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Answer given by Mr Brunner
on behalf of the European Commission
(29.1.2026)

The applicable rules for granting international protection are laid down in Directive 2013/32/EU¹, which refers to Directive 2013/33/EU² on detention of applicants. The latter sets out grounds and safeguards for detention, without prejudice to other grounds under national law.

Under Directive 2008/115/EC ('Return Directive')³, Member States have the obligation to issue a return decision to illegally staying third-country nationals and to take all necessary and proportionate measures to ensure effective return. When other sufficient but less coercive measures cannot be applied effectively, it allows for detention for the purpose of removal.

These directives also set out safeguards to guarantee the protection of fundamental rights during the asylum and return processes, including refugee protection, the principle of non-refoulement and human rights obligations, which Member States have to respect.

Member States are solely responsible for assessing applications for international protection and carrying out return, ensuring compliance with EU law, including the respect of fundamental rights. The Commission cannot intervene in assessing the merits of individual cases.

The Commission visited the Busmantsi facility in November 2025, as part of the Schengen evaluation of Bulgaria, to determine if the Bulgarian authorities implement pre-removal detention in line with EU requirements and standards.

The outcome of the evaluation will be reflected in the 2025 Bulgaria Report, to be adopted in line with Regulation (EU) 2022/922⁴. It will provide the Commission with a basis for engaging with Bulgaria on structural reforms, including, where necessary, matters related to the use of pre-removal detention.

¹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, pp. 60-65, ELI: <http://data.europa.eu/eli/dir/2013/32/oj>.

² Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, 29.6.2013, pp. 96-116, ELI: <http://data.europa.eu/eli/dir/2013/33/oj>.

³ 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, pp. 98-107, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>.

⁴ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013, OJ L 160, 15.6.2022, pp. 1-27, ELI: <http://data.europa.eu/eli/reg/2022/922/oj>.