Amendment 4
Javier Zarzalejos
on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Report **A10-0048/2026**
Malik Azmani
Common system for the return of third-country nationals staying illegally in the Union (Return Regulation)
(COM(2025)0101 – C10-0047/2025 – 2025/0059(COD))

Proposal for a regulation
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AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

REGULATION (EU) 2026/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of…

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,

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

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

[1] OJ C [...], [...], p. [...]
[2] OJ C [...], [...], p. [...]

Whereas:

(1) The Union, in constituting an area of freedom, security and justice, should have a common policy on the return of third-country nationals with no right to stay in the Union. An effective return policy is a key component of a credible migration management system.

(2) This Regulation establishes a common system for returning third-country nationals ***illegally staying*** in the ***Member States*** based on a common procedure for return***, effective cooperation with third countries, obligations for the illegally staying third-country national, a set of tools for*** managing ***effective returns, including measures to incentivise return,*** and cooperation ▌ between Member States.

(2a) ***In accordance with Article 72 of the Treaty on the Functioning of the European Union, this Regulation does not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security***

(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[3], a common system for effectively managing of the return of illegally staying third-country nationals should be put in place. That ***common*** 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.

[3] 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, ELI: http://data.europa.eu/eli/reg/2024/1351/oj).

(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. 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 to develop and implement 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 managing illegal immigration to the Union and ***preventing*** unauthorised movements between Member States of illegally staying third-country nationals ▌ 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[4] and Directive 2008/115/EC[5], is no longer corresponding to the needs of the Union migration policy ***and the legislative and operational needs to ensure effective returns***. 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 proposal to recast the Return Directive[6]. The Commission has also sought to support Member States in using the flexibilities of Directive 2008/115/EC through Recommendations (EU) 2017/2338[7] and (EU) 2023/682[8]. However, the limits of the current legal framework have been reached.

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4 Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals(OJ L 149, 2.6.2001,, p. 34,ELI: http://data.europa.eu/eli/dir/2001/40/oj)

5 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).

6 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).

7 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).

8 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.

(8) A common procedure for ***effective*** return that is firm ▌ 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***, including*** 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[9]. 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[10].

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9 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***, 2024/1348***, 22.5.2024, p. 1, ELI: http://data.europa.eu/eli/reg/2024/1348/oj).

10 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).

(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 ▌. 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. ▌

(12a) The court or tribunal designated as competent by the Member State under national law should be in charge of the remedy challenging the return decision, entry ban, and decision ordering the removal. Compliance with the requirements arising from the principle of non-refoulement should be verified where material in the file brought to the attention of the court or tribunal designated as competent under national law for the remedy against the return decision or the decision ordering the removal, as supplemented or clarified following adversarial proceedings, suggests that the principle of non-refoulement might be undermined.

(12b) Without prejudice to the right to an effective remedy provided by Article 47 of the Charter ensuring that the third-country national can challenge the period of voluntary departure or the absence thereof in the return decision, the part of the return decision imposing or stating the obligation to leave the territory of the Member States should not be affected by the annulment or revocation of the period of voluntary departure.

(13) ***In case of removal,*** authorities ***designated as competent under national law*** 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 ***and substantiate*** as quickly as possible***, and prior to his or her removal,*** evidence relating to his or her own personal circumstances. It should be possible to rely upon an existing ▌ assessment of all relevant circumstance made in previous stages of the procedure ***or in other previous procedures.*** Any ***relevant*** change in circumstances and any new element evidencing a risk should be examined***, including to determine whether 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 ***foster effective returns to third countries***.

(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 ***relevant*** facts and circumstances. ***The return decision should state the obligation for the third-country national to leave the territory of the Member States. The return decision should not be required to determine a country of return. The country of return should at the latest be determined prior to removal, and may be determined in either the return decision or in any other decision ordering the removal separate from the return decision. Where there is a hindrance of removal, issuance of a return decision should not be precluded, but removal should be postponed. Where, at the time of issuance of the decision determining the country of return, it remains possible that the third country national will be removed to one of several countries of return, including due to dual or multiple citizenship, all such countries of return can be determined in that decision. The right to an effective remedy provided by Article 47 of the Charter is to be ensured in respect of all the countries of return determined in the decision. In any event, where the competent authority proceeds with removal, the third-country national should be informed of the country of return to which he or she will be removed sufficiently in advance of the removal.***

(15a) Nothing in this regulation should preclude Member States from providing other grounds for postponing removal for specific groups in national law.

(15b) The third-country national with an obligation to leave should have the primary responsibility for departing the territory of the Member States.

(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 ***enforceable*** return decisions ***or decisions ordering the removal*** issued by another Member State where the third country national moves unauthorised to another Member State.

▌

(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, ▌ 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. ***Such recognition and enforcement*** 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 ***decision*** should be exercised ***only*** in the issuing Member State.

(18a) The recognition of a return decision or a decision ordering the removal based on the information available in the European Return Order referred to in Article 7(7) should not constitute a decision or act. The non-recognition of a return decision or a decision ordering the removal should not constitute a decision or act.

(18b) ***Where a Member State considers recognising and enforcing an enforceable return decision or a decision ordering the removal of the issuing Member State, the following guiding principles may assist the Member State in identifying situations in which mutual recognition should not be applied and in which a national return decision should instead be issued. Such situations may include where an enforcement would be contrary to the enforcing Member States public policy, including in relation to the return of certain categories of third-country nationals, such as unaccompanied minors and victims of human trafficking, to which national law provides for a higher level of protection; issuing a new return decision is faster; the information available in the European Return Order is incomplete; the third country national has lodged an appeal against the return decision in the issuing Member State; the third country national is to be removed to a different third country than stated in the return decision or decision ordering the removal of the issuing Member State, and there is no country of return stated in the return decision.***

(18c) ***For the purpose of preparing the steps towards mandatory mutual recognition, the Commission and relevant EU agencies, such as eu-LISA, should, where relevant, support Member States, including by identifying the necessary arrangements and adjustments needed for the purpose of ensuring automated handling of the European Return Order.***

(19) ***At the latest, by the adoption of the implementing act referred to in Article 7(8)***, Member States ***and the Commission and relevant EU agencies, such as eu-LISA,*** should ***start putting*** in place legal and technical arrangements to ensure that the European Return Order can be made available through the Schengen Information System. ▌

(19a) Two years after the date of entry into application referred to in Article 52(3) of this Regulation the Commission should assess the implementation of mutual recognition, in particular as regards: whether the legal and technical arrangements making the European Return Order available through the Schengen Information System pursuant to Article 7(7) are put in place by the Member States and are effective; whether the legal and technical arrangements to ensure automated handling of the European Return Order pursuant to Article 7(9) are put in place by the Member States; the effectiveness of the recognition and enforcement of return decisions and decisions ordering the removal; the burden on judicial and administrative national systems resulting thereof, and results of relevant training and pilot project activities.

(19b) Based on that assessment referred to in Article 9(10), the Commission should submit, as appropriate, legislative proposals, including any targeted amendments to ensure effective returns, with a view to introduce mandatory recognition and enforcement of enforceable return decisions and decisions ordering the removal issued by another Member State. Where the Commission does not submit a proposal, it should explain the reason thereof.

(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 ***who have not complied*** with the obligation to leave ***or to whom a period for*** voluntary return ***has not been granted***, ***can be removed by using coercive measures.*** Reinforced rules on removal seek to ensure a direct and immediate consequence in case the third-country national does not respect the ***period*** by which they need to leave ***at the latest as well as to prevent unauthorised secondary movements and security risks***. ***Where there are no reasons to believe that voluntary return would undermine the purpose of a return procedure, cooperating third-country nationals may continue to be returned primarily through voluntary return.*** Coercive measures should be subject to the principles of proportionality and effectiveness with regard to the means used and objectives pursued.

(21a) Since this regulation solely applies to third-country nationals staying illegally in the Union, it does not affect return and reintegration counselling and other programmes for supporting voluntary returns and reintegration of third-country nationals who are staying legally in the Union.

(22) Common rules are necessary to ensure that ***illegally staying*** third-country nationals posing security risks ▌ 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 (EU) 2024/1356 of the European Parliament and of the Council[11]. For third-country nationals posing security risks, removal should ***in general*** be the rule, and it should be possible to derogate from the general rules in order to provide for longer ***or indefinite*** entry bans, longer detention periods and from ▌ the use of specialised detention facilities so that those who threaten the security of ***the Member States*** are swiftly removed.

[11] 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).

