

EN

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Answer given by Mr Brunner
on behalf of the European Commission
(24.3.2025)

The EU's return policy and procedures set out in Directive 2008/115/EC¹ (the Return Directive) have to be implemented in compliance with the EU Charter of Fundamental Rights² (the Charter). The Return Directive provides safeguards pending return, as set out in Article 14, including emergency health care and special needs of vulnerable persons. Member States must provide basic support (i.e. accommodation and food) in line with the respect of human dignity (Article 1 of the Charter). The Court of Justice has ruled that, to comply with the prohibition of inhuman or degrading treatment, as laid down in Article 4 of the Charter, Member States are bound to prevent situations of 'extreme material poverty'³.

The Commission understands 'extreme material poverty' in line with the Court's interpretation. The Commission has no powers to intervene on specific programs that Member States implement or discontinue. Nevertheless, in its capacity as guardian of the Treaties, the Commission may act in cases of systemic failure to comply with EU law.

The Commission is in regular contact with the Dutch authorities on migration management including on returns, implementation of the Pact for Migration and Asylum⁴ and follow up of the Schengen evaluation of the Netherlands on return. The Commission notes that affected individuals can make use of the available national redress mechanisms.

¹ <https://eur-lex.europa.eu/eli/dir/2008/115/oj/eng>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016P%2FTXT>

³ See judgment of 19 March 2019, *Abubacarr Jawo v Bundesrepublik Deutschland*, C-163/17, EU:C:2019:218, paragraph 92; judgment of 16 July 2020, *Milkiyas Addis v Bundesrepublik Deutschland*, C-517/17, EU:C:2020:579, paragraph 51; and judgment of 12 September 2024, *Changu*, C-352/23, EU:C:2024:748, paragraph 75.

⁴ https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en