or tribunal of first instance have suspensive effect.***
- 1a. ***In the assessment of this request, the competent authorities may rely on an existing thorough assessment of all relevant circumstances carried out at previous stages of the return procedure and, where relevant, of the asylum procedure.***

█

█

2. █

## Chapter V

# PREVENTION OF ABSCONDING AND DETENTION

### *Article 29*

#### **Grounds for detention**

1. Member States may detain a third-country national pursuant to this Regulation on the basis of an individual assessment of each case and only in so far as detention is proportionate.
2. Member States may only keep in detention a third-country national for the purpose of preparing the return, ***readmission or*** carrying out the removal.
3. A third-country national may only be detained based on one or more of the following grounds for detention:
  - a. risk of absconding determined in accordance with Article 30;
  - b. the third-country national avoids or hampers the preparation of the return, ***the readmission*** or the removal process;
  - c. the third-country national poses security risks in accordance with Article 16;
  - d. to determine or verify his or her identity or nationality;
  - e. non-compliance with the measures ordered pursuant to ***Articles 21 and 31, including the lack of cooperation in obtaining travel documents.***
  - ea. any other relevant factor indicating that detention is necessary to ensure a timely and effective return, as determined by the Member States and in accordance with national law.***
4. Those detention grounds shall be laid down in national law.
5. Detention shall be ordered by administrative or judicial authorities. Detention shall be ordered by a written decision giving the reasons in fact and in law on which it is based as well as information about available legal remedies. The decision shall be ***communicated*** to the third-country national ***orally or in writing*** in a language that the third-country national understands or may reasonably be presumed to understand, ***including the use of interpretation or translation services.***
6. When detaining a third-country national pursuant to paragraph 2, Member States shall take into account any visible signs, statements or behaviour related to, or made or shown by, the third-country national indicating that he or she is a vulnerable person.

### *Article 30*

#### **Risk of absconding**

1. There is a risk of absconding in an individual case, unless proven otherwise, when one of the following criteria is fulfilled:

- a. the third-country national has ***entered or*** moved without authorisation to the territory of another Member State or other Member States, including following a transit through a third country, or attempts to do so;
  - b. the third-country national is subject to a return decision or enforcing decision issued by a Member State other than the one on the territory of which the person is currently staying illegally, including as detected through the alerts entered in the Schengen Information System pursuant to Regulation (EU) 2018/1860;
  - c. ***the third-country national does not comply*** with the measures pursuant to Article 23;
  - ca. ***the third-country national has re-entered the territory of the Member States in violation of a valid entry ban;***
  - cb. ***the third-country national physically or violently opposes the removal.***
2. In cases not covered by paragraph 1, the risk of absconding shall be determined on the basis of an overall assessment of the specific circumstances of the individual case and where one of the following criteria regarding the third-country national concerned is met:
- a. lack of residence, fixed abode or reliable address;
  - b. ■ expression of intent of non-compliance with return-related measures applied by virtue of this Regulation, or actions clearly demonstrating intention not to comply with such measures;
  - c. non-compliance with the obligations of a return decision until the date by which the third-country national is to leave the territory of the Member States as set out in Article 13;
  - cc. ***when departure is imminent and there are reasonable grounds to believe that the third-country national intends to violate the obligation to cooperate as set out in Article 21(2), point (a);***
  - d. non-compliance with the obligation to cooperate with the competent authorities of the Member States at all stages of the procedures pursuant to this Regulation, as referred to in Article 21(2) ■ ;
  - e. when departure is imminent and there are serious reasons to believe third-country national intends to violate the obligation to cooperate as set out in Article 21(2), point (1);
  - f. using false or forged identity or travel documents, residence permits or visas, or documents justifying conditions of entry, destroying or otherwise disposing of such documents, using aliases with fraudulent intent, providing other false information in an oral or written form, or otherwise fraudulently opposing the return or readmission procedure;
  - g. ■ ;
  - h. ■ ;
- 2a. ***Member States may determine that a third-country national poses a risk of absconding on the basis of additional factors or evidence recognised under national law, insofar as these elements justify such a conclusion and contribute to ensuring the effective and timely enforcement of the return decision.***

## Article 31

### Alternatives to detention

1. Member States shall provide for alternative measures to detention in national law. Such measures ***shall primarily aim to ensure the effective and timely return of the third-country national and*** shall be ordered taking into account the individual circumstances of the third-country national concerned, including the level of the risk of absconding assessed in accordance with Article 30.
2. For that purpose, Member States ***may impose one or more*** of the following measures:
  - a. the obligation to regularly report to competent authorities with a frequency of up to 3 days, based on the individual circumstances;
  - b. the obligation to surrender identity or travel documents to the competent authorities;
  - c. the obligation to reside in a place designated by competent authorities;
  - d. deposit of an adequate financial guarantee;
  - e. the use of electronic monitoring

***ea. restriction of movement or curfews to designated areas;***

***eb. any other measures where provided for in national law.***
3. A decision to apply measures referred to in paragraph 2 shall state the relevant reasons in fact and in law.
4. Third-country nationals shall be notified of any decision to apply measures referred to in paragraph 2 of this Article and shall be informed about the consequence of non-compliance with that decision, including ***detention*** pursuant to Article 29(3)
5. Member States shall ensure that the decisions taken in accordance with paragraph 2 of this Article are reviewed speedily by a judicial authority on application by the person concerned or *ex officio*.