(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 with more options for returns subject to the conditions that the international human right standards and***, in case of removal,*** the principle of non-refoulement are respected by the third country concerned. ***Deficiencies in relation to specific parts of the territory of the third country or to identifiable category of persons do not prevent the conclusions of such an agreement or arrangement, provided that sufficient guarantees are in place to ensure the full respect of the rights of the third country nationals which are concerned by such agreement or arrangement.***

In particular, the agreement or arrangement should set out the ***procedures applicable to the return***, the conditions for the stay in the country, the ***respective obligations and responsibilities of the parties*** to the ***agreement or arrangement and*** the consequences in case of violations ***of the agreement or arrangement. Where an agreement or an arrangement involves onward return from the third country, the agreement or arrangement should in addition set out the consequences in case onward return is not possible, the respective obligations and responsibilities of the parties to the agreement or arrangement, the consequences*** of significant changes adversely impacting the situation in the third country, and an independent monitoring body or mechanism to assess the implementation of the agreement or arrangement. Such agreements or arrangements will constitute an implementation of Union law for the purposes of Article 51 (1) of the Charter.

(23a) In order to ensure that the legitimate interests linked to the management of the external borders and the internal security of the Member States concerned are sufficiently protected, in circumstances where a Member State negotiates an agreement or arrangement for the purposes of this Regulation with one of the Union's neighbouring third countries, the Member States that share a common border with that third country should, at an appropriate time before the conclusion of the agreement or arrangement, be informed of those negotiations, in full respect of the principle of sincere cooperation laid down in Article 4(3) of the Treaty on European Union. Upon concluding agreements or arrangements with third countries, Member States should be required to inform the Commission and other Member States of such agreements or arrangements before they are provisionally applied, or enter into force, whichever is the earliest. In addition, in order to avoid any non-compliance with Union law and to further enhance transparency, Member States could, on a voluntary basis, keep the Commission and other Member States informed of the progress of negotiations with a third country relating to agreements or arrangements authorised by this Regulation, before final agreement has been reached by the parties, including with a view to seeking the Commission's assessment as to the compatibility of the envisaged agreement or arrangement under negotiation with Union law.

(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[12] establishes an evaluation and monitoring mechanism to verify the application of the Schengen acquis ▌, including in relation to the effective return of third-country nationals with no right to stay and the respect of fundamental rights. ▌

(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. ▌Unaccompanied ***minors*** should be guided by a representative through all the steps of the return process.

[12] 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, p. 1, ELI: http://data.europa.eu/eli/reg/2022/922/oj)

(26) Where there are grounds for doubting as to whether or not the third-country national is a minor, an age assessment ***may*** be carried out ***in accordance with national law. Member States may rely on age assessments completed under previous procedures.*** For the purpose of ensuring coherence across migration management in the Union the same procedure as provided for in Regulation (EU) 2024/1348 ***may*** be followed.

(27) To reinforce the effectiveness of the return procedure, clear ***obligations of*** third-country nationals should be established. Third country-nationals should ***have the obligation to leave the territory of the Member States and to*** cooperate with the authorities ***throughout*** the return procedure. Third-country nationals should remain available ***to, and reachable by, the competent authorities*** and provide ***any*** information ***relevant to preparing and carrying out*** the return***. They should also not obstruct removal either physically or verbally. Verbal obstruction should be of a nature or character that is of greater intensity than mere objection. It follows that it should primarily be the responsibility of the third-country national to establish their identity and to obtain and provide the travel documents necessary for return***. In case the obligations to ***leave and*** cooperate are not respected, effective***, dissuasive*** and proportionate consequences should be imposed, ***and competent authorities should take the relevant steps to ensure return,*** including ***through investigative measures, if applicable. Third-country nationals who cannot be removed, including due to the principle of non-refoulement or due to their lack of cooperation with the competent authorities, should not be excluded from the imposition of general obligations, including the obligations to remain, reside and report. The consequences in case of non-compliance with the obligation to cooperate should include*** for instance reduced benefits and allowances granted in accordance with national law ***or*** seizure of travel documents.▌**.**

(27a) Nothing in this Regulation affects obligations and measures not related to return or provisions governing social benefits under national law.

(28) This Regulation should not affect the possibility for Member States to impose, where applicable, criminal sanctions***, including imprisonment,*** 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 ***rights*** of the individuals concerned. The necessary legal aid should be made available, upon request, ▌ in cases of appeal or review before a ***court or tribunal without prejudice to the possibility to restrict access to legal assistance and representation***.

(29a) Legal assistance and representation includes the preparation of an appeal or request for review, including the drafting of the procedural documents required under national law and, where a hearing takes place, participation in that hearing before a court or tribunal, in order to ensure the right to an effective remedy and to a fair trial.

(29b) The notion of court or tribunal is a concept governed by Union law, as interpreted by the Court of Justice of the European Union. That notion, among other elements, can only mean an authority acting as a third party in relation to the authority which adopted the decision forming the subject-matter of the proceedings. That authority should perform judicial functions and it is not decisive whether that authority is recognised as a court or tribunal under national law. This regulation should not affect Member States' competence to organise their national court system and determine the number of instances of appeal. Where national law provides for the possibility to lodge further appeals against a first appeal or subsequent appeals decision, and such an appeal has been lodged, removal should not be suspended unless the third country national requests suspension and a court or tribunal decides to grant it, taking into due account the specific circumstances of the individual case. That should be without prejudice to national law providing for a suspensive effect of such remedies.

(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 ***the suspension of the enforcement of decisions*** should comply with the right to an effective remedy as provided for in Article 47 of the Charter of Fundamental Rights.

(30a) Although this Regulation does not provide for automatic suspensive effect of an appeal, Member States should, in full compliance with Article 47 of the Charter, ensure that removal can be suspended by the competent court or tribunal of first instance prior to the enforcement of the return decision or decision ordering removal. A third-country national should be able to submit a request to suspend the enforcement of a return decision or decision ordering removal, unless national law also provides for the possibility of its suspension by the competent court or tribunal ex officio. That is without prejudice to the possibility of Member States providing for automatic suspensive effect of an appeal in their national law. In order to avoid duplication in the assessment of the risk of violating the principle of non-refoulement, reliance should be placed on any material in the file, in particular previous assessments, including, where relevant, those carried out in the context of an asylum procedure.

(31) Member States should be provided with the necessary tools ***to ensure a swift and effective return, including measures as consequences of non-compliance and incentives for compliance with the obligations to leave and cooperate, as well as measures to prevent*** the risk of absconding. ***Absconding includes actions such as leaving 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***, without restricting the right of Member States to establish additional measures and criteria in national law,*** should streamline ***requirements under the obligation to cooperate and the criteria for determining a risk of absconding. Such rules should also ensure that detention and*** alternatives to detention ***are applied*** 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 ▌ only for the purpose of ***return, including for*** preparing ***the*** return, ***readmission, or carrying out the removal***. The authorities should act with due diligence and detention should be maintained only for as short a period as possible and ***should generally*** not exceed 24 months ***in a given Member State. In cases of absconding to another Member State, previous periods of detention shall not be taken into account when calculating the maximum period of detention. Detention periods under other regulations or directives not concerning the return procedure should not be included in calculating the maximum period of detention. Special needs arising from vulnerability assessment should be addressed during detention***. Where national law provides for the detention of minors, the best interests of the child should be a primary consideration. Other less coercive alternative measures to detention should be used when they can be applied effectively to illegally staying third-country nationals.

(32a) Where detention has been maintained for a period of 24 months, the Member State should have the possibility to detain the third-country national for new periods not exceeding six months in total, where changes in circumstances indicate a reasonable prospect of removal due to new significant information under certain circumstances. The detention should be ordered in respect of the principle of necessity and proportionality and should be maintained for as short a period as possible.

(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 ***period*** longer ***than 24 months***, 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 should, as a ***general*** rule, 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***, to the extent possible,*** 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 ▌.

(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 ***and is foreseen*** by the ***ICAO convention, Annex IX, Chapter 5, and set out in the Samoa Agreement. Effective returns are only possible if*** States ***comply with the obligation to readmit*** their ***own nationals. Therefore, Member States depend on the*** cooperation ***of third countries to be able to implement effective returns***. ***Existing instruments such as Article 25a of Regulation (EC) 810/2009[13] and Frontex support are used by the EU and Member States to improve cooperation with third countries where necessary.***

13 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).

(37) A ▌ 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***, where applicable,*** the submission of readmission requests to third countries' authorities, in cases where nationality is in doubt or a travel document needs to be obtained.

▌

(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[14]. 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, ***removal,*** readmission, and reintegration, and is protected against unauthorised access, disclosure, or use.

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14 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).

