

Establishing a return border procedure

2016/0224B(COD) - 22/05/2024 - Final act

PURPOSE: to streamline, simplify and harmonise the procedural arrangements of the Member States by establishing a return border procedure.

LEGISLATIVE ACT: Regulation (EU) 2024/1349 of the European Parliament and of the Council establishing a return border procedure, and amending Regulation (EU) 2021/1148.

CONTENT: this Regulation establishes a **return border procedure**. It applies to third-country nationals and stateless persons whose application has been rejected in the context of the asylum border procedure provided for in [Regulation \(EU\) 2024/1348](#) of the European Parliament and of the Council establishing a common procedure for international protection in the Union. It also provides for temporary specific rules on the return border procedure in situations of crisis as defined in Article 1(4) of Regulation (EU) 2024/1359.

Return border procedure

The Regulation stipulates that third-country nationals and stateless persons whose application has been rejected in the context of the asylum border procedure should not be authorised to enter the territory of the Member State concerned. The persons concerned should **reside for a period not exceeding 12 weeks** in locations at or in proximity to the external border or transit zones. The 12-week period shall start from the date on which the applicant, third-country national or stateless person no longer has a right to remain and is not allowed to remain.

Where a return decision cannot be enforced within the maximum period of 12 weeks, Member States should continue return procedures.

Without prejudice to the possibility for them to return voluntarily at any time, persons concerned should be granted a **period for voluntary departure** unless there is a risk of absconding, or if their application in the context of the asylum border procedure has been rejected as manifestly unfounded, or if the person concerned is a risk to public policy, public security or the national security of the Member States. The period for voluntary departure should be granted only upon request and it should **neither exceed 15 days** nor confer a right to enter the territory of the Member State concerned.

Detention

Detention may be imposed only as a measure of **last resort** if it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.

Third-country nationals and stateless persons who were detained during the asylum border procedure, who no longer have a right to remain and who are not allowed to remain may continue to be detained for the purpose of preventing their entry into the territory of the Member State concerned, of preparing their return or of carrying out the removal process.

Third-country nationals and stateless persons who were not detained during the asylum border procedure, who no longer have a right to remain and who are not allowed to remain may be detained if there is a risk of absconding, if they avoid or hamper the preparation of return or the removal process or if they pose a risk to public policy, public security or national security.

Detention should be maintained for **as short a period as possible**, and for only as long as a reasonable prospect of removal exists, and while arrangements therefor are in progress and are executed with due diligence. The period of detention should **not exceed 12 weeks**.

Derogations applicable in situations of crisis

In a situation of crisis, Member States may, by way of derogation, prolong the maximum period during which those third-country nationals or stateless persons are to be kept at the locations by an additional period of a **maximum of six weeks**.

Organisations and persons permitted under national law to provide advice and counselling should have effective access to applicants held in detention facilities or present at border crossing points. Member States may impose limits to such actions where, by virtue of national law, such limits are objectively necessary for the security, public order or administrative management of a detention facility, provided that access is not thereby severely restricted or rendered impossible.

Where a Member State considers itself to be in a situation of crisis, it may submit a request to apply the derogations provided for in this Regulation.

Contribution by the Union budget

Regulation (EU) 2021/1148 is amended to guarantee a full contribution by the Union budget to the total eligible expenditure of solidarity actions, as well as to introduce specific reporting requirements in relation to those actions, as part of the existing reporting obligations on the implementation of the Funds. The Regulation is also be amended to allow the Member States to provide financial contributions to the BMVI in the form of external assigned revenues.

Transitional measures

By 12 September 2024, the Commission, in close cooperation with the Member States and the relevant Union bodies, offices and agencies, should present a **common implementation plan** to the Council to ensure that Member States are adequately prepared to implement Chapter II of this Regulation by 1 July 2026, assessing any gaps identified and operational steps required, and shall inform the European Parliament thereof.

On the basis of that common implementation plan, by 12 December 2024, each Member State should, with the support of the Commission and the relevant Union bodies, offices and agencies, establish a national implementation plan setting out actions and a timeline for their implementation. Each Member State should complete the implementation of its plan by 1 July 2026.

ENTRY INTO FORCE: 11.6.2024.

APPLICATION: from 12.6.2026.