## Article 32

### Detention period

1. Detention shall be maintained for as short a period as possible and for as long as the ***grounds*** laid down in Article 29 are fulfilled and it is necessary to ensure ***the effective, timely and*** successful return ***of the third-country national***.
2. When it appears that the ***grounds*** laid down in Article 29 are no longer fulfilled, detention shall cease to be justified the third-country national shall be released. Such release shall not preclude the application of measures in accordance with Article 23 and Article 31.
3. The detention shall not exceed 12 months in a given Member State. Detention may be extended for a period not exceeding a further 12 months in a given Member State where the return procedure is likely to last longer owing to a lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries, ***or in exceptional circumstances provided for in national legislation, where necessary to ensure return***.
4. The expiry of the maximum detention period in accordance with paragraph 3 does not preclude the application of measures in accordance with Article 23 and Article 31.

- 4a. *Member States may prolong the detention of third-country nationals identified as posing a security risk in accordance with Article 16(3), point (c), for a period exceeding the maximum duration referred to in paragraph 3 of this Article.*
- 4b. *Where a third-country national is cooperating on their return during detention, the voluntary return of the third-country national concerned shall be organised without undue delay. Detention may, where relevant, be maintained until departure to ensure effective return.*

#### Article 33

##### Review of detention orders

1. Detention shall be reviewed at regular intervals of time and at least every **six** months either on application by the third-country national concerned or *ex officio*.
2. Detention of unaccompanied minors shall be reviewed *ex officio* at regular intervals of time and at least every three months *or, when duly justified, upon request of a representative appointed pursuant to Article 20(2)*.
3. Where detention has been ordered or extended by administrative authorities, Member States shall ensure that all relevant facts, evidence and observations submitted during the proceedings are subject to judicial review, by providing that:
  - a) any judicial review of the lawfulness of detention be concluded as speedily as possible after the beginning of the detention, ***within a period provided for in national law***; or
  - b) the third-country national concerned be granted the right to initiate proceedings by means of which the lawfulness of detention is subject to judicial review, to be ***within a period provided for in national law***. ***In*** such cases Member States shall immediately upon detention inform the third-country national concerned about the possibility of initiating such proceedings.

#### Article 34

##### Detention conditions

1. Detention shall take place, as a rule, in specialised facilities, including those in dedicated branches of other facilities. Where a Member State cannot provide for detention in such facilities and is obliged to resort to prison accommodation, the third-country nationals shall, ***when possible*** be kept separated from ordinary prisoners. ***Member States may adopt temporary measures to expand capacity in exceptional return situations.***
2. Detained third-country nationals shall have access to open-air space. ***Access may be restricted for a limited period of time, if necessary and proportionate to ensure a well-functioning detention facility.***
3. Third-country nationals in detention shall be allowed, on request, to establish in due time contact with legal representatives, family members and competent consular authorities ***subject to practical arrangements and security considerations.***
4. Particular attention shall be paid to, and special accommodation provided for, the special needs of detained vulnerable persons. Emergency health care and essential treatment of illness shall be provided to detained third-country nationals.

5. Legal representatives, family members, competent consular authorities and relevant and competent national, international and non-governmental organisations and bodies shall, **at the request of the third-country national** have the possibility to visit any detention facility and communicate with the third-country nationals and visit them in conditions that respect privacy. Such visits may be subject to authorisation. **Member States may impose limits on such access by virtue of national law where such limits are objectively necessary for the security, public order or administrative management of the facility.**
6. Third-country nationals kept in detention shall be provided in writing with information which explains the rules applied in the facility and sets out their rights and obligations in plain intelligible language and in a language they understand **or they are supposed to understand** Such information shall include information on their entitlement under national law to contact the persons or bodies referred to in paragraphs 3 and 5.
- 6a **Third-country nationals identified as posing a security risk pursuant to Article 16 may be placed in enhanced security arrangements within detention facilities, including stricter separation measures or increased supervision, for the period strictly necessary to manage the risk and facilitate their return.**

#### Article 35

##### **Conditions for detention of unaccompanied minors and families with minors**

1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time and taking into account the best interests of the child.
2. Families **with minors** and unaccompanied minors detained in preparation for return shall be provided with separate accommodation guaranteeing adequate privacy. Personnel shall be adequately trained, and facilities adapted to take into account the needs of persons of their age and of their gender, including appropriate hygiene, food, health services and other infrastructure.
3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have access to education in the format most appropriate to the length of their detention.