(41) Regulation (EU) 2016/679 of the European Parliament and of the Council[15] 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[16] 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 ***and effective return***, 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 ***return, removal,*** 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 ***and with the rights of data subjects***, as well as with the principles of non-refoulement, proportionality and necessity and the Charter of Fundamental Rights of the European Union.

15 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).

16 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).

(42) ***Competent*** authorities responsible for the asylum and the ▌ competent authorities involved in the different phases of the return process should work and coordinate closely ***to ensure effective returns.***

(43) A common system for returns should make full use of digital systems supporting managing returns, readmission and reintegration ▌ with an emphasis on efficient administrative procedure, cooperation, information sharing and interoperability.

(43a) Cooperation and assistance between Member States should, as a general rule, take place including for the purpose of allowing transit through their territory, logistical or other material or in-kind assistance linked to such transit, the facilitation of transfers to another Member State, whether pursuant to bilateral agreements or arrangements or based on cooperation between Member States, or supporting the departure of a third-country national towards the Member State in which he or she has a right to stay.

(44) The Union provides financial and operational support***, without prejudice to the Multiannual Financial Framework 2028-2034,*** 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[17], 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[18]. ▌

[17] 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).

[18] 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).

(44a) External dimension of return policy is an integral part of the comprehensive approach to migration management. Effective cooperation on return and readmission is a core external component of balanced and comprehensive partnerships with third countries in line with the objectives referred to in Regulation (EU) 2024/1351. The European Council, among others, in its October 2024 Conclusions, called for swift action to ensure effective returns using as leverage all EU relevant policies and tools, including visa policy, trade, development and diplomacy. A 'whole-of-government' approach is needed both within Member States and within EU institutions.

(44b) As cooperation of third countries in the area of return and readmission of illegally staying third-country nationals may prove challenging in practice, and without prejudice to the assessment of third countries' cooperation on readmission provided for in Article 25a of Regulation (EC) No 810/2009 , where one or several Member States encounter difficulties in third country cooperation on readmission, including for confirmation of nationality, obtaining the necessary travel documents from the relevant third country authorities and organising return operations, the Union and the Member States should be able to make use of the relevant and existing tools provided for in Union law, insofar as they are bound by the legislative acts establishing these tools, as part of a coordinated EU approach to improving cooperation in the area of return and readmission.

(45) The ***reporting on*** the effectiveness of this Regulation and ***the identification of*** areas for improvement ***should be based on the collection and analysis of existing, reliable and comparable statistics regarding*** the efficiency of return procedures, ▌ cooperation of third countries, and ▌ reintegration efforts***. The standards in Regulation (EC) 862/2007[19], Regulation (EU) 2019/1896, and national law should be considered and where necessary reviewed to ensure the relevance of the statistics***. Common standards and definitions for the collection and reporting of relevant data should be established to enable the ***assessment of*** the impact of this Regulation and to contribute to making informed decisions on future policy developments.

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19 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. 2, ELI: http://data.europa.eu/eli/reg/2007/862/oj).

(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 ▌. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[20].

(47) ***This Regulation puts in place a new common system of return of illegally staying third-country nationals, to be directly implemented by national authorities. That new system brings about important novelties aimed at improving the efficiency of the return procedure, including with regard to the third countries of return and the external dimension of returns. To allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union. The provisions not referred to in Article 52(2) of this Regulation that will supersede Directive 2008/115/EC and aim at fully replacing the legal framework provided for by that Directive should apply from … [one year from the date of entry into force of this Regulation] with a view to allowing for all the necessary preparatory and operational steps to be taken and ensuring its smooth, effective and consistent implementation at Union and national levels, as well as to avoiding any overlap between the Directive and the Regulation.*** Directives 2001/40/EC and 2008/115/EC and Council Decision 2004/191/EC[21] should ***therefore*** be repealed ***from that date***.

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20 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).

21 2004/191/EC: Council Decision of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 60, 27.2.2004, p. 55, ELI: http://data.europa.eu/eli/dec/2004/191/oj).

(48) Since the objectives of the Regulation to improve the efficiency of return ▌, 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 ▌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) ▌This Regulation constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with ▌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, ***and, subject to the application of Article 4 of that Protocol, Ireland*** is not bound by it or subject to its application[22]. ▌

(51) As regards Iceland and Norway, this Regulation constitutes ▌ 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 latter's association with the implementation, application and development of the Schengen acquis[23], which fall within the area referred to in Article 1, point C, of Council Decision 1999/437/EC[24].

▌

22 ***This recital will be amended if Ireland requests to take part in this Regulation in accordance with Article 4(1) of Protocol 19 on the Schengen acquis integrated into the framework of the European Union and the Council adopts its decision simultaneously with the adoption of this Regulation. In such case, the recital will refer to the Council decision concerning Ireland's request to take part in some of the provisions of the Schengen acquis.***

23 OJ L 176, 10.7.1999, p. 36, ELI: http://data.europa.eu/eli/agree_internation/1999/439(1)/oj.

24 1999/437/EC: Council Decision of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31, ELI: http://data.europa.eu/eli/dec/1999/437/oj).

(52) As regards Switzerland, this Regulation constitutes ▌ 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[25], 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[26].

(53) As regards Liechtenstein, this Regulation constitutes ▌ 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[27].

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25 OJ L 53, 27.2.2008, p. 52.

26 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).

27 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 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).

▌

(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 ***effective*** return of third-country nationals staying illegally ***on the territory of the Member States*** in accordance with fundamental rights recognised ▌ by the Charter of Fundamental Rights of the European Union (the 'Charter') ***and general principles of Union law,*** as well as applicable ▌ international ***obligations*** including on ▌ human rights.

2. The objective of this Regulation is to ***enable Member States to take all necessary measures to*** ensure ▌ effective ***returns, taking into account*** 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.

3. This Regulation is without prejudice to the provisions of Regulations (EU) 2024/1351, 2024/1348 and 2024/1349.

4. Without prejudice to paragraph 5 of this Article, this Regulation shall not apply to third-country nationals who:

(a) are subject to a refusal of entry at external borders in accordance with Article 14 of Regulation (EU) 2016/399[28] or in accordance with equivalent national law in the case of Member States not bound by that Regulation;

[28] 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) (codification) (OJ L 77, 23.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/399/oj).

(b) 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;

(c) are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law;

(d) are the subject of an extradition procedure.

5. A Member State may decide to apply this Regulation to one or more of the categories of third country nationals referred to in paragraph 4, points (a), (b) and (c). In such cases, this Regulation shall apply to those categories of third-country nationals as from the date when the Member State notifies its decision to the other Member States and the Commission.

6. When a Member State decides to apply this Regulation to third country nationals which are subject to return as a criminal law sanction, Articles 7, 9 and 10 shall not apply.

7. With regard to third-country nationals that are excluded from the scope of this Regulation in accordance with paragraph 4, points (a) and (b), Member States shall ensure that their treatment and level of protection are no less favourable than as set out in Article 12(4) and (5), Article 14(2), Article 14(6), points (c) and (e), Article 34 (1) to (6), Article 35 and respect the principle of non-refoulement.

I

2b. This Regulation applies without prejudice to the national criminal law of the Member States, and in particular provisions laying down effective, proportionate and dissuasive criminal penalties, including imprisonment, in relation to illegal stay, provided that the criminal procedure and the application of such penalties do not jeopardise the achievement of the effective returns.

I

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 ***equivalent*** conditions for entry, stay or residence in ***accordance with national law in the case of*** Member ***States not bound by that Regulation but who participate in this Regulation***;

(3) ‘country of return’ means 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 ***or, in the case of those Member States not bound by that Regulation, in accordance with corresponding provisions which they might have introduced in their national law***;

(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 ***or, in the case of those Member States not bound by that Regulation, in accordance with corresponding provisions which they might have introduced in their national law***;

(g) a third country***, other than the one 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 ***act or*** decision, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to leave the ***territory of the Member States***;

(4a) 'return' means the actions by which an illegally staying third-country national is:

(a) voluntarily returning, as referred to in point 6; or

(b) being removed by the competent authorities out of the Member States and to one of the countries of return defined in the decision ordering the removal or, as applicable, in the return decision.

