

ALTERNATIVE COMPROMISE AMENDMENTS

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**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**

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Chapter I GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes a common system for the return of third-country nationals staying illegally in the Union, in accordance with fundamental rights recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter') as well as applicable obligations under international law, including on refugee protection and human rights.
2. The objective of this Regulation is to ensure the compliance with the obligation to leave the territory of the European Union and (EPP 528) effective return and readmission of illegally staying third-country nationals in line with 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.

Article 3

Derogations

1. Member States may derogate from the provisions of this Regulation for the following third-country nationals:
 - a. those subject to a refusal of entry ~~at external borders~~ (EPP 561 partially) in accordance with Article 14 of Regulation (EU) 2016/399;
 - b. those who 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.

ba third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, as defined in national law, or who are subject to an extradition procedure (Pfe 558, ECR 543, EPP 544)

bb third-country nationals who posing security risks (EPP 544, Pfe 560, ECR 543, ESN 559)

2. When Member States apply derogations pursuant to paragraph 1 of this Article, they shall rely on national law for the purpose of ensuring the return of these categories of third-country nationals and respect the principle of non-refoulement. The following Articles shall apply: Article 12(4) and Article 12(5), Article 14(2), Article 14(6), point (c), Article 14(6), point (e), Article 34 and Article 35.

2a This Regulation does not affect the competences of the Member States to adopt other measures in accordance with Article 4(2) of the Treaty on European Union and Articles 72 and 347 of the Treaty on the Functioning of the European Union

2b This Regulation shall be without prejudice to the competence of Member States to provide, in accordance with their national law, for criminal sanctions in relation to the illegal stay of a third-country national. The application of such criminal sanctions shall not undermine, delay or otherwise impede the effective implementation of the return procedures and removal measures provided for in this Regulation.

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 other conditions for entry, stay or residence in that Member State;
- (3) ‘country of return’ means, without prejudice to the order in which they may apply (EPP 573, 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) ~~and (g)~~ (S&D 581, ECR 582, Greens 580, 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;

- (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;
- (g) a third country other than the one referred to in points (a), (b) and (d) (ECR 592), 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 decision, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to leave the European Union;
- (5) ‘removal’ means the enforcement of the return decision or a removal order (EPP 599) by the competent authorities through the physical transportation out of the territory of the Member State;
- (6) ‘voluntary return’ means compliance by the illegally staying third-country national with the obligation to leave the territory of the Member States within the date set out in the return decision in accordance with Article 13 of this Regulation;
- (7) ‘absconding’ means the action by which the third-country national does not remain available to the competent administrative or judicial authorities, ~~such as by leaving the territory of the Member State without permission from the competent authorities, for reasons which are not beyond the third-country national's control.~~ (EPP 611, S&D 612, ECR 609, ESN 610)
- (8) ‘entry ban’ means an administrative or judicial decision or act prohibiting entry into and stay on the territory of the Member States ~~for a specified period~~ (EPP 617, ECR 616);
- (9) ‘readmission procedure’ means all steps conducted by a competent authority or, where relevant, by the European Border and Coast Guard Agency (‘Frontex’), 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;
- (10) ‘readmission application’ means a request for the purpose of readmission submitted by a competent authority or, supported by the European Border and Coast Guard Agency (‘Frontex’) (EPP 620) to a competent authority of a third country consisting of a request for confirmation of nationality and a request for issuance of a travel document, as relevant;
- (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’) (ECR 622) by which third-country nationals from one or more Member States are returned;
- (12) ‘readmission instrument’ means a legally binding or non-binding instrument, containing provisions on the cooperation between a Member State or the Union and a third country on the readmission procedure, such as readmission or other international agreements and arrangements;
- (13) ‘other authorisation offering a right to stay’ means any document issued by a Member State to a third-country national authorising the stay on its territory, which is not a residence permit within the meaning of Article 2, point 16, of Regulation (EU) 2016/399 or a long-stay visa within the meaning of Article 2, point 14, of Regulation

(EU) 2018/1860 and with the exception of the document referred to in Article 6 of Directive (EU) 2024/1346 of the European Parliament and of the Council².