## **Chapter VI READMISSION**

#### Article 36

##### **Readmission procedure**

1. Upon issuance of an enforceable return decision, **█** competent authorities, with the support of Frontex where applicable, shall **where relevant and necessary** systematically and without undue delay initiate the readmission procedure **for the purpose of implementing a return decision or a removal order.**

2. When a travel document needs to be obtained from the third country authorities, the competent authorities shall submit a readmission application **■ necessary for *establishing identity*, confirmation of nationality *or to obtain travel* documents. ■**
  3. The competent authorities may submit the request for travel document separately where it is preferable for legal or operational reasons<sup>■</sup>. Where applicable, the European travel document for return shall be used in compliance with the applicable readmission instrument and Regulation (EU) 2016/1953<sup>30</sup>.
  4. Information about the outcome of the request for confirmation of nationality and the travel document obtained shall be **■** made available to the competent authorities of other Member States upon request *via the Schengen Information System*.
  5. Member States may enter into appropriate arrangements for the purpose of facilitating the organisation of identification interviews in another Member State, including for the purpose of implementing Article 44.
- 5a *Upon request of the competent authorities, Frontex may support the Member States in the readmission process, including through identification assistance, liaison officer networks and coordination with third-country authorities, in accordance with its mandate.***
6. **■**
    - a. **■** ;
    - b. **■** .
  7. The readmission procedure in third countries shall be supported by dedicated Union return liaison officers financed by the Union. Such liaison officers shall be part of the structure of the Union Delegations and shall closely coordinate with the Commission in achieving the relevant Union policy priorities.

#### *Article 37*

#### **Communication with non-recognised third-country entities**

1. The competent authorities may communicate, as necessary ***and in a strictly operational capacity***, with non-recognised third country ***representatives*** responsible for one or more of the steps of the readmission procedure.
  2. Such communication shall be limited to what is necessary for carrying out the readmission procedure and shall not amount to diplomatic recognition of the entities concerned.
- 2a. *Any communication under this Article shall be strictly without prejudice to the Union's position on the status of the territories or entities concerned and shall not be considered as recognition, support or endorsement of their authority or legitimacy.***

#### *Article 37a*

#### ***External dimension and cooperation with third countries***

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<sup>30</sup> Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994 (OJ L 311, 17.11.2016, p. 13, ELI: <http://data.europa.eu/eli/reg/2016/1953/oj>).

1. *The Union and Member States shall ensure that the external dimension of return policy forms an integral part of the comprehensive approach to migration management.*
2. *The Union and the Member States shall pursue balanced and comprehensive partnerships with third countries, making return, readmission and reintegration core components of their engagement.*
3. *The coordinated use of all relevant Union policies and tools, including visa policy, trade, development and diplomatic instruments, shall be directly conditional on the level of cooperation on readmission, in order to support predictable and effective procedures with third countries.*
4. *Member States shall inform the Commission and the other Member States of the implementation of their partnerships, the challenges encountered and the level of cooperation of the third countries concerned, in order to support a coordinated Union approach.*
5. *Where persistent or unjustified lack of cooperation from a third country is identified, the Union shall take appropriate measures, including the use of restrictive policy tools, to ensure that effective and sustained cooperation on readmission is restored.*

## **Chapter VII**

### **SHARING AND TRANSFER OF PERSONAL DATA**

#### *Article 38*

##### **Information sharing between Member States**

1. Member States shall make use of all appropriate means of cooperation and of exchanging information to implement this Regulation.
2. The exchange of information shall be carried out at the request of a Member State and may only take place between Member States' competent authorities.
3. Member States shall communicate to each other, on request, information concerning a person within the scope of this Regulation for the purpose of carrying out the return procedure, the readmission procedure and providing reintegration assistance.
4. Where the information referred to in paragraph 3 can be exchanged through the EU Information Systems referred to in point 15 of Article 4 of Regulation (EU) 2019/818 of the European Parliament and of the Council<sup>31</sup> or through supplementary information in compliance with Regulation (EU) 2018/1860, such information shall be exchanged only through those means.
5. The requested data shall be adequate, relevant, accurate, limited to what is necessary for the intended purpose and shall set out the grounds on which it is based.
6. The information referred to in paragraph 3 *may* include in particular:

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<sup>31</sup> Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, ELI: <http://data.europa.eu/eli/reg/2019/818/oj>).

- a. information necessary to establish the identity of the third-country national and, where applicable, the identity of his or her family members, relatives and any other family relations; █
  - b. information related to the biometric data taken of the third-country national in accordance with Regulation (EU) 2024/1358; █
  - c. information related to the nationality and the travel document(s) of the third-country national; █
  - d. information related to the third-country national's places of residence, routes travelled, languages spoken and contact details (electronic mail address(es) and phone number(s));
  - e. information on residence documents or visas issued by a Member State or a third country;
  - f. information related to the return operation of the third-country national; █
  - g. information related to the reintegration of the third-country national; █
  - h. the grounds for any return decision, *removal order and/or entry ban* taken concerning the third-country national;
  - i. information as to whether the third-country national was detained or alternatives to detention were applied to the individual;
  - j. information related to the criminal records or related to the threat to public policy, public security or national security posed by the third-country national;
  - k. information on vulnerability, health and medical needs of the third-country national;
  - ka. information on the cooperation of the third-country national in accordance with the obligations laid down in Article 21.**
7. The requested Member State shall be obliged to reply as soon as possible and at the latest within *two weeks Member States shall, upon request, transfer to each other the original travel documents of a third-country national where such documents are necessary to ensure return.*
- 7a. A lack of response, an incomplete response or a delayed response from a Member State to a request made pursuant to this Article shall not prevent or delay the execution of a return decision or a removal order initiated by another Member State. The requesting Member State may proceed on the basis of the information already available to its competent authorities, in accordance with Union and national law.**
8. The information exchanged may be used only for the purposes set out in paragraph 3. In each Member State such information may, depending on its type and the powers of the recipient authority, only be communicated to authorities or judicial authorities entrusted with the return procedure, the readmission procedure or the provision of reintegration assistance.