(4b) 'decision ordering the removal' means an administrative or judicial act or decision stating or declaring that the third-country national can be removed to one or more countries of return as referred to in point 3;

(5) 'removal' means the enforcement of the return decision ***or the decision ordering the removal*** by the competent authorities through ▌ physical transportation out of the ▌ Member ***States to a country of return***;

(6) ‘voluntary return’ means ***departure of*** the territory of the Member States ***on his or her own, with or without assistance, and without resorting to removal, by an illegally staying third-country national complying with the obligation to leave within or after expiration of the voluntary departure period set out in the return decision;***

(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 ;

(11) ‘return operation’ means an operation that is organised or coordinated by a competent authority ***or supported by the European Border and Coast Guard Agency (“Frontex”)*** by which third-country nationals from one or more Member States are returned;

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, ***with*** the principle of non-refoulement, and with fundamental rights.

Chapter II

RETURN PROCEDURE

▌

Section 2

Procedure ordering return

Article 7

▌ 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 ***State stating or imposing the obligation to leave the territory of the Member*** States ▌.

1a. The return decisions shall:

(a) state a departure period, which shall not exceed 30 days, by the end of which the third-country national shall at the latest leave the territory of the Member States; or

(b) state that the third-country national shall leave the territory of the Member States immediately.

The departure period referred to in subparagraph (a) may be further shortened and specified in national law.

Member States may lay down in their national law when a third-country national is granted a voluntary departure period or is ordered to leave immediately.

1b. Competent authorities may provide for a departure period pursuant to paragraph 1a that exceeds 30 days with due regard to the specific circumstances of the individual case.

1c. Competent authorities may extend the departure period pursuant to paragraph 1a with due regard to the specific circumstances of the individual case, in particular participation in a programme supporting return and reintegration pursuant to Article 46(3) and compliance with the obligation to cooperate as set out in Article 21.

1d. ***Competent authorities may shorten the departure period pursuant to paragraph 1a in case of non-compliance with the obligation to cooperate as set out in Article 21.***

1e. ***The departure period shall be counted from a date as defined under national law.***

2. The return decision shall be issued in writing and give reasons in fact and in law. ***The third-country national shall be informed*** 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 national law of the Member State concerned***. ***Where the whereabouts of the third-country national are unknown, the return decision shall be 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. ***The obligation to inform the third-country national of the essence of the grounds does not include an obligation to disclose any classified information.***

4. ***The country or countries of return may be determined in the return decision or pursuant to Article 12 (2a) prior to carrying out removal. Where the third-country national decides to return voluntarily to another*** country of return ***other than the country or countries of return stated in*** the return decision, ***the issuance of a new*** decision ***determining the country*** of return ***is not required***.

4b. ***Competent authorities shall not be precluded from issuing a return decision where there is a hindrance of removal. Where the country of return has been determined in the return decision and a risk of refoulement has been identified, the removal to that country of return shall be postponed in accordance with Article 14, paragraph 1, point (a).***

5. The third-country national shall, upon request, be provided with a written or oral translation of the main elements of the return decision ▌, 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, use standardised translations templates or machine-assisted or machine-generated translation tools.***

6. The return decision ▌ 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 ***or without undue delay thereafter***, ***and*** 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, ***Member States*** shall ***make use of*** the form (‘European Return Order’) established pursuant to paragraph 8***. The form shall include the main elements of the return decision, and where relevant of the decision ordering the removal,*** and shall be made available through the Schengen Information System in accordance with Regulation (EU) 2018/1860 ▌.

8. The Commission shall adopt ***at the latest six months after entry into force of this Regulation*** 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. ***At the latest, by the adoption of the implementing act referred to in paragraph 8, the*** Member States ***and the Commission and relevant EU agencies***, ***such as eu-LISA, shall start putting in place the necessary legal and technical arrangements, respectively, to make available the European*** Return ***Order through the Schengen Information System to facilitate the fulfilment*** of the ***obligation in paragraph 7. The Commission and relevant EU agencies, such as eu-LISA, shall support Member States, as appropriate***.

9a. ***At the latest by the date of entry into application referred to in Article 52(3) of this Regulation, the Commission and relevant EU agencies, such as eu-LISA, shall implement measures to ensure the possibility of the automated handling of the European Return Order with a view to make the application of Article 9 more efficient.***

9b. ***Member States shall notify the Commission about the necessary legal and technical arrangements put in place to fulfil the obligation mentioned in paragraph 7 at the latest by the date of entry into application referred to in Article 52(3) of this Regulation.***

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 ***in accordance with*** national law ***in the case of Member States not bound by that Regulation,*** 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 ▌ procedure ▌ in Article 9 ***is applied***.

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 ***and enforce*** an enforceable return decision***, and where relevant a decision ordering the removal,*** issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1) ***and 12(2). The enforcement shall be*** based on ***the information available in*** the European Return Order referred to in Article 7(7) ***and*** shall ***be carried out in accordance with national rules and procedures*** pursuant to Article 12.

2. ▌ Member States ***shall not be required to take administrative decisions or acts for the purpose of recognition. The recognition need not take the form of an administrative*** procedure ▌.

▌

5. Where a Member State does not recognise or enforce a return decision ***or decision ordering the removal*** pursuant to paragraph 1 ▌, that Member State shall issue a return decision ***subject to the conditions of*** Article 7 ***or a decision ordering the removal pursuant to Article 12(2)***.

6. ***Where a*** Member State ***recognises or enforces a return decision or a decision ordering the removal pursuant to paragraph 1, it*** shall suspend the ***removal*** where the effects of the return decision ***or decision ordering the removal*** in the issuing Member State are suspended ***and may issue a return decision subject to the conditions of Article 7***.

7. Where the issuing Member State ***suspends or*** withdraws the return decision or when the return decision is annulled by ***an administrative*** authority***, or court or tribunal***, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.

8. The issuing Member State shall ***upon request*** provide the enforcing Member State with all available data and documents necessary for the purpose of ▌ return ***or removal***, in accordance with Regulation (EU) 2018/1860 ▌.

▌

9a. The application of Article 9 is without prejudice to the use of the exceptions set out in Article 8.

11. Member States shall, by the adoption of the implementing act referred to in Article 7(8), start putting in place preparatory steps that could facilitate the recognition of return decisions or decisions ordering the removal issued by another Member State, including, where relevant, legal and technical arrangements in their national systems, changes to national IT systems, relevant training, and pilot project activities.

12. By two years after the date of entry into application referred to in Article 52(3) of this Regulation, the Commission shall assess the implementation of mutual recognition under paragraph 1 of this Article, in particular as regards the following:

(a) whether the legal and technical arrangements making the European Return Order available through the Schengen Information System pursuant to Article 7(7) are put in place by the Member States and are effective;

(b) whether the legal and technical arrangements to ensure automated handling of the European Return Order pursuant to Article 7(9) are put in place by the Member States;

(c) the effectiveness of the recognition and enforcement of return decisions and decisions ordering the removal;

(d) the burden on judicial and administrative national systems resulting thereof, and

(e) results of relevant training and pilot project activities.

13. Based on the assessment referred to in paragraph 12, the Commission shall submit, as appropriate, legislative proposals, including any targeted amendments to ensure effective returns, with a view to introduce mandatory recognition and enforcement of enforceable return decisions and decisions ordering the removal issued by another Member State. Where the Commission does not submit a proposal, it shall explain the reason thereof.

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 ***7, paragraphs 1a-1c***;

(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 ***may accompany*** a return decision ***or decision ordering the removal with*** 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. ***The entry ban*** 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, the competent authorities may, where appropriate, use standardised translations templates or machine-assisted or machine-generated 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, ***or equivalent checks in accordance with national law in the case of Member States not bound by that Regulation. The entry ban in these cases may be imposed and notified after the third-country national has departed from the territory*** of the ***Member States*** avoiding as much as possible to postpone the departure of the third-country national concerned.

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 for a maximum of 10 years. ***Without prejudice to Article 16(3)(a), an entry ban may be issued for a maximum of 20 years for duly substantiated reasons whenever it is considered necessary to prevent the third-country national from entering the territory of the Member States.***

▌

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, without prejudice to paragraphs 2 and 3.***

▌

2. ***The competent authority may, as it considers appropriate, withdraw, suspend or shorten the duration of*** an entry ban ▌ in justified individual cases, including for humanitarian reasons, taking into account all relevant circumstances***, without prejudice to paragraph 3.***

3. The third-country national ***may submit a well-grounded*** request ***for*** withdrawal, suspension or shortening of the duration of an entry ban***, provided that the third-country national has departed from the territory, without prejudice to paragraph 4***.

4. A third-country national, who has been issued an entry ban that exceeds 10 years in accordance with Article 10(6) or Article 16(3)(a) may 10 years after his or her departure from the Member States request the issuing Member State to review whether the entry ban is to be withdrawn, suspended or shortened, having due regard to all relevant circumstances, including, where relevant, whether the third-country national remains a security risk under Article 16, and whether the entry ban remains necessary to further prevent that third-country national from entering the territory of the Member States. The request for review shall be well-grounded.

