

EN
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Answer given by Mr Avramopoulos
on behalf of the European Commission
(6.12.2018)

The Commission does not take a position on individual cases, which fall within the competence of the Member State concerned, in this case Poland. Member States are responsible for the correct application of EU law. The Commission, in its quality of guardian of the treaties, can intervene when there are indications that a Member State is systematically breaking obligations stemming from EU law.

The Return Directive¹ establishes common standards and procedures for returning illegally staying third-country nationals. To support the proper and uniform implementation of these common standards, the Commission has adopted an Action Plan and a Recommendation. More recently, as a follow-up to the European Council of 28 June 2018² which underlined the necessity to step up the effective return of irregular migrants and called for a more effective and coherent European return policy, the Commission tabled a targeted revision of the Return Directive on 12 September 2018³.

However, pursuant to Article 2(2)(b) of Directive 2008/115/EC, Member States may decide not to apply this Directive to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

¹ 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.

² Conclusions of the European Council of 28 June 2018: <https://www.consilium.europa.eu/en/press/press-releases/2018/06/29/20180628-euco-conclusions-final/>

³ 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), 12.9.2018 COM(2018) 634 final.