

Basic information

2018/0329(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Directive

Return Directive

Repealing Directive 2008/115/EC [2005/0167\(COD\)](#)

Subject

7.10 Free movement and integration of third-country nationals
7.10.08 Migration policy

Legislative priorities

[Joint Declaration 2021](#)
[Joint Declaration 2022](#)
[Joint Declaration 2023-24](#)

Awaiting committee decision

Key players

European
Parliament

Committee responsible

LIBE

Civil Liberties, Justice and Home Affairs

Rapporteur

[STRIK Tineke \(Greens/EFA\)](#)

Appointed

17/10/2024

Former committee responsible

LIBE

Civil Liberties, Justice and Home Affairs

Former rapporteur

[STRIK Tineke \(Greens/EFA\)](#)

Appointed

04/09/2019

LIBE

Civil Liberties, Justice and Home Affairs

Former committee for opinion

AFET

Foreign Affairs

Former rapporteur for opinion

The committee decided not to give an opinion.

Appointed

AFET

Foreign Affairs

DEVE

Development

DEVE

Development


The committee decided not to give an opinion.

Committee for opinion on the recast technique

Rapporteur for opinion

Appointed

	JURI Legal Affairs		
	Former committee for opinion on the recast technique	Former rapporteur for opinion	Appointed
	JURI Legal Affairs		
	JURI Legal Affairs		
Council of the European Union	Council configuration	Meetings	Date
	Justice and Home Affairs (JHA)	3641	2018-10-12
European Commission	Commission DG	Commissioner	
	Migration and Home Affairs	AVRAMOPOULOS Dimitris	

Key events			
Date	Event	Reference	Summary
12/09/2018	Legislative proposal published	COM(2018)0634 	Summary
12/10/2018	Debate in Council		
22/10/2018	Committee referral announced in Parliament, 1st reading		
21/10/2019	Resumption of business from the previous parliamentary term		
13/11/2024	Resumption of business from the previous parliamentary term		

Technical information	
Procedure reference	2018/0329(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2008/115/EC 2005/0167(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 079-p2
Stage reached in procedure	Awaiting committee decision
Committee dossier	LIBE/10/00124

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Documentation gateway

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2018)0634 	12/09/2018	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	FR_SENATE	COM(2018)0634	05/11/2018	
Contribution	ES_CONGRESS	COM(2018)0634	30/11/2018	
Contribution	CZ_SENATE	COM(2018)0634	09/01/2019	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES4780/2018	23/01/2019	

Additional information

Source	Document	Date
EP Research Service	Briefing	
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	Role	Committee	Date	Interest representatives
STRIK Tineke	Rapporteur	LIBE	02/10/2023	Platform for International Cooperation on Undocumented Migrants
STRIK Tineke	Rapporteur	LIBE	01/02/2023	European Council on Refugees & Exiles

Return Directive

2018/0329(COD) - 12/09/2018 - Legislative proposal

PURPOSE: to improve the efficiency of common procedures applicable in Member States for the return of illegally staying third-country nationals.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with council.

BACKGROUND: **the effective return of third-country nationals** who do not have a right to stay in the EU is an essential component of the European Agenda on Migration. At EU level, return policy is regulated by Directive 2008/115/EC of the European Parliament and of the Council (the Return Directive). Since the entry into force of the Return Directive in 2010, migratory pressure on Member States and the Union as a whole has increased.

Two main challenges may be identified:

- **national practices implementing the EU framework vary between Member States** and are not as effective as they should be. Among other things, inconsistent definitions and interpretations of the risk of absconding and of the use of detention result in the absconding of irregular migrants and in secondary movements. Lack of cooperation on the part of the third-country nationals leads also to obstructing return procedures;
- **the efficiency of the EU's return policy depends also on the cooperation of countries of origin.** Several legally non-binding arrangements for return and readmission have been put in place. All Member States should make full use of the arrangements to increase returns to the countries concerned.

The Commission adopted a [Recommendation](#) in 2017, setting out a series of measures to be taken up by the Member States to make returns more effective, including by making full use of the flexibility provided by the Return Directive. Despite these efforts, there has been little progress in increasing the effectiveness of returns. On the contrary, a decrease in the return rate throughout the EU was observed **from 45.8% in 2016 to merely 36.6% in 2017.**

This proposal is part of a package of measures proposed by the Commission as a follow up to the European Council of 28 June 2018 which underlined the necessity to **significantly step up the effective return of irregular migrants**, and welcomed the intention of the Commission to make legislative proposals for a more effective and coherent European return policy.

CONTENT: the proposal to **recast Directive 2008/115/EC** aims to address the key shortcomings and obstacles encountered by Member States when carrying out returns, notably to reduce the length of return procedures, secure a better link between asylum and return procedures and ensure a more effective use of measures to prevent absconding. The proposed amendments do not affect the rights of the migrants and ensures full respect of fundamental rights, in particular the principle of non-refoulement.

Specifically, the proposal for recast:

- **establishes a new border procedure** for the rapid return of applicants for international protections whose application was rejected following an asylum border procedure. The proposal provides for specific, simplified rules applicable to third-country nationals who were subject to asylum border procedures: (i) issuance of a decision through a simplified form, (ii) no period for voluntary return granted as a rule (except if the third-country national holds a valid travel document and cooperates with the national authorities), (iii) shorter time-limit for lodging an appeal, and specific ground for detention. This border procedure for return will follow up the asylum border procedure;
- sets out a common, non-exhaustive, list of **objective criteria to determine the existence of a risk of absconding** as part of an overall assessment of the specific circumstances of the individual case;
- introduces an **explicit obligation for third-country nationals to cooperate** with national authorities at all stages of the return procedures, in particular for establishing and verifying their identity in view of obtaining a valid travel document and ensuring the successful enforcement of a return decision;
- clarifies the **need to issue a return decision immediately** after a decision rejecting or terminating the legal stay is taken;
- adapts the rules for granting a **period for voluntary departure**, which should **not be longer than 30 days**. However, the proposal deletes the obligation to grant a minimum of seven days when determining the duration of the period for voluntary departure;
- introduces the possibility for Member States to impose **an entry ban without issuing a return decision** on an illegally staying third-country national who is detected for the first time while leaving the Union in certain cases and taking into account the principle of proportionality;
- establishes the obligation to have **national return management systems** providing timely information on the identity and legal situation of the third-country nationals that are relevant for monitoring and following upon individual cases. These are to be linked to a central system established by the European Border and Coast Guard Agency in accordance with the new Regulation that is part of this package;
- sets an obligation for Member States to establish **voluntary return programmes** that may also include reintegration support;
- provides for a **specific time-limit (five days) for lodging appeals** against return decisions issued in cases where the return decision is the consequence of a decision rejecting an application for international protection that became final. If the risk of a breach of the principle of non-refoulement has not been already assessed by a judicial authority in asylum procedures, an automatic suspensive effect of the appeal against a return decision must be granted. A decision on temporary suspension shall be made quickly, within 48 hours as a rule;
- **sets out clear time-limits for detention:** while the maximum period for detention of 6 months and the possibility of extension in specific circumstances are not modified, the proposal requires that national legislation provide for **not less than 3 months as an initial minimum period of detention**, in order to more appropriately reflect the period of time needed to successfully carry out return and readmission procedures with third countries. In addition, Member States may now also detain returnees when they pose a **threat to public order** or national security.