

EN
P-002766/2026
Answer given by Mr Brunner
on behalf of the European Commission
(9.9.2026)

Decisions and policies on the regularisation of illegally staying third-country nationals fall within the national competence of the Member States. However, in an area without internal borders, such decisions may have implications for other Member States and the EU as a whole. While a national residence permit authorises its holder to reside and work in the issuing Member State, it does not confer a right to move freely within the EU. For example, a person holding such a permit who is found to be illegally staying or who applies for international protection in another Member State must return to the Member State that issued the permit.

The Directive 2008/115/EC¹ that will be replaced by the new Return Regulation, agreed by the co-legislators on 1 June 2026², provides that third country nationals holding a valid residence permit, long-stay visa or other authorisation to stay issued by another Member State must go to the Member State that granted it. If the person does not comply with this obligation, or where immediate departure is required on grounds of public policy, public security or national security, the Member State where that person is illegally staying may request cooperation from the issuing Member State or issue a return decision.

The Commission will support the effective implementation of the Return Regulation through close cooperation with Member States, including by providing guidance, the exchange of best practices and monitoring its implementation. As guardian of the Treaties, the Commission monitors compliance with EU law, including Return Regulation once it becomes applicable, *inter alia* through the Schengen Evaluation and Monitoring Mechanism³, without prejudice to its power to launch an infringement procedure where necessary.

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

² <https://www.europarl.europa.eu/news/en/press-room/20260518IPR43408/deal-on-new-eu-rules-on-migrant-returns>.

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, OJ L 160/1, 15.6.2022.