4a. Member States may subject the withdrawal of an entry ban to the reimbursement of the costs of the removal of the third-country national.

Section 4

Enforcement of return

Article 12

Removal

1. ***The Member States shall take all necessary measures to remove*** the third-country national ▌ when:

(-a) the third-country national has not complied with the obligation to leave the territory in accordance with Article 7;

(a) the third-country national ***does not*** cooperate with the authorities ▌ ;

▌

(c) the third-country national falls within the scope of Article 16;

(d) the third-country national ***moves to another*** Member ***State without authorisation, including during the period*** set in accordance with Article ***7;***

(da) The competent authorities consider that removal is necessary and proportionate, as provided for in national law, for reasons other than those listed in points (-a) to (d).

1a. ***Nothing in this regulation shall prevent Member States from permitting or facilitating voluntary return of a third country national, who is otherwise subject to removal pursuant to paragraph 1, in particular where it is considered as leading to a faster and more effective return.***

2. ***A decision ordering the removal may be issued by*** competent authorities ***to any third-country national who is subject to return. Where a decision ordering the removal is issued, it shall be in writing and may be in the same decision as the return decision or as*** a separate administrative or judicial decision ***or act or as a part of another administrative or judicial decision***.

2a. ***Where a country of return has not yet been determined or where it differs from the country previously determined, the competent authority shall determine one or more countries of return as referred to in Article 4(3) in the return decision or a decision ordering removal prior to carrying out the removal.***

2b. ***Where a decision ordering the removal is issued, it shall give reasons in fact and in law. The third-country national shall be informed about available legal remedies and time-limits to seek those remedies. The decision ordering the removal shall be notified to the third-country national as soon as possible in accordance with national law of the Member State concerned.***

2c. ***Where a decision ordering the removal is issued, the third-country national shall, upon request, be provided with a written or oral translation of the main elements of the decision ordering the removal, 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, use standardised translations templates or machine-assisted or machine-generated translation tools.***

3. ***When the third country national indicates or the authorities of the Member State become aware of, relevant indications 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 in accordance with national law*** assess ***whether the removal is in*** compliance with the principle of non-refoulement ▌. The third-country national concerned shall bring forward as soon as possible any relevant ***information*** concerning ***their*** own personal circumstances ***in order to substantiate their claim that the removal would breach the principle of non-refoulement***. ***The competent authorities may rely on or take into consideration any previous assessment of the risk of refoulement. Any further assessment that there is a risk of refoulement shall only be made if relevant information has been substantiated.***

3a. ***Member States may decide that the principle of non-refoulement may be assessed by an authority other than the competent authority that is issuing or enforcing the return decision.***

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**.**[29]

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[29] 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).

▌Article 14

Conditions for postponing removal

1. Removal pursuant to Article 12 shall be postponed in the following circumstances:

   (a) when it would violate the principle of non-refoulement; or

   (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. ***In case there is a risk of absconding, additional measures may be applied pursuant to paragraph 7.***

3. If the third-country national requests postponement of removal, the request shall be duly substantiated.

4. ▌ Member States shall provide the third-country national concerned with a written confirmation ***of the*** postponement ***in accordance with paragraph 1 or paragraph 2*** and their rights during ***postponement. A translation of the confirmation may be communicated orally to the third-country national in a language they understand or are reasonably presumed to understand, including with the use of interpretation services***.

5. The ***postponement of the*** removal ▌ shall be ▌ reviewed ***in case of change of relevant circumstances***.

6. The following shall be taken into account concerning the situation of the third-country national***, including the compliance by the third-country national with the obligations in this Regulation,*** during periods for which the removal has been postponed:

   (a) basic needs;

   (b) family unity with family members present in the Member State's territory;

   (c) emergency health care and essential treatment of illness;

   (d) access of minors to the basic education system subject to the length of their stay;

   (e) special needs of vulnerable persons.

7. If the removal is postponed, the measures set out in ***Articles 21, 23c and 29*** may be applied when the conditions are fulfilled.

Article 15

Monitoring of removal

Member States shall provide for an independent ***forced-return monitoring system***. Member States ***may rely on existing*** monitoring ***mechanisms such as structures and expertise established pursuant to Regulation (EU) 2024/1356 as relevant for the purpose of this Article***.

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***, including when they are subject to an alert pursuant to Article 24(1)(a) of Regulation (EU) 2018/1861 of the European Parliament and of the Council***[30];

30 Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14, ELI: http://data.europa.eu/eli/reg/2018/1861/oj).

(b) there are ***reasonable 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[31]***or have committed an offence carrying a penalty involving the deprivation of liberty of at least two years under national law or have committed multiple offences carrying a penalty involving the deprivation of liberty of at least one year under the national law of the convicting Member State***;

(ba) there are reasonable 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[32];

[31] 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).

[32] 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, pp. 6, ELI: http://data.europa.eu/eli/dir/2017/541/oj).

(c) there are ***reasonable*** indications of his or her intention to commit an offence pursuant to ***points (b) and (ba)*** of this paragraph in the territory of a Member State;

(ca) there are reasonable 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), (ba) and (c), shall apply to third country nationals where there are reasonable indications that they have incited or otherwise participated 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 enforced 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 entry ban issued in accordance with Article 10 that exceeds the maximum duration referred to in Article 10(6) ***or an entry ban for an indefinite duration where justified and proportionate to the security risk posed by the third-country national. In such cases, Article 11(4) shall apply***;

(b) detained in accordance with Article 29(3), point (c);

(c) detained in prisons and***, to the extent possible,*** be kept separated from ordinary prisoners;

(d) subject to detention for ***additional periods that exceed*** the maximum duration referred to in Article 32(3) and that ***are*** determined by a ***court or tribunal*** taking into account the circumstances of the individual case, and that ***are*** subject to a review by a ***court or tribunal*** at least every three months.

4. ***When the threat to public policy***, ***to public security or to*** national ***security posed by third country nationals referred to in paragraph 1(a) cannot be effectively addressed pursuant to*** this Article***, Member States may provide for other measures under national law. The Member States*** shall ***ensure that when the relevant decision is taken, the measure is necessary and proportionate having regard to the severity of the threat to public security, or the danger posed by the person concerned***.

4a. Member States may rely on an existing thorough security assessment of all relevant circumstances carried out by the competent authorities at previous stages, including in the context of asylum, visa, and border control procedures, including screening.

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 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:

(a) the procedures applicable to the ***return*** of illegally staying third-country nationals ***out*** 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 ***parties to the agreement or arrangement***;

▌

(d) the obligations of the third country referred to in the second sentence of paragraph 1;

▌

(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 provides for onward return to a country of return referred to in Article 4(3)(a) to (d) 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 parties to the agreement or arrangement;

(c) the consequences to be drawn in case of a significant change adversely impacting the situation of the third country referred to in paragraph 1;

(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 referred to in paragraph 1.

3. ***Member States shall, at an appropriate time, inform the relevant Member States of negotiations on*** an agreement or arrangement ***as referred to in*** 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

1. 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 ***an age*** assessment ***in accordance with national or Union law. Such age*** assessment ***may use*** Article 25 of Regulation (EU) 2024/1348 ▌.

2. The competent authority may rely on an existing age-assessment conducted in previous stages of the return procedure or in other relevant procedures.

3. ***A Member State may recognise the results of an age assessment of other Member States where the age assessment was carried out in compliance with Union law.***

6. ***A refusal to undergo an age assessment, including the medical examination, shall not prevent the determining authority from continuing the return procedure. Such refusal may only be considered to be a rebuttable presumption that the applicant is not a minor.***

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 ***can communicate, including with the use of interpretation services, in*** a language that the minor understands ***or may reasonably be presumed to understand***. That person ***may*** be the person designated to act as a representative under Directive (EU) 2024/1346[33] where the person has been designated in accordance with Article 27 of that Directive.

[33] 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).

3. The unaccompanied minor shall be heard, either directly or through the representative or ▌ person referred to in paragraph 2, including in the context of the determination of the best interests of the child. ***At the latest*** 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 ***procedure***.

1a. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of ***this regulation***, without undue delay.