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

RECITALS 1-11

- (1) The Union, in constituting an area of freedom, security and justice, should have an effective common policy on the return of third-country nationals with no right to stay or enter in the Union. An effective return policy is a key component of a credible migration management system and constitutes an essential element for combating illegal migration. (EPP 207, ECR 209)
- (2) This Regulation establishes a comprehensive common system for returning third-country nationals with no right to stay or enter in the Union based on a common procedure for return and readmission, effective cooperation with third countries, a system for the mutual recognition and enforcement of return decisions, a system for preventing and managing the risk of absconding and cooperation based on mutual trust between Member States. (EPP 218, PfE 216)
- (2a) This Regulation is aligned with the Treaty provisions according to which the Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental political and constitutional structures, including regional and local self-government. It shall also respect the essential State functions of the Member States, in particular ensuring territorial integrity, maintaining law and order and safeguarding national security, which remains the sole responsibility of each Member State.
- (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 Council³, a common system for effectively managing of the return of illegally staying third-country nationals should be put in place. That 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.

² 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 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).

- (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 including by strengthening the link between the issuance of a return decision and the effective departure of the third-country national concerned. The European Council in October 2024 invited the Commission to submit a new legislative proposal, as a matter of urgency. (EPP 226)
- (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 for the development and implementation of (S&D 230) 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-preventing illegal immigration to the Union and prevent unauthorised movements between Member States of illegally staying third-country nationals to safeguard the area without internal border controls while respecting fundamental rights. (EPP 240)
- (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/EC⁴ and Directive 2008/115/EC⁵, is no longer corresponding to the needs of the Union migration policy. 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 Directive⁶. The Commission has also sought to support Member States in using the flexibilities of Directive 2008/115/EC through Recommendations (EU) 2017/2338⁷ and (EU) 2023/682⁸. However, the limits of the current legal framework have been reached.
- (8) A common procedure for effective (S&D 252) return that is firm and fair 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 (S&D 252) manner and with full respect for fundamental

⁴ 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).

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>.

rights as well as international law without undue delay (PfE 249 partially). 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 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 Council⁹. 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 Council¹⁰.
- (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 when applying this Regulation. 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.

Chapter II RETURN PROCEDURE

SECTION 1 START OF THE RETURN PROCEDURE

Article 6 (ECR 653)

Detection and initial checks

- ~~1. Member States shall put in place efficient and proportionate measures to detect third-country nationals who are staying illegally on their territory in view of carrying out the return procedure and to carry out any additional verifications needed, including any vulnerability and security verifications.~~
- ~~1. For the purpose of paragraph 1, competent authorities shall rely upon previous checks carried out in relation to third country nationals, including screening pursuant to Regulation (EU) 2024/1356 or equivalent checks under national law.~~

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 222, 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>).

~~2.3. Where needed, additional security verifications for the purpose of carrying out the return procedure under this Regulation may be carried out based on a risk assessment and objective criteria set out in national law.~~