#### *Article 39*

### **Transfer of data to third countries relating to third-country nationals for the purposes of return, readmission and reintegration**

1. Without prejudice to Articles 40 and 41, data referred to in Article 38(6), points (a) to (h) may be processed and transferred by a competent authority and, where applicable, Frontex to a third country's competent authority where the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country provided it is necessary for the purposes of carrying out the ***return, removal and/or*** readmission procedure.
2. Without prejudice to Articles 40 and 41, data referred to in Article 38(6), points (a), (c), (f) and (g), may be processed and transferred by a competent authority, and, where applicable, Frontex to third parties competent for reintegration assistance where the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with third parties competent for reintegration assistance provided it is necessary for the purposes of providing reintegration assistance.
3. Member States and Frontex transferring personal data pursuant to paragraph 1 or 2 shall ensure that such transfers comply with Chapter V of Regulation (EU) 2016/679 and Chapter V of Regulation (EU) 2018/1725, respectively.
4. Where a transfer is made pursuant to paragraph 1 or 2, such a transfer shall be documented and the documentation shall, on request, be made available to the competent supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 and Article 52(1) of Regulation (EU) 2018/1725, including the date and time of the transfer and information about the receiving third country's competent authority. ***That documentation shall be limited to the information strictly necessary to demonstrate compliance with the legal basis for the transfer and shall not entail any additional reporting obligations for Member States.***

#### *Article 40*

#### **Transfer of data to third countries relating to criminal convictions of third-country nationals for the purposes of readmission and reintegration**

1. Data relating to one or several criminal convictions of a third-country national may be processed and transferred in individual cases by a competent authority and, where applicable, Frontex, to a third country's competent authority where the following conditions are met:
  - a. the third-country national whose personal data is transferred has been convicted in the previous 25 years of a terrorist offence or in the previous 15 years of any other criminal offence listed in the Annex to Regulation (EU) 2018/1240 of the European Parliament and of the Council<sup>32</sup> ***or has committed an offence carrying a penalty involving the deprivation of liberty*** of at least ***one year*** under the national law of the convicting Member State;
  - b. the transfer of data is necessary for the purposes of carrying out the readmission procedure referred to in Article 36;

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<sup>32</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1240/oj>).

- c. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country for the purpose of carrying out the readmission procedure;
  - d. prior to the transfer, the competent authority and, where applicable, Frontex, has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement;
  - e. prior to the transfer, the competent authority and, where applicable, Frontex, has satisfied itself that the transfer of data does not risk breaching Article 50 of the Charter.
2. Data relating to one or several criminal convictions of a third-country national may be processed and transferred in individual cases by a competent authority and, where applicable, Frontex to a third party competent for reintegration assistance where the following conditions are met:
- a. the third-country national whose personal data is transferred has been convicted in the previous 25 years of a terrorist offence or in the previous 15 years of any other criminal offence listed in the Annex to Regulation (EU) 2018/1240 if it is punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of the convicting Member State;
  - b. the transfer of data is necessary for the purposes of providing a tailor-made and non-financial reintegration assistance referred to in Article 46;
  - c. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with a third party competent for reintegration assistance for the purposes of providing tailor-made and non-financial reintegration;
  - d. prior to the transfer, the competent authority and, where applicable, Frontex has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement.
3. Member States and Frontex transferring personal data pursuant to paragraph 1 or 2 shall ensure that such transfers comply with Chapter V of Regulation (EU) 2016/679 and Chapter V of Regulation (EU) 2018/1725, respectively.
4. Where a transfer is made pursuant to paragraph 1 or 2, such a transfer shall be documented and the documentation shall, on request, be made available to the competent supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 and Article 52(1) of Regulation (EU) 2018/1725, including the date and time of the transfer, information about the receiving third country's competent authority, the justification that the transfer complies with the conditions laid down in paragraph 1 or 2 and the personal data transferred.