2. ***Without prejudice to the obligation to leave the territory of the Member States,*** third-country nationals shall:

(a) remain ***available to the competent authorities*** on the territory of the Member State competent for the return procedure of which the third-country ***nationals are*** the subject***,*** not abscond***, including*** to another Member State***, and present themselves for the departure of the transportation for return as determined by the competent authority***;

(aa) not physically or verbally obstruct the return;

(b) provide ▌ without undue delay, all information and physical ***and digital*** documentation***, including copies and electronic records, relevant*** for establishing or verifying identity or ***nationality or*** otherwise relevant within the return ▌ procedure that they possess ***or are reasonably presumed to be able to obtain, in particular by providing the competent authorities with an identity or travel document or cooperating on obtaining an identity or travel document***;

(c) not destroy***, withhold*** or otherwise dispose of ▌ documents***, information and documentation, referenced in (b) of this paragraph***, use aliases with fraudulent intent, provide other false information in an oral or written form, or otherwise ***mislead the authorities or*** fraudulently oppose the return ▌ 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 other connections that might facilitate return***;

(f) provide biometric data as defined in ***national and Union law, including*** Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council[34];

(fa) comply with the travel requirements of carriers and entry requirements of third-country authorities, including health requirements, when such requirements are generally imposed on international travellers;

(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;

[34] 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).

(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*** Article 23***, paragraph 1, and Article 23c, paragraph 1,*** throughout the return ***procedure***;

(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) ▌ appear in person or ▌ by means of videoconference***, as required by the competent authorities***, before the competent national ***or*** third-country authorities at the location indicated by such authorities ***for the purpose of acquiring travel documents and establishing their identity or*** nationality;

(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 ▌ 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 ▌ 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***, decision ordering the removal, 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 ▌ return as referred to in paragraph 2, point (b), they shall ensure that the third-country national ▌ receives ***without undue delay*** photocopies or ***other appropriate proof of retention*** of the ***documents. In case of voluntary*** return ▌, 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 ***be reachable by means of*** communication ***as defined by national law***. Member States shall ▌ 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 ***Member States or the*** Union for the purpose of such communication.

▌

Article 21a

Risk of absconding

1. There is a risk of absconding, in an individual case, unless proven otherwise, where one of the following criteria regarding the illegally staying third-country national concerned is fulfilled:

(a) the third-country national has entered or moved without authorisation to the territory of a Member State, including following a transit through a third country, or attempts to do so;

(b) the third-country national is subject to a return 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 one or more of the measures imposed in accordance with Article 23, paragraph 1, and Article 23b, paragraph 1, or expresses or demonstrates intent to do so;

(d) the third-country national has re-entered the territory of the Member States in violation of a valid entry ban.

2. In cases not covered by paragraph 1, the risk of absconding shall be determined on the basis of an overall assessment of the circumstances of the individual case. The assessment shall include one or more of the following criteria regarding the illegally staying third-country national concerned:

(a) lack of residence, fixed abode or reliable address;

(b) non-compliance with the obligation to leave the territory of the Member States within the departure period as set out in accordance with Article 7, paragraph 1a, point (a);

(c) when departure is imminent and there are reasons to believe that the third-country national intends to violate the obligation to cooperate as set out in Article 21, paragraph 2, point (a);

(d) 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;

(e) not attending return and reintegration counselling, where required by the competent authorities;

(f) the third-country national has a lack of social anchoring, in particular the absence of family ties, and insufficient means of subsistence;

(g) non-compliance with the obligations under Article 21, paragraph 2, points (a)-(c), (e), (fa) and (i)-(k), including lack of cooperation in obtaining travel documents;

(h) other criteria than (a) to (f) where provided for in national law.

Chapter IIIa

MEASURES TO PROMOTE RETURN AND ALTERNATIVES TO DETENTION

Article 23

Availability for the return process

1. ***For the purpose of preparing and ensuring an*** effective return ***or to further incentivise compliance with the obligations to leave and cooperate***, ***Member States may impose on the*** third-country ***national*** one or more of the following measures:

(a) the obligation to remain within a geographical area within the Member State's territory in which they are able to move freely;

(b) ***the obligation to reside*** at a specific address ***or place designated by the competent authorities***;

(c) ***the obligation to report*** to the competent authorities at ***specified times in person or by other means as*** specified ***in national law;***

(d) ***other measures than those referred to in points (a) to (c) where provided for in national law.***

2. ***Any measures under*** 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.

2a. ***The measures set out in paragraph 1 may also be imposed on third-country nationals who cannot be removed, due to their lack of cooperation with the competent authorities.***

3. Upon request, competent authorities may grant the third-country national permission to ***temporarily not comply with a measure as referred to in paragraph 1.***

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4. ***The third-country national shall be informed whether or not the permission in accordance with*** paragraph 3 ***is*** granted.

5. The third-country national shall not be required to request permission ***pursuant to paragraph 3*** to attend appointments with authorities and courts***, where it would otherwise have violated the obligations of 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 ***in advance***.

6. The decisions taken in accordance with paragraph 1, points (b) and (c), shall be made in writing, be proportionate and take into account specific circumstances of the third-country national concerned.

7. The third-country national shall be informed of any decision to apply measures referred to in paragraph 1 of this Article and about the consequence of non-compliance with that decision, including detention under Article 29.

Article 23a

Investigative measures

1. Without prejudice to investigative measures for other reasons not related to return in accordance with national law, the competent authorities of the Member States may, where necessary, proportionate and duly justified for the purpose of preparing or ensuring an effective return:

(a) search the third-country national and, subject to a prior judicial order or, in accordance with relevant national law, an administrative order where necessary, proportionate and duly justified by the urgency of such search, his or her place of residence or other relevant premises;

(aa) take administrative measures for the purpose of ensuring compliance with the obligation to provide biometric data as laid down in national law, including fingerprints, which could include the possibility to use means of coercion as a last resort where a third-country national does not provide biometric data as required under Article 21, paragraph 2, point (f);

(b) search and seize personal belongings, electronic devices, and other items of relevance;

(c) impose other investigative measures, where provided for in national law.

2. Any investigative measures under paragraph 1, points (a)-(c), of this Article may be carried out without the consent of the third-country national concerned.

3. Any investigative measures imposed in accordance with paragraph 1, points (a)-(c), of this Article shall respect the fundamental rights and be subject to the safeguards and remedies provided for in Union and national law.

Article 23b

Consequences of non-compliance with the obligation to cooperate

1. In case of non-compliance with the obligation to cooperate as set out in Article 21, paragraph 1 and the requirements under Article 21, paragraph 2, Member States shall impose on the third-country national concerned one or more of the measures set out in Article 23, paragraph 1, and may impose one or more of the following measures which shall be effective and proportionate:

(b) refusal or reduction of certain benefits and allowances, where provided for by national law, unless this would lead to the persons' inability to make provision of their basic needs;

(c) refusal or reduction of incentives granted to promote voluntary return including refusal or reduction of assistance in return and reintegration programmes pursuant to Article 46(3);

(d) refusal or withdrawal of work permit, where provided for in national law;

(e) extension of the duration of an entry ban up to the maximum duration in Article 10(6);

(f) criminal sanctions, including imprisonment, where provided for in national law;

(g) financial penalties;

(h) other measures or consequences than the above-mentioned, where provided for in national law.

Article 23c

Alternatives to detention

1. Member States may impose one or more of the following alternatives to detention, 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 21a:

(a) deposit of an adequate financial guarantee;

(b) the use of electronic monitoring;

(c) other measures than (a) and (b) where provided for in national law.

1a. The measures referred to in the first subparagraph shall primarily aim to ensure the effective and timely return of the third-country national.

2. A decision to apply measures referred to in paragraphs 1 of this Article shall state the relevant reasons in fact and in law.

3. Third-country nationals shall be informed in writing of any decision to apply measures referred to in paragraph 1 of this Article and the consequence of non-compliance with that decision, including detention under Article 29.

4. Member States shall ensure that the decisions taken in accordance with paragraph 2 of this Article are reviewed by a court or tribunal on application by the person concerned or ex officio.

Chapter IV

SAFEGUARDS AND REMEDIES

Section 1

Procedural safeguards

Article 24

Right to information

1. ***Competent authorities shall ensure that*** third-country nationals subject to ▌ return ***are*** informed ▌ about the following:

(a) the purpose ▌ of the ▌ procedure ▌ ;

(b) the ▌ obligations of third-country nationals ▌ as set out in Article 21 and Article 23, the consequences of non-compliance pursuant to ***Articles 23b and 29, paragraph 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 ▌ in accordance with this Regulation and national law, in particular the right to legal assistance and representation pursuant Article 25.

2. The information provided shall be given without undue delay ▌ in a language which the third-country national understands or is reasonably ***presumed*** to understand***. The*** information ***may*** be provided by means of standard information sheets, either ***on*** paper or in electronic ***format, and, where necessary, supplemented orally, using translation and interpretation services***. In the case of ***unaccompanied*** minors, the information shall be provided in ***an*** age-appropriate manner with the involvement of the ▌ representative ***or the person designated to assist the minor*** referred to in Article 20(2).

