

EN

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Answer given by Mr Brunner
on behalf of the European Commission
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Member States are responsible for the issuance or withdrawal of residence permits which must respect, where applicable, the relevant Union legislation. Under Directive 2003/109/EC¹, long-term residents may be expelled only if they constitute an actual and sufficiently serious threat to public policy or public security, which is determined in accordance with national law, based on an individual assessment and considering factors such as duration of residence in the territory of the Member State and age. Member States must also carry out an individual examination under Directive 2008/115/EC², ensuring that any return or expulsion measure adopted following the withdrawal of a residence permit respects the relevant rules, in particular the principle of non-refoulement. Therefore, it is for the authorities of Member States to ensure that fundamental rights are respected and protected, subject to the review of judicial authorities, while fulfilling their duty to address serious threats to public policy or public security.

The Commission closely monitors the compliance of national legislations and practices with EU law in all Member States and may take action in case of breaches. It also relies on the Schengen Evaluation Monitoring Mechanism³, which periodically evaluates the implementation of the Schengen *acquis* in the Member States concerned, including in the area of return.

The annual Rule of Law Report⁴ monitors developments related to rule of law in Member States, covering four pillars: the justice system, the anti-corruption framework, media pluralism and freedom, and other institutional issues related to checks and balances. However, the Report does not cover the handling of residence permits nor individual cases.

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents; OJ L 16, 23.1.2004.

² 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.

³ 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.

⁴ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle_en.