#### *Article 41*

#### **Transfer of health data of third-country nationals to third countries for the purposes of carrying out the return operation and reintegration**

1. Data concerning the medical assistance to be provided to third-country nationals during the return operation may be processed and transferred in individual cases by a competent authority and, where applicable, Frontex, to a third country's competent authority where the following conditions are met:

- a. the transfer of data is necessary for the purposes of carrying out the return operation;
  - b. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country for the purposes of carrying out the return operation;
  - c. prior to the transfer, the competent authority and, where applicable, Frontex has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement.
2. Data concerning health *and medical needs* of third-country nationals may be processed and transferred in individual cases by a competent authority and, where applicable, Frontex to a third party competent for reintegration assistance where the following conditions are met:
- a. the transfer of data is necessary for the purposes of providing reintegration assistance referred to in Article 46 that is tailored to the medical needs of the third-country national;
  - b. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with a third party competent for reintegration assistance, for such assistance to be tailored to his or her medical needs, and has consented to such transfer.
3. Member States and Frontex transferring personal data pursuant to paragraph 1 or 2 shall ensure that such transfers comply with Chapter V of Regulation (EU) 2016/679 and Chapter V of Regulation (EU) 2018/1725, respectively.
4. Where a transfer is made pursuant to paragraph 1 or 2, such a transfer shall be documented and the documentation shall, on request, be made available to the competent supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 and Article 52(1) of Regulation (EU) 2018/1725, including the date and time of the transfer, information about the receiving third country's competent authority, the justification that the transfer complies with the conditions laid down in paragraph 1 or 2 and the personal data transferred.

## **Chapter VIII**

### **COMMON SYSTEM FOR RETURNS**

#### *Article 42*

##### **Components of a common system for returns**

1. A common system for returns pursuant to this Regulation shall consist of:
  - a. a common procedure for the return of third-country nationals with no right to stay in the Union, including a common procedure for readmission as an integral part thereof;
  - b. a system of recognition and enforcement of return decisions among Member States;
  - c. the necessary resources and sufficient competent personnel in Member States for the implementation of this Regulation, including for detention;

- d. digital systems for managing the return, readmission and reintegration of third-country nationals;
  - e. cooperation between Member States;
  - f. **financial support by the Union and operation support by the** Union bodies, offices and agencies supporting pursuant to Article 43(4) and in line with their respective mandates.
- 1a. The development of digital systems shall rely, to the greatest extent possible, on existing national infrastructures and interoperable Union systems and shall not create additional reporting or procedural burdens for Member States.**
2. The Union and the Member States shall identify common priorities in the field of return, readmission and reintegration and ensure the necessary follow-up, taking into account the European Asylum and Migration Management Strategy adopted pursuant to Article 8 of Regulation (EU) 2024/1351, the implementation of the return border procedure pursuant to Regulation (EU) 2024/1351, the assessment of the level of cooperation of third-countries with Member States on readmission in accordance with Article 25a of Regulation (EC) 810/2009 of the European Parliament and of the Council<sup>33</sup> and the Union readmission instruments and any other Union instrument relevant for the cooperation on readmission.
  3. The Union and the Member States shall ensure loyal cooperation and close coordination between competent authorities and between the Union and the Member States, as well as synergy between internal and external components, taking into account their shared interest in the effective functioning of the Union's asylum and migration management policies.

#### *Article 43*

#### **Competent authorities and resources**

1. Each Member State shall designate, in accordance with national law, the competent authorities responsible for fulfilling the obligations arising under this Regulation.
2. Each Member State shall allocate the necessary resources to competent authorities, including appropriately trained staff.
3. Member States shall ensure a sufficient level of detention capacity taking into account actual needs and expected returns in the next 12 months, particularly for the purpose of well-prepared systems and contingency planning pursuant to Article 7 of Regulation (EU) 2024/1351.
4. Member States may be supported by competent authorities of another Member State in accordance with Article 44 and relevant staff of Union Agencies, including in accordance with Article 45.

#### *Article 44*

#### **Cooperation between Member States**

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<sup>33</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1, ELI: <http://data.europa.eu/eli/reg/2009/810/oj>).

1. Cooperation and assistance between competent authorities designated in accordance with Article 43 shall take place for the purpose of:
  - a. allowing transit through their territory to assist that a return decision of another Member State can be complied with or travel documents obtained;
  - b. providing logistical, financial or other material or in-kind assistance;
  - ba. *facilitating the transfer referred to in Article 8(1), point (b);***
  - c. leading or supporting the policy dialogue and exchanges with the authorities of third countries for the purpose of facilitating readmission;
  - d. contacting the competent authorities of third countries for the purpose of verifying the identity of third-country nationals and obtaining a valid travel document;
  - da. *supporting the return or removal of a third-country national to the Member State in which he or she has a right to stay in accordance with Article 8(3);***
  - e. organising, on behalf of the requesting Member State, the practical arrangement for the enforcement of return;
  - f. facilitating the transfer referred to in Article 8(1), point (b);
  - g. supporting the departure of a third-country national towards the Member State in which he or she has a right to stay in accordance with Article 8(1), first subparagraph.

