Basic information

2019/2208(INI) INI - Own-initiative procedure	Procedure completed
Implementation report on the Return Directive **Subject** 7.10.04 External borders crossing and controls, visas 7.10.08 Migration policy	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	STRIK Tineke (Greens/EFA)	02/12/2019
	Shadow rapporteur RANGEL Paulo (EPP) GUILLAUME Sylvie (S&D) IN 'T VELD Sophia (Renew) KEMPA Beata (ECR) BAY Nicolas (ID) PELLETIER Anne-Sophie (GUE/NGL)	

Key events

Date	Event	Reference	Summary
19/12/2019	Committee referral announced in Parliament		
01/12/2020	Vote in committee		
02/12/2020	Committee report tabled for plenary	A9-0238/2020	Summary
14/12/2020	Debate in Parliament		
17/12/2020	Decision by Parliament	T9-0362/2020	Summary

Technical information

Procedure reference	2019/2208(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Implementation

Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/02110

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE653.716	09/06/2020	
Amendments tabled in committee		PE655.606	10/07/2020	
Committee report tabled for plenary, single reading		A9-0238/2020	02/12/2020	Summary
Text adopted by Parliament, single reading		T9-0362/2020	17/12/2020	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2021)190	18/06/2021	

Implementation report on the Return Directive

2019/2208(INI) - 02/12/2020 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted an own-initiative report by Tineke STRIK Greens/EFA, NL) on the implementation of the Return Directive.

Under Article 19 of the Return Directive (2008/115/EC), the Commission is to report on its application every three years, starting from 2013. It released its only evaluation report in 2013, based on a meta-study of return policies in 31 states.

Stressing the lack of recent implementation reports from the Commission, Members called for an updated assessment to be carried out.

This report, highlighting several gaps in the implementation of the Return Directive, is not intended to substitute the still overdue fully-fledged implementation assessment of the Commission.

General observations

Members stressed than an effective return policy is one of the key elements of a well-functioning EU asylum and migration policy. However, they underlined that not every return decision is followed by swift return and readmission procedures.

Member States were called on to allocate adequate capacity, including human resources and sufficient training, to authorities responsible for taking and implementing return decisions, and in doing so to invest in the quality of their decision-making and implementation.

Return decisions and voluntary departure

The Commission was called on to:

- continue considering voluntary returns as the preferred option over forced returns and to encourage Member States to develop an effective framework for access to voluntary return programmes;

- continue to provide funding for and increase the resources available to assisted voluntary return programmes to ensure sustainable returns and reintegration.

Procedural safeguards

Members stressed that the directive requires return and entry-ban decisions and decisions on removal to be individualised, clearly justified. There should be a need to guarantee the right to effective remedy, including by providing proper and accessible information and legal aid, including appropriate funds for the provision of legal assistance.

Entry bans

The report noted with concern the widespread automatic imposition of entry bans, which in some Member States are enforced alongside voluntary departure. It stressed that this approach risks reducing incentives for voluntary return. The length of an entry ban should be decided on an individual basis, taking into account all relevant circumstances and interests. National practices on the length of entry bans are far from harmonised, despite the fact that they have an effect in other Member States as well. The obligation to consider individual circumstances, humanitarian reasons and the right to family life should be strengthened in order to protect the proportionality principle and fundamental rights.

Risk of absconding and detention

Noting differences in the transposition into national legislations of the definition of the 'risk of absconding', Members stressed that this has led to detention being imposed in a systematic manner in many Member States. Therefore, there is a need for harmonisation in the definition and implementation of objective criteria to establish the risk of absconding.

Members stated that detention must remain a measure of last resort and be prescribed by law and be necessary, reasonable and proportional to the objectives to be achieved, that it must last for the shortest time possible and that the decision to impose detention always has to be based on an assessment of the individual circumstances, in which the interests of the individual concerned have been taken into account.

Member States should offer viable community-based alternatives to detention, which have a less negative impact on migrants, especially children and vulnerable people.

Detention of children

Members noted that a significant number of children are still detained in the EU as part of return procedures. They stressed that children should never be detained for immigration purposes, and detention can never be justified as in a child's best interests.

Member States are called on to:

- provide adequate, humane and non-custodial alternatives to detention;

- carry out proper handovers of child protection services among national authorities to ensure that returned children are taken care of and have access to national child protection services.

Implementation report on the Return Directive

2019/2208(INI) - 17/12/2020 - Text adopted by Parliament, single reading

The European Parliament adopted by 512 votes to 134, with 49 abstentions, a resolution on the implementation of the Return Directive.

The Commission evaluated the implementation of the Return Directive only once (in 2014), despite the legal obligation to report on its implementation every three years from 2013 onwards. Members called on the Commission to carry out this evaluation, which should have been done in 2017, stressing the importance of a common evidence-based approach to guide coherent policy making and well-informed public discourse.

General observations

Concerned by the decrease in the number of return decisions that have been enforced since 2015, Members recalled that an effective return policy is one of the key elements of a well-functioning European asylum and migration policy.

However, they stressed that not all return decisions are followed by rapid return and readmission procedures. According to Parliament, the effectiveness of the Return Directive should be measured by referring to the return rate as well as by the sustainability of returns and implementation of fundamental rights safeguards, the respect for procedural guarantees and the effectiveness of voluntary return.

Identification of returnees and the need to obtain the necessary documentation from third countries has been identified by the Commission as one of the main reasons for non-returns.

Members stressed the need to strengthen cooperation between Member States on return and the need to improve relations with third countries as part of a constructive dialogue on migration. Member States should help the Commission to conclude European readmission agreements coupled with EU parliamentary scrutiny and judicial oversight.

Return decisions and voluntary departure

The Commission was called on to:

- continue considering voluntary returns as the preferred option over forced returns and to encourage Member States to develop an effective framework for access to voluntary return programmes;

- continue to provide funding for and increase the resources available to assisted voluntary return programmes to ensure sustainable returns and reintegration.

Procedural safeguards

The resolution stressed that the Return Directive requires return and entry-ban decisions and decisions on removal to be individualised, clearly justified with reasons in law and in fact, issued in writing, and complete with information about available remedies and the relevant deadlines. It stressed the need to guarantee the right to effective remedy, including by providing proper legal assistance.

Unaccompanied children should not be returned unless it can be demonstrated that it is in the child's best interests.

Entry bans

Members noted with concern the widespread automatic imposition of entry bans, which in some Member States are enforced alongside voluntary departure. They stressed that this approach risks reducing incentives for voluntary return.

The situation of a person may vary during the period imposed by an entry ban and that a person may find themselves at risk of persecution in the country they have been returned to. Member States are called on to lift the entry ban on the basis of humanitarian considerations in such cases. They reiterated that an entry ban should not be automatically applied, but should instead be based on an individual assessment taking into consideration the best interests of the child and the right to family life, the right to family reunification and the principle of proportionality.

Risk of absconding and detention

Noting differences in the transposition into national legislations of the definition of the ‘risk of absconding’, Parliament stressed the need to harmonise the definition and implementation of objective criteria to establish the risk of absconding.

Members stated that detention must remain a measure of last resort and be prescribed by law and be necessary, reasonable and proportional to the objectives to be achieved, that it must last for the shortest time possible and that the decision to impose detention always has to be based on an assessment of the individual circumstances, in which the interests of the individual concerned have been taken into account.

Member States should offer viable community-based alternatives to detention, which have a less negative impact on migrants, especially children and vulnerable people.

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A significant number of children are still detained in the EU as part of return procedures. Members stressed that children should never be detained for immigration purposes, and detention can never be justified as in a child’s best interests.

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