SECTION 2 PROCEDURE ORDERING RETURN

Article 7

Issuance of a 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 States imposing the obligation to leave the territory of the Member States (ESN 679), without prejudice to the exceptions referred to in Article 8.
2. The return decision shall be issued in writing and give reasons in fact and in law as well as information about available legal remedies and time-limits to seek those remedies. The return decision shall be notified to the third-country national without undue delay as soon as possible (ECR 699, S&D 693 partially) in accordance with the national law of the Member State concerned (EPP 694, S&D 693 partially). Where the whereabouts of the third-country national are unknown, the return decision shall be considered duly notified in accordance with national law. [EPP 700 partially]
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.
4. When a country of return cannot be determined on the basis of the information available to the competent authorities at the time of issuing the return decision, a return decision may indicate provisionally none (Rapp 43 partially, EPP 713) one or more countries of return.
 - 4a The country of return may be determined either in the return decision or after the issuance of the return decision, in the removal order referred to in Article 12(2) (EPP 705).
 - 4b Where a third-country national decides to return voluntarily to a country of return other than that specified in the return decision, the issuance of a new decision determining the country of return is not required (EPP 711, S&D 709 partially, ECR 712, Greens 715 partially)
5. The third-country national shall, upon request, be provided with a written or oral translation of the main elements of the return decision, as referred to in paragraph 2, 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, rely on standardised translation templates or machine assisted translation tools. (Rapp 44, EPP 717, PfiE 716, ECR 719, ESN 718)
6. The return decision pursuant to paragraph 2 shall be issued in the same act or in a separate act (EPP 730, ECR 729 partially) at the same time and together with the decision ending a legal stay of a third-country national, 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, its main elements shall be inserted into the form ('European Return Order') established pursuant to paragraph 8 and shall be made available through the Schengen Information System in accordance with Regulation (EU) 2018/1860 or through information exchange pursuant to Article 38.
8. The Commission shall adopt 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. This Article shall not affect Member States' decisions to grant at any moment an autonomous residence permit, long-stay visa or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on their territory. In such cases, an issued return decision shall be withdrawn or suspended for the duration of the validity of the residence permit, long-stay visa or other authorisation offering a right to stay.
10. The Member State that issues a return decision in accordance with this Article shall take all necessary measures in accordance with this Regulation to ensure effective return.

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 pursuant to national law, ~~where justified on the basis of the specific circumstances of the individual case and in compliance with the principle of proportionality and the rights of defence (EPP 762, ECR 763)~~, and 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 ~~or is the subject of a pending procedure for renewing a residence permit, long-stay visa or other authorisation offering a right to stay in another Member State (EPP 769, 700, PFe 766 partially, ECR 768, ESN 767.)~~.
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 third-country national is the subject of an enforceable return decision issued by another Member State. In this case, the procedure described in Article 9 shall apply.

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 an enforceable return decision and, where relevant, a removal order issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1) and Article 12(2), based on the European Return Order referred to in Article 7(7), and it shall on this basis order the removal pursuant to Article 12. (EPP 784, ECR 781, ESN 783 partially)
2. By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether the legal and technical arrangements put in place by the Member States to make available the European Return Order through the Schengen Information System referred to in Article 7(7) are effective. The Commission shall inform the European Parliament and the Council of the results of its assessment. The implementing decision shall be adopted in accordance with the procedure referred to in Article 49(2).
 - 2a Member States shall not be required to take administrative decisions or acts for the purposes of recognition. The recognition need not take the form of an administrative procedure (ECR 799)
 - 2b Member States shall, at the request of the Commission, provide the information necessary for carrying out the assessment referred to in paragraph 2 of this Article, in particular statistics on the number of third-country nationals removed or returned on the basis of recognised return decisions and, where relevant, decisions ordering removal issued by another Member State within a specified period. The Commission shall, where possible, make use of the information made available pursuant to Regulation (EC) No 862/2007 of the European Parliament and of the Council.(ECR 792)
3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions and, where relevant, removal orders, issued by other Member States pursuant to Article 7(1) and Article 12(2) to third-country nationals illegally present on their territory based on the European Return Order referred to in Article 7(7), and they shall order their removal in accordance with Article 12. (EPP 794, ECR 797).
4. For the purposes of applying paragraph 3, a Member State may decide not to recognise or enforce a return decision of the issuing Member State where the enforcement is manifestly contrary to public policy in the enforcing Member State, where the return of the third-country national can be carried out in a more expeditious manner, or where the third-country national is to be removed to a different third country than indicated in the return decision or removal order of the issuing Member State.
5. Where a Member State does not recognise or enforce a return decision or removal order pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7. (EPP 814, ECR 813)
6. The enforcing Member State shall suspend the enforcement of return where the effects of the return decision or the removal order in the issuing Member State are suspended. (EPP 816, ECR 817 partially)
7. Where the issuing Member State suspends or withdraws the return decision or when the return decision is annulled by an administrative or judicial authority, the enforcing

Member State shall issue a return decision subject to the conditions of Article 7 (ECR 819, ESN 820).