#### *Article 45*

#### **Frontex support**

1. Member States may request that their competent authorities be assisted by experts deployed or supported by Frontex, including return liaison officers and other liaison officers, in accordance with Regulation (EU) 2019/1896.
2. Member States shall provide relevant information to Frontex with regard to planned needs for Frontex support for the purpose of the necessary planning of the Agency's support in line with the Union priorities in the area of return, readmission and reintegration, the implementation of the return border procedure pursuant to Regulation (EU) 2024/1349, the European Asylum and Migration Strategy pursuant to Article 8 of Regulation (EU) 2024/1351 and the priorities in the context of the regular assessment of readmission cooperation pursuant to Article 25a of Regulation (EC) 810/2009.

#### *Article 46*

#### **Support for return and reintegration**

1. Member States shall establish return and reintegration counselling structures to provide third-country nationals with information and guidance about return and reintegration options, including programmes referred to in paragraph 3, as early in the return process as possible. Return and reintegration counselling may be combined with other counselling in the context of other migration procedures in the Member State.
2. Member States shall ensure that information about return and reintegration is also provided prior to issuing the return decision, in particular when Article 37 of Regulation (EU) 2024/1348 is applicable.

3. Member States shall **ensure the availability of** programmes **supported or financed at national or Union level** for supporting the return and reintegration ■. National programmes and reintegration assistance provided by the Union shall consist of logistical, financial and other material or in-kind assistance or incentives, including reintegration assistance in the country of return, provided to a third-country national.
4. **Return and** reintegration assistance shall not be an individual right and shall not constitute a pre-requisite for the readmission procedure.
5. The assistance provided through the programmes for return and reintegration shall **be strictly linked to** the level of cooperation and compliance of the third-country national and may **be reduced or withdrawn**. The following criteria **may** be taken into account when determining the kind and extent of the return and reintegration assistance where applicable:
  - a. the cooperation of the third-country national concerned during the return and readmission procedure, as provided for in Article 21;
  - b. whether the third country national is returning voluntarily, or is subject to removal;
  - c. whether the third-country national is a national of a third country listed in Annex II to Regulation (EU) 2018/1806;
  - d. whether the third country national has been convicted of a criminal offence;
  - e. whether the third-country national has specific needs by reason of being a vulnerable person, minor, unaccompanied minor or part of a family.
6. The assistance referred to in this Article shall not be granted to third-country nationals who already benefited from another or the same support provided by a Member State or the Union. The Union, Member States and Frontex shall ensure coherence and coordination on reintegration assistance.

## Chapter IX FINAL PROVISIONS

### *Article 47*

#### **Emergency situations**

1. In situations where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of the detention facilities of a Member State or on its administrative or judicial staff, such a Member State may, as long as the exceptional situation persists, decide to allow for periods ■ longer than those provided for in Article 27(1), Article 33(3) and Article 38(7) and to take urgent measures in respect of the conditions of detention derogating from those set out in Articles 34(1) and 35(2).  
**Member States may temporarily adjust administrative procedures and internal reporting requirements to expedite return operations, provided that such adjustments are strictly necessary to address the exceptional situation.**
2. When resorting to such exceptional measures, the Member State concerned shall inform the Commission without delay. It shall also inform the Commission as soon as the reasons for applying these exceptional measures have ceased to exist.

3. Nothing in this Article shall be interpreted as allowing Member States to derogate from their general obligation to take all appropriate measures, whether general or particular, to ensure fulfilment of their obligations under this Regulation.

#### *Article 48*

#### **Statistics**

1. Without prejudice to Regulation (EC) 862/2007 of the European Parliament and of the Council<sup>34</sup>, Member States shall communicate to the Commission (Eurostat) on a quarterly basis the following data:
  - a. number of third-country nationals subject to recognised return decisions issued by another Member State;
  - b. number of third-country nationals subject to alternative measures to detention;
  - c. number of third country nationals subject to detention.
2. The data communicated shall be disaggregated by age, sex and citizenship. The data shall relate to the reference period of one quarter. Member States shall supply to the Commission (Eurostat) data for three calendar months constituting one quarter within two months of the end of each quarter. The first reference period shall be [second quarter following entry into application of this Regulation].
3. Member States shall communicate to Frontex on a monthly basis the following data, as well as the corresponding datasets, regarding each third country:
  - a. number of readmission applications submitted;
  - b. number of requests for confirmation of nationality and number of positive and negative replies received concerning confirmation of nationality requests;
  - c. number of requests for issuance of travel documents, number of travel documents issued by the third-country authorities and number of negative replies concerning the request of travel documents;
  - d. number of beneficiaries of reintegration assistance broken down by third-country;

***da. number of effective returns carried out following a readmission procedure.***

Frontex shall grant the Commission access to the data referred to in this paragraph.
4. The data referred to in paragraphs 1 and 3, disaggregated by Member State, may be communicated to third countries for the purposes of monitoring the implementation of, and compliance with, the principle of readmission, including in the framework of Union readmission instruments.
  - 4a. The Commission shall adopt implementing acts laying down the uniform format and technical specifications for the transmission of the data referred to in paragraphs 1 and 3, in order to ensure the comparability, consistency and harmonisation of the data***

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<sup>34</sup> Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23, ELI: <http://data.europa.eu/eli/reg/2007/862/oj>).