2a. ***Where the competent authority proceeds with removal on the basis of a return decision or a decision ordering removal which has determined more than one country of return,*** the third-country national shall be ***informed of the country of return to which*** he or she ***will be removed sufficiently in advance of the removal***.

Article 25

Legal assistance and representation

1. In the case of an appeal or a review before a ***court or tribunal*** in accordance with Article 27, Member States shall, at the request of the third-country national, ensure that ***they are provided with necessary*** free legal assistance and representation ▌.

2. ***The competent authorities 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***.

▌

4. Free legal assistance and representation shall be provided by legal advisers or other suitably qualified persons, ▌ admitted or permitted under national law ***to assist or represent*** the third-country national ***or by non-governmental organisations accredited under national law to provide legal services or representation to third-country nationals***.

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 ***and immediately inform the competent authorities of any significant change in their financial situation, unless national law provides for free legal assistance irrespective of the person's financial situation***.

7. With the exception of any assistance provided to unaccompanied minors, ▌ 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;

(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 ***in relation to an appeal or a review before a court or tribunal in accordance with Article 27*** 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 ***court or tribunal*** 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 ***court or tribunal*** 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(1)***, Article 10 and Article 12(2) before ***the court or tribunal*** competent ***according to national law***.

2. The effective remedy shall provide for a full ▌ examination of both points of facts and points of law.

3. ***Where material in the file brought to the attention of the court or tribunal in charge of the remedy against the return decision or the decision ordering the removal, as supplemented or clarified following adversarial proceedings, suggests that the principle of non-refoulement might be undermined,*** compliance with the requirements arising from the principle of non-refoulement ***shall be*** verified ▌ .

4. The annulment or revocation of a non-essential element of a return decision shall not result in the annulment or revocation of the remainder of the decision concerned.

Article 27

Appeal before a competent ***court or tribunal***

1. For the purpose of ***applying this Regulation, the*** Member States shall lay down in ▌ national law ▌ the period for lodging an appeal before a ***court or tribunal*** of first instance ***which*** shall not exceed 14 days.

Member States which by … [the day of entry into force of this Regulation] provide in their national law for periods for lodging an appeal which are 30 days or longer, may derogate from the first subparagraph. In case the Member States decide to derogate, the period referred to in the first subparagraph shall not exceed 30 days.

2. ***The time limit*** referred to in paragraph 1 shall start to run from the date when any of the decisions referred to in Article ***7(1)***, Article 10 and Article 12(2) are notified to the third-country national, or ***considered notified under*** national law ▌.

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 decision ordering the removal*** is issued together with a return decision as referred to in Article 7, ***they*** shall be appealed against jointly with that return decision, before the same ***court or tribunal*** and within the same ▌ proceedings and the same time limits. Where an entry ban ***and/or 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. ▌

▌

Article 28

Suspensive effect

1. ***Although this Regulation does not provide for an automatic suspensive effect of the appeal, Member States shall ensure, in full respect of Article 47 of the Charter, that removal can be suspended by the competent court or tribunal of first instance prior to*** the enforcement of the decisions issued pursuant to Article 7 ▌ and Article 12(2)***. The removal may*** be suspended ***upon request by the third-country national concerned for the period for lodging the appeal pursuant to Article 27 or, where an appeal has been lodged, for the period pending the outcome of such an appeal, unless national law also provides that the enforcement of such a decision may be suspended ex officio. This paragraph shall be without prejudice to provisions of national law*** which ***provide for an automatic suspensive effect of remedies*** before a ***court or tribunal at*** first instance ▌ .

1a. ***In the assessment of the request pursuant to paragraph 1, the court or tribunal may rely on the material in the file brought to its attention, including any assessment of relevant circumstances carried out at previous stages of the return procedure and, where relevant, of the asylum procedure.***

3. Where a further appeal against a first or subsequent appeal decision is lodged, ***the removal*** shall not be suspended unless ***national law provides for a suspensive effect of such remedies or*** the third-country national requests suspension and a competent ***court or tribunal*** decides to grant it, taking due account of the specific circumstances of the individual case.

Chapter V

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 ***return, including for*** preparing the return***, readmission, and*** 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 ***21a***;

   (b) the third-country national avoids or hampers ***readmission,*** the preparation of the return***,*** or the removal ▌;

   (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 ***obligations under*** Article ***21, paragraph 2, points (a)-(c), (e), (fa) and (i)-(k), including lack of cooperation in obtaining travel documents;***

(f) other relevant grounds related to return, provided for in national law, to ensure effective return procedures, that are necessary and proportionate.

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 orally or in writing*** to the third-country national in a language that the third-country national understands or may reasonably be presumed to understand***,*** ***including with the use of interpretation or translation services***.

6. When detaining a third-country national pursuant to paragraph 2, Member States shall take into account ***whether*** the third-country national ▌ is a vulnerable person.

▌

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 and*** successful return ***of the third-country national***.

2. When it appears that the ***grounds*** laid down in Article 29 are no longer fulfilled, ▌ the third-country national shall be released ***from detention pursuant to this Regulation***. Such release shall not preclude the application of measures ▌ in accordance with ***Articles 23 and 23c***.

3. The detention shall not exceed 12 months in a ▌ 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 other exceptional circumstances provided for in national law, detention may be applied for a longer period but shall not exceed 24 months in a Member State***.

Where the third country national has moved to another Member State and his conduct constitutes a ground for detention as referred in Article 29(3), a new period of detention shall apply.

3a. Detention may, after the expiry of the maximum detention period of 24 months pursuant to paragraph 3, be applied for additional periods of up to 6 months in total, whenever there is a risk of absconding and where one or more of the following changes in circumstances indicate a reasonable prospect of removal:

(a) there is new significant information on the third-country national's identity;

(b) travel document has been obtained, or may reasonably be presumed to be obtained due to a change in circumstances;

(c) cooperation with the third country has improved.

When detaining a third-country national in accordance with this paragraph, the Member State shall prioritise such a case in order to ensure that the detention is maintained for as short a period as possible.

4. The expiry of the maximum detention ***periods*** in accordance with paragraph 3 ***and 3a*** does not preclude the application of measures in accordance with Article ***23 and Article 23c***.

5. Where a third-country national is cooperating on their return during detention, the voluntary return of the third-country national concerned shall, where appropriate, be organised without undue delay. Detention may, where relevant, be maintained until departure to ensure effective return in respect of paragraphs 3 and 3a.

Article 33

Review of detention orders

1. ***Member States shall ensure that*** detention ***is*** reviewed ▌ at least every ***six*** months either on application by the third-country national concerned or ex officio.

2. ***Member States shall ensure that*** detention of unaccompanied minors ***is*** reviewed ex officio ▌ at least every three months***, or upon request of the unaccompanied minor concerned or their representative appointed pursuant to Article 20(2)***.

3. Where detention has been ordered or extended by administrative authorities, Member States shall ▌ :

   (a) ***provide for a*** judicial review of the lawfulness of detention ***to be decided on*** as speedily as possible ***within a period that is laid down in national law*** after the beginning of the detention ▌ ; or

(b) ***grant*** the third-country national concerned ▌ the right to initiate proceedings by means of which the lawfulness of detention ***shall be*** subject to judicial review ▌ to be ***decided on*** as speedily as possible ***within a period that is laid down in national law*** after the launch of the relevant proceedings ▌. In such cases Member States shall immediately upon detention inform the third-country national concerned about the possibility of initiating such proceedings.

Where a third country national is detained for a period exceeding the maximum detention period of 24 months pursuant to Article 32(3a), and this extension exceeds 3 months, the detention shall be subject to a review by a court or tribunal at least every three months.

Article 34

Detention conditions

1. Detention shall ***generally*** take place ▌ 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***, to the extent possible,*** be kept separated from ordinary prisoners.

2. Detained third-country nationals shall have access to open-air space. ***Access to open-air space 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.

4. Particular attention shall be paid to ▌ 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 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 ***and other appropriate conditions, including prior issuance of an appropriate security clearance issued by a competent authority in accordance with national law***. ***Member States may impose limits to 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 ▌ with information which explains the rules applied in the facility and sets out their rights and obligations ▌ in a language they ***understand or may reasonably be presumed 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. ▌Unaccompanied minors ***and families with minors*** shall ***during the detention period*** be provided with separate accommodation guaranteeing adequate privacy. Personnel shall be adequately trained, and facilities adapted to take into account the needs of ***minors and*** their age and ▌ their gender ▌.