8. Upon request (S&D 823, ECR 824) The issuing Member State shall provide the enforcing Member State with all available data and documents necessary for the purpose of enforcing the return decision or removal order (ESN 822), in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.
9. The enforcing Member State may ask Frontex to support the enforcement of the return decision in accordance with Chapter II, Section 8, of Regulation (EU) 2019/1896. When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing Member State, the issuing Member State shall compensate the enforcing Member State with an amount that shall not exceed the actual costs incurred by the enforcing Member State. The Commission shall adopt an implementing decision to determine the appropriate criteria for determining the amount and practical arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).
10. The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.

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 ~~return~~ leave the territory of the Member States (ECR 847) has not been complied with within the time limits set in accordance with Article 13;
 - 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 shall determine whether or not a return decision or a removal order (EPP 860, ECR 861 partially) shall be accompanied by 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 (ECR 863, ESN 868 partially) separately in writing. It 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, competent authorities may, where appropriate, rely on standardised translation templates or machine assisted translation tools (EPP 862, PFE 864, ECR 863)
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, ~~where justified on the basis of the specific circumstances of the individual case and in compliance with the principle of~~

~~proportionality and the rights of defence (EPP 873, PFE 871 partially, ESN 872), and avoiding as much as possible to postpone the departure of the third-country national concerned. Taking into account the specific circumstances of the individual case, Member States may impose an entry ban after the third-country national has departed from the territory (Rapp 56, EPP 876, ECR 874)~~

- ~~4b 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 (ECR 875).~~
- ~~4c 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 (ECR 877).~~
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 (ECR 880) 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 (EPP 896).~~
- ~~7. The duration of the entry ban pursuant to paragraph 6 may be extended by successive periods of a maximum of 5 years. Such extension shall be based on an individual assessment with due regard to all relevant circumstances and in particular any duly substantiated reasons of competent authorities why it is necessary to further prevent the third-country national from entering the territory of the Member States. (Rapp 62, EPP 899)~~
- ~~7a Member States may impose a permanent entry ban on persons falling within the scope of Article 16(1), where this is justified and proportionate in view of the security risk posed by the third-country national (EPP 906)~~
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 in compliance with a return decision (EPP 921, 926, ECR 913, Greens 914 partially, ESN 912):
- ~~a. demonstrates that he or she has returned voluntarily in compliance with a return decision;~~
- ~~b. has not already been the subject of a return decision or removal order in the past;~~
- ~~c. has not entered the territory of a Member State while an entry ban was still in force.~~
2. An entry ban may also be withdrawn, suspended or its duration shortened in justified individual cases, including for humanitarian reasons, taking into account all relevant circumstances.
3. The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban.

3a. Member States may make the withdrawal of an entry ban conditional upon the reimbursement of the costs incurred for the removal of the third-country national (EPP 924).

SECTION 4 ENFORCEMENT OF RETURN

Article 12

Removal

1. The third-country national subject to a return decision shall be removed when:
 - a. the third-country national is refusing to cooperate with the authorities during the return process;
 - b. the third-country national moves to another Member State without authorisation, including during the period set in accordance with Article 13;
 - c. the third-country national falls within the scope of Article 16;
 - d. the third-country national has not left the territory of Member States by the date set in accordance with Article 13.

da The competent authorities consider that removal is necessary and proportionate, in accordance with national law, for reasons other than those listed in points (a) to (d). (EPP 965, ECR 967)

2. Member States' competent authorities may issue a separate administrative or judicial decision in writing ordering the removal.

2a. Member States shall determine the country of return as referred to in Article 4(3), prior to carrying out the removal. Where a country of removal has not previously been determined in the return decision or where the country of removal differs from the country designated in the return decision, the Member State shall notify the third country national in accordance with the national law of the Member State concerned [Rapporteur 74, ECR 976, 977].