*collected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2).*

- 4b. The Commission may use the data and information collected pursuant to this Article, including the data transmitted to Frontex in accordance with paragraph 3, for the purposes of assessing the cooperation of third countries on readmission within the framework of Union instruments concerning migration management, including the annual assessment carried out pursuant to Article 25a of the Visa Code of Regulation (EC) No 810/2009.*

#### *Article 49*

##### **Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

#### *Article 50*

##### **Reporting**

1. By [date] and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the application of this Regulation in the Member States and shall, where appropriate, propose amendments.
2. Member States shall, at the request of the Commission, send it the necessary information for drawing up its report no later than nine months before the time limit expires.

#### *Article 51*

##### **Repeal**

1. Directive 2008/115/EC is repealed for the Member States bound by this Regulation. Directive 2001/40/EC and Council Decision 2004/191/EC are repealed with effect from the publication of the implementing decision referred to in Article 9(2) for the Member States bound by this Regulation.
2. References to the repealed Directives shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

#### *Article 52*

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

[...] [...]

## ANNEX: DECLARATION OF INPUT

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he included in his report input on matters pertaining to the subject of the file that he received, in the preparation of the report, prior to the adoption thereof in committee, from the following interest representatives falling within the scope of the Interinstitutional Agreement on a mandatory transparency register<sup>1</sup>, or from the following representatives of public authorities of third countries, including their diplomatic missions and embassies:

<b>1. Interest representatives falling within the scope of the Interinstitutional Agreement on a mandatory transparency register</b>
European Council on Refugees and Exiles
Het Nederlandse Rode Kruis
Save the Children Europe
Stichting Vluchteling
Permanent representation of Poland to the EU
Permanent representation of France to the EU
Permanent representation of Belgium to the EU
Permanent representation of Spain to the EU
Danish Refugee Council Brussels
Meijers committee
United Nations Human Rights
Permanent representation of Greece to the EU
Permanent representation of Austria to the EU
Permanent representation of Sweden to the EU
Permanent representation of Denmark to the EU
Immigratie- en Naturalisatiedienst
Dienst Terugkeer en Vertrek
UNHCR
Permanent representation of Cyprus to the EU
International Rescue Committee
Permanent representation of Finland to the EU
Permanent representation of Germany to the EU
Permanent representation of Bulgaria to the EU
Permanent representation of Italy to the EU
Amnesty International
Prefecture of Strasbourg
Italian authorities
Council of Bars and Law Societies of Europe
ECRE
Permanent representation of Portugal to the EU
Permanent representation of Lithuania to the EU
Permanent representation of Ireland to the EU

<sup>1</sup> Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register (OJ L 207, 11.6.2021, p. 1, ELI: [http://data.europa.eu/eli/agree\\_interinst/2021/611/oj](http://data.europa.eu/eli/agree_interinst/2021/611/oj)).

Permanent representation of Czech Republic to the EU
Permanent representation of Luxembourg to the EU
Deputy Minister of Migration Cyprus
Permanent representation of Croatia to the EU
Swedish State Secretary to Minister for Migration
IOM
Commissioner for Human Rights
Finish Minister of Interior
Professor of Migration, Securitization and Social Cohesion, Maastricht
Adviesraad Migratie
Permanent representation of the Netherlands to the EU
<b>2. Representatives of public authorities of third countries, including their diplomatic missions and embassies</b>
None

The list above is drawn up under the exclusive responsibility of the rapporteur.

Where natural persons are identified in the list by their name, by their function or by both, the rapporteur declares that he has submitted to the natural persons concerned the European Parliament's Data Protection Notice No 484 (<https://www.europarl.europa.eu/data-protect/index.do>), which sets out the conditions applicable to the processing of their personal data and the rights linked to that processing.

## MINORITY POSITION

pursuant to Rule 56(4) of the Rules of Procedure  
Murielle Laurent, Birgit Sippel, Cecilia Strada, Matjaz Nemec, Alessandro Zan, Javier Moreno Sanchez, Juan Fernando López Aguilar, Krzysztof Smiszek, Nora Mebarek, and Annalisa Corrado

Article 2 TEU states “*[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights*”. The report adopted says otherwise. No human dignity, no freedom, no equality, no rule of law for people sent to return hubs, and no respect for their human rights. For them, just an uncertain future in an unknown land.

Under this report, hubs can be used to detain people for undefined periods of time, for undefined purposes, can be set up without legally binding frameworks, impose no legal obligation on third countries regarding conditions or requirements. No clarity is provided on who is legally responsible for people sent to hubs, when legal responsibility shifts and under which rules. No transparency is offered on the outcome for the people sent to these hubs. No one knows who will pay, how much they will pay and who will be paid for these hubs.

This report reduces possibilities for voluntary return, expands grounds for detention, imposes a long list of obligations on returnees, removes the suspensive effect of appeals, allows third-country nationals to buy their way out of entry bans, and sets out legally suspect provisions punishing non-cooperative third countries deemed non-cooperative.