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 ***or educational activities*** in the format most appropriate to the length of their detention.

Chapter VI

READMISSION

Article 36

Readmission ▌

1. ***After issuing a*** return decision ▌, competent authorities ***shall where relevant***, with the support of Frontex where ***relevant, initiate readmission, including, where*** applicable, ***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***.

▌

Where applicable, the European travel document for return shall be used in compliance with the applicable readmission instrument and Regulation (EU) 2016/1953[35].

▌7. The readmission ▌ 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.

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35 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).

I

Article 37a

External dimension and cooperation with third countries

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.

Where lack of cooperation from a third country is identified, or where one or several Member States encounter difficulties in third country cooperation on readmission, the Union and the Member States shall take appropriate measures, including the use of conditionality in relation to all relevant policies and tools, such as visa policy, as well as trade and development, as provided for in the Union legislative acts regulating them and for the Member States that are bound by these acts, with the purpose of supporting predictable and effective return procedures with third countries and ensuring effective and sustained cooperation on readmission.

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***, upon request,*** communicate to each other ***available*** information concerning a person within the scope of this Regulation for the purpose of carrying out the return procedure ▌ and providing ***return and*** 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[36] or through supplementary information in compliance with Regulation (EU) 2018/1860, such information shall***, as a general rule,*** be exchanged only through those means.

[36] 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).

5. The ***request for information*** shall ***include*** the grounds on which it is based.

6. The information referred to in paragraph 3 ***may*** include in particular:

(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 ***any*** 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 ***any residence status or authorisations offering a right to stay, including*** residence documents or visas ***as well as any applications or extensions hereof,*** 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, ***where applicable, including*** information ***on vulnerability;***

(h) the grounds for any return decision taken concerning the third-country national;

(ha) information on the compliance of the third-country national with the obligations under Article 21 or measures pursuant to Article 23;

(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.

7. The requested Member State shall be obliged to reply as soon as possible and at the latest within ***two*** weeks.

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 enforcement 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 ▌ or the provision of reintegration assistance.

9. Member States shall upon request transfer to each other the original travel documents of a third-country national, where the travel document is necessary to ensure return.

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 ***or*** third ***parties competent for reintegration assistance or other tasks related to implementing the return, such as airlines or medical providers, where*** it is necessary for the purposes of ***return,*** readmission***, or reintegration***.

▌

3. Member States and Frontex transferring personal data pursuant to paragraph 1 ▌ 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 ▌ , 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 ***return,*** readmission and reintegration

1. Data relating to one or ***more*** 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 ***or third parties competent for reintegration assistance or other tasks related to implementing the return*** 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[37] ***or have committed an offence carrying a penalty involving the deprivation of liberty*** of at least ***two*** years ***under national law or have committed multiple offences carrying a penalty involving the deprivation of liberty of at least one year*** under the national law of the convicting Member State;

[37] 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).

(b) the transfer of data is necessary for the purposes of ***return,*** readmission***, or of providing a tailor-made non-financial reintegration assistance***;

▌

(d) ▌ the competent authority ***has verified*** and, where applicable, Frontex ***is*** satisfied ▌ that the transfer of data does not risk breaching the principle of non-refoulement;

(e) ▌ the competent authority ***has verified*** and, where applicable, Frontex ***is*** satisfied ▌ that the transfer of data does not risk breaching Article 50 of the Charter.

▌ 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 ▌, 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 ▌ and the personal data transferred. ***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 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 ***or third parties competent for reintegration assistance or other tasks related to implementing the return, such as medical providers,*** where the following conditions are met:

(a) the transfer of data is necessary for the purposes of carrying out the return operation;

▌

(c) ▌ the competent authority ***has verified*** and, where applicable, Frontex ***is*** satisfied ▌ 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 ***or other tasks related to implementing the return*** 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 ▌ 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. ***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.***

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 ***territory of the Member States***;

(b) a system of recognition and enforcement of return decisions among Member States;

▌

(d) digital systems for managing the return, readmission and reintegration of third-country nationals;

(e) cooperation between Member States;

(ea) a sufficient level of detention capacity as determined by the Member State taking into account actual needs;

(f) ***financial support by the Union and operation support by the*** Union bodies, offices and agencies ▌ 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 ▌ 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) ***2024/1349***, 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 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 ▌.

Article 43

Competent authorities ▌

1. Each Member State shall designate, in accordance with national law, the competent authorities responsible for fulfilling the obligations arising under this Regulation.

▌

Article 44

Cooperation between Member States

1. Cooperation and assistance between competent authorities designated in accordance with Article 43 shall ***as a general rule*** 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 ▌ or other material or in-kind assistance ***in connection with transit through their territory pursuant to (a)***;

(ba) facilitating the transfer referred to in Article 8(1), point (b);

▌

(***d) 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(3)***

▌.

2. Cooperation and assistance between competent authorities designated in accordance with Article 43 may take place, including for the purpose of:

(a) leading or supporting the policy dialogue and exchanges with the authorities of third countries for the purpose of facilitating readmission;

(b) contacting the competent authorities of third countries for the purpose of verifying the identity of third-country nationals and obtaining a valid travel document;

(c) organising, on behalf of the requesting Member State, the practical arrangement for the enforcement of return;

(d) providing logistical or other material or in-kind assistance.

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 ***accordance with*** Regulation (EU) ***2019/1896.***

Article 46

Support for return and reintegration

1. Member States shall ***ensure availability of*** return and reintegration counselling ▌ to provide***, where relevant,*** 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 ▌ provided ***at the latest when*** the return decision ***is issued***.

3. Member States shall ***ensure the availability of*** return and reintegration ***programmes, supported or financed at national or Union level. Such*** programmes ▌ shall ***include*** logistical, financial***, or*** 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 reflect the level of cooperation and compliance of the third-country national and may ***be reduced*** over time ***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[38];

(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***;***

(f) additional criteria under national law.

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

[38] Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (codification) (OJ L 303, 28.11.2018, p. 3, ELI: http://data.europa.eu/eli/reg/2018/1806/oj).

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. ***For monitoring of readmission cooperation with third countries***, ▌ the Commission ***may on an annual*** basis ***request*** the following data ***to be communicated to Frontex, regarding relevant third countries, disaggregated per each third country***:

(a) number of ***requests for confirmation of nationality and number of positive and negative replies received concerning confirmation of nationality requests***;

(b) number of ***requests for issuance of travel documents, of which the number of requests for issuance of travel documents for cases where nationality was confirmed, number of travel documents issued by the*** third-country ***authorities and number of negative replies concerning the request of travel documents.***

▌

2. ***Frontex shall grant the Commission access to*** the data ***referred to in paragraph 1. The data referred to in points (a)-(b),*** disaggregated by ▌ Member ***State, may be communicated to third countries for the purposes of monitoring the implementation of, and compliance with, readmission obligations, including in the framework*** of the ***Union readmission instruments.***

3. Member States shall***, at the request of the Commission, provide the necessary information for completing the assessment pursuant to Article 9(12), in particular statistics on the number of third-country nationals subject to return decisions issued by another Member State and the number of third-country nationals removed or returned on the*** basis ***of recognised return decisions and, where relevant, decisions ordering the removal issued by another Member State within a specified period of time.***

▌

4. The ***Commission shall***, ▌ for the purposes of ***this Article and where possible***, ***make use of the information made available under Regulation (EC) 862/2007.***

5. Where the Commission submits a legislative proposal under Article 9(13), it shall, if necessary, propose amendments to this Article, taking into account relevant legislative developments in digitalisation.

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 … [***Five years after the entry into force of this Regulation***] 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 ***available*** information ***necessary*** for drawing up its report ***pursuant to paragraph 1*** no later than nine months before the time limit expires. ***The Commission shall, where possible, make use of the information made available under Regulation (EC) 862/2007.***

Article 51

Repeal

1. Directive 2008/115/EC ▌**,** Directive 2001/40/EC and Council Decision 2004/191/EC are repealed ▌ for the Member States bound by this Regulation***, as of the date of entry into application of this Regulation pursuant to Article 52(3)***.

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 ***and application***

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

2. ***Articles 1, 2(1) to (3), 4 (3), 5, 7(8) and (9), 17, 18, 19, 36, 37a, 43, 45, 49, 50 and 51 of this Regulation shall be applicable as of the entry into force.***

3. ***The remaining provisions of this Regulation shall apply from … [Official Journal: Insert the date corresponding to 12 months from the date of entry into force].***

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

Done at ▌

For the European Parliament	*For the Council*
The President	*The President*

Or. en