3. ~~The competent authorities shall assess compliance with the principle of non-refoulement by reference to the country of return. In the event that a third country national indicates or the authorities of the Member State become aware 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 2024/1348, where applicable, or assess, in accordance with national law, whether the removal is in compliance with the the principle of non-refoulement. They Member States may rely on an existing thorough assessment of all relevant circumstances in previous stages of the procedure and, where relevant, the asylum procedure. Changes in circumstances and new elements evidencing a risk shall be duly examined.~~ The third-country national concerned shall bring forward as soon as possible any relevant elements concerning his or her own personal circumstances in order to substantiate the claim that the execution of the return decision would expose them to a concrete and individual risk of serious harm in the country of return. (Rapp 74, EPP 982, 1750, ECR 981)

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/EC¹¹.
6. ~~In duly justified cases and when the third-country national is clearly cooperating, competent authorities may decide to indicate a date by which the third-country national shall leave the territory of the Member States in accordance with Article 13.~~ Nothing in this article shall prevent Member States from permitting or facilitating voluntary return of a third country national. In such cases, competent authorities shall closely monitor the compliance of the third-country national, including by organising transport assistance to the relevant point of departure from the Union. (Rapp 74, PFE 998)

Article 13

Voluntary return

1. When the third-country national is not subject to removal in accordance with Article 12, the return decision shall indicate a date by which the third-country national shall leave the territory of the Member States and shall state the possibility for the third-country national to leave earlier.
2. The date referred to in paragraph 1 shall be determined with due regard to the specific circumstances of the individual case and may indicate that the third country national shall leave the territory of the Member States immediately (ECR 1011). The date by which the third-country national shall leave shall not exceed 30 days from the date of notification of the return decision.
3. Member States may, upon request of the third country national, provide for a longer period or extend the period to leave their territory in accordance with paragraph 1 taking into account the specific circumstances of the individual case, ~~such as family links, the existence of children attending school, 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. Any extension of the period to leave shall be provided in writing to the third-country national.~~ Member States may shorten the departure period in case of non-compliance with the obligations to cooperate as set out in Article 21 (EPP 1019, ECR 1021)
4. The third-country national shall leave the territory of the Member States by the date determined pursuant to paragraph 1. If not, the third-country national shall be subject of removal in accordance with Article 12.

Article 14

Conditions for postponing removal

1. Removal pursuant to Article 12 shall be postponed in the following circumstances:
 - a. when it is established that (EPP 1040) it would violate the principle of non-refoulement; or

¹¹ 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>).

- 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 ~~for an appropriate period (Rapp 76), taking into account the specific circumstances of the individual case and provided that there is no risk of absconding in accordance with article 30 (EPP 1058).~~
 3. If the third-country national requests postponement of removal, the request shall be duly substantiated.
 4. When taking a decision in accordance with paragraph 1 or paragraph 2, Member States shall provide the third-country national concerned with a written confirmation setting out the period of postponement and their rights during that period. A translation of the confirmation may be communicated orally to the third-country national in a language that he or she understands, or may reasonably be presumed to understand, including, where necessary, through the use of interpretation services. (ECR 1076)
 5. The decision to postpone removal ~~in accordance with paragraph 1 or paragraph 2~~ shall be regularly reviewed, and at least every 6 months in case of change of relevant circumstances (Rapp 78, EPP 1078, ECR 1083).
 6. ~~The following shall be taken into account concerning the situation of the third-country national 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, 29 and 31~~ may be applied when the conditions are fulfilled. (ECR 1107)

Article 15

Monitoring of removal

1. Member States shall provide for an independent mechanism to monitor the respect of fundamental rights during removal operations. ~~Member States shall equip the independent monitoring mechanism with appropriate means (EPP 1115). Member States shall be able to have recourse to already existing monitoring mechanisms, including those established in Regulation (EU) 2024/1356 and in Regulation (EU) 2024/1348 (S&D 1143 partially, Greens 1117 partially).~~
2. ~~The independent monitoring mechanism shall select the removal operations to monitor based on a risk assessment and conduct its activities on the basis of desk review and on the spot checks which may be unannounced. Member States shall inform the monitoring body in advance about upcoming removal operations and ensure access to relevant locations.~~
3. ~~Substantiated allegations of failure to respect fundamental rights during removal operations shall be communicated to the competent national authority by the monitoring mechanism. The competent authorities shall deal with such allegations effectively and without undue delay.~~

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;
 - b. there are ~~serious grounds~~ clear indications (Pfe 1158) for believing that they have committed a serious criminal offence as referred to in Article 2(2) of Council Framework Decision 2002/584/JHA¹² or have committed a criminal offence punishable by a custodial sentence of at least 2 year under national law (EPP 1168 partially, Pfe 1165, ECR 1156 partially, ESN 1166 partially);
 - c. there are clear indications of his or her intention to commit an offence pursuant to point (b) of this paragraph in the territory of a Member State.
 - ca there are clear 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; (ECR 1160)
 - cb there are clear indications that they pose any other security threat as identified under national law (EPP 1168, Pfe 1174, ECR 1167, ESN 1173).
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) and (c) shall apply to persons who incite or otherwise participate in the commission of the crimes or acts referred to therein. (EPP 1157 and 1162)
 - 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 executed as a matter of priority. (EPP 1179)
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 indefinite entry ban ~~issued in accordance with Article 10 that exceeds the maximum duration referred to in Article 10(6) by an additional maximum period of 10 years;~~ (Rapp 86, EPP 1181, 1199, Pfe 1182, ECR 1185, ESN 1187)
 - b. detained in accordance with Article 29(3), point (c);
 - c. detained in prisons and, where possible, (EPP 1192) be kept separated from ordinary prisoners;
 - d. subject to detention for a period that exceeds the maximum duration referred to in Article 32(3) and that is determined by a judicial authority taking into account the circumstances of the individual case, and that is subject to a review by a judicial authority at least every three months.
4. By way of derogation from the provisions of Article 28(2) and (3), the enforcement of a return decision issued to a third-country national falling within the scope of this Article shall not be suspended unless there is a risk to breach the principle of non-refoulement.

¹² 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).

4a Member States may rely on an existing thorough assessment of all relevant circumstances carried out by the competent authorities at previous stages, including in the context of asylum, visa, border control or screening procedures (EPP 1205)

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 by the Union or one or more Member States (Rapp 91, EPP 1213, PFE 1212) 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 transfer of illegally staying third-country nationals from the territory 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 Member State and of that third country;
 - c. ~~where applicable, the modalities of onward return to the country of origin or to another country where the third-country national voluntarily decides to return, and the consequences in the case where this is not possible (ECR 1218);~~
 - d. the obligations of the third country referred to in the second sentence of paragraph 1;
 - e. ~~an independent body or mechanism to monitor the effective application of the agreement or arrangement (EPP 1223, PFE 1222, ECR 1225, ESN 1224);~~
 - 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 sets out the modalities of onward return to a country of return referred to in Article 4(3) 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 Member State or the Union and of that third country;
 - (c) the consequences to be drawn in case of a significant change adversely impacting the situation of the third country;
 - (d) an independent body or mechanism to monitor the effective application of the agreement or arrangement.
 - (e) The agreement or arrangement pursuant to the first subparagraph may include the conditions for detention in the third country.

The agreement or arrangement pursuant to the first subparagraph may include the conditions for detention in the third country. (EPP 1230, ECR 1231)
3. Prior to concluding an agreement or arrangement pursuant to 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.(ECR 1235)

4. Unaccompanied minors ~~and families with minors~~ (EPP 1246) 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

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 a multi-disciplinary assessment, including a psychosocial and medical (ESN 1263 partially) assessment, which shall be carried out by qualified professionals, to determine the third-country national's age. Article 25 of Regulation (EU) 2024/1348 shall apply by analogy to such assessment.