## MINORITY POSITION

pursuant to Rule 56(4) of the Rules of Procedure  
Tineke Strik, Saskia Bricmont, Leoluca Orlando, Erik Marquardt , Alice Kuhnke, Jaume  
Asens

Instead of introducing meaningful changes to EU rules on return, this report perpetuates the dangerous and divisive myths that existing challenges are caused primarily by non-compliant individuals, and that a significant number of people who are denied the right to stay in the EU pose a threat to our security. This premise is in direct contradiction to earlier analysis by the EU Return coordinator on existing bottlenecks.

Without an impact assessment, the Commission's claims that its proposal will make returns more efficient cannot be verified. Meanwhile, the punitive approach, taken by this report, and particularly the possibility for Member States to forcibly deport people to "return hubs" in third countries that they have never set foot in and where they are likely to be subject to prolonged and arbitrary detention, will inevitably lead to fundamental rights violations.

In addition to being inhumane and contrary to EU founding values, these measures are likely to be counterproductive, inefficient and expensive to implement. We find it shameful that with this report, the Parliament is contributing to the decline in evidence-based policy-making, which has been increasingly evident in the area of migration in the past decade.

## MINORITY POSITION

pursuant to Rule 56(4) of the Rules of Procedure  
Ilaria Salis, Gaetano Pedulla, Emma Fourreau, Hanna Gedin, Valentina Palmisano

This report is the final piece of a plan for mass deportation of third-country nationals from the European Union, that will lead, as we have seen in the United States, to racial profiling, mass arrests, detention of children and deportation to countries people have never been. This will put the lives of many people living in the European Union at risk.

Anyone with a deportation order will be put systematically in detention for a period that can be up to 2 years, not because they committed a crime, but based on their administrative status and will have no time to ensure their right to effective remedy. Voluntary return will become de facto impossible.

It is also very concerning that the proposal allows for indefinite detention and entry bans of third country nationals who have not been convicted under criminal law.

The possibility of deporting persons, including families with children, to “return hubs”, located outside the EU in third countries, where human rights cannot be guaranteed, crosses one more red line in EU legislative decision-making towards the end of EU values and dehumanisation.

This report represents a clear breach of Member States commitments towards fundamental rights under European and international law.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	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 the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC	
<b>References</b>	COM(2025)0101 – C10-0047/2025 – 2025/0059(COD)	
<b>Date submitted to Parliament</b>	12.3.2025	
<b>Committee(s) responsible</b> Date announced in plenary	LIBE 16.6.2025	
<b>Committees asked for opinions</b> Date announced in plenary	BUDG 16.6.2025	
<b>Not delivering opinions</b> Date of decision	BUDG 20.3.2025	
<b>Rapporteurs</b> Date appointed	Malik Azmani 12.5.2025	
<b>Discussed in committee</b>	7.4.2025	11.11.2025
<b>Date adopted</b>	9.3.2026	
<b>Result of final vote</b>	+: –: 0:	41 32 1
<b>Date tabled</b>	10.3.2026	

## FINAL VOTE BY ROLL CALL BY THE COMMITTEE RESPONSIBLE

41	+
ECR	Nicolas Bay, Alessandro Ciriani, Mariusz Kamiński, Nicola Procaccini, Georgiana Teodorescu, Sebastian Tynkkynen, Maciej Wąsik, Charlie Weimers
ESN	Mary Khan, Milan Uhrík, Ewa Zajączkowska-Hernik
NI	Erik Kaliňák
PPE	Magdalena Adamowicz, François-Xavier Bellamy, Krzysztof Brejza, Lena Düpont, Branko Grims, Jeroen Lenaers, Lukas Mandl, Verena Mertens, Dolors Montserrat, Nadine Morano, Ana Miguel Pedro, Emil Radev, Oliver Schenk, Sander Smit, Tomas Tobé, Pekka Toveri, Loránt Vincze, Javier Zarzalejos, Tomáš Zdechovský, Juan Ignacio Zoido Álvarez
PfE	Jorge Buxadé Villalba, Jaroslav Bžoch, Susanna Ceccardi, Klara Dostalova, Marieke Ehlers, András László, Fabrice Leggeri, Petra Steger, Tom Vandendriessche

32	-
Renew	Abir Al-Sahlani, Fabienne Keller, Nathalie Loiseau, Michael McNamara, Nikola Minchev, Jan-Christoph Oetjen, Ana Vasconcelos, Sophie Wilmès
S&D	Annalisa Corrado, Isilda Gomes, Marina Kaljurand, Murielle Laurent, Juan Fernando López Aguilar, Nora Mebarek, Javier Moreno Sánchez, Matjaž Nemeč, Birgit Sippel, Krzysztof Śmiszek, Cecilia Strada, Kristian Vigenin, Alessandro Zan
The Left	Emma Fourreau, Hanna Gedin, Valentina Palmisano, Gaetano Pedulla', Ilaria Salis
Verts/ALE	Jaume Asens Llodrà, Saskia Bricmont, Alice Kuhnke, Erik Marquardt, Leoluca Orlando, Tineke Strik

1	0
Renew	Malik Azmani

Key to symbols:

+ : in favour

- : against

0 : abstention