Where there are reasonable grounds to consider that a person claiming to be a minor may pose a threat to public order or national security, the competent authorities shall ensure that the ageassessment procedure is conducted as a matter of priority and without undue delay, in full respect of the principles of necessity and proportionality. (EPP 1273)

The competent authority may rely on previous age assesment conducted in previous states of the return or other relevant procedures. (Rapp 97, PfE 1280, ECR 1274). A Member State may recognise ageassessment decisions taken by other Member States where the age assessments were carried out in compliance with Union law. (PfE 1281, ECR 1278, ESN 1275)

A refusal to undergo an age assesment, including the medical examination shall not prevent the determining authority from taking a decision on the age of the third country national. (EPP 1277, PfE 1282 partially)

Article 20

Return of unaccompanied minors

1. ~~Before deciding to issue a return decision in respect of an unaccompanied minor (Rapp 98, ECR 1290)~~, 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 ~~trained~~ designated (ECR 1295) 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 speak a language that the minor understands or may reasonable be presumed to understand (ECR 1295, ESN 1295). That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.

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

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- (12) The Member State on whose territory the illegally staying third-country national is detected is responsible for ensuring his or her return. Upon detection of illegal stay, Member States should swiftly identify the third-country national and verify possible security risks by querying the relevant Union and national databases. ~~Member States should check for any vulnerabilities and, where relevant, perform a health check. It should be possible to rely upon an existing thorough assessment of all relevant circumstances made at previous stages of the procedure.~~ (Rapp 12, ECR 270).
- (13) In case of removal, Competent authorities 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 as quickly as possible evidence relating to his or her own personal circumstances. It should be possible to rely upon an existing thorough assessment of all relevant circumstance made in previous stages of the procedure or in any other previous procedures. Any change in circumstances and any new element evidencing a risk should be examined provided that 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. (ECR 281)
- (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 2024/1348 of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU. 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. (ECR 281)
- (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 reduce and prevent (EPP 290) movements of illegally staying third-country nationals across common internal borders while at the same time safeguarding the Schengen area without internal border controls.

- (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 facts and circumstances. The return decision should state the obligation for the third-country national to leave the territory of the Member States. The country of return should, at the latest, be determined prior to removal and may be specified either in the return decision itself or in a separate decision ordering removal. (EPP 305, ECR 295). Where the removal takes place to a third country which was not indicated in the initial return decision, that third country should be added to the removal order, the return decision should be amended, or a new return decision should be issued (Rapp 12).
- (15a) A third-country national subject to an obligation to leave should bear the primary responsibility for departing the territory of the Member States in accordance with the return decision (ECR2 98)
- (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 return decisions issued by another Member State where the third country national moves unauthorised to another Member State.
- (17) Often, and especially in cases where there is no cooperation by the third country national, it is difficult for the competent authorities to identify the country of return at the time of issuing the return decision. In such cases, the competent authorities should determine the country of return on the basis of the information available. Member States may ~~and~~ indicate none, one or more possible country of return the most likely country or countries in the return decision in accordance with national law (EPP 305).
- (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, that decision should be recognised and enforced. 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. They 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 decisions should be exercised in the issuing Member State.
- (19) From the date of application of this Regulation, Member States should put in place legal and technical arrangements to ensure that the European Return Order can be made available through the Schengen Information System. By 1 July 2027, just over one year after the date of application of Regulation (EU) 2024/1351, the Commission should review whether Member States have established appropriate legal and technical arrangements to effectively process European Return Orders through the Schengen Information System. Based on that review, the Commission should adopt an implementing decision by which the recognition of enforceable return decisions, supported by the European Return Order, should become mandatory.
- (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 ~~and should in principle not exceed ten~~

years (Rapp 8, EPP 333). 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 (ECR 332).

- (21) Third-country nationals can be returned by coercive measures through removal or by voluntarily complying with the obligation to leave. The two types of return should be linked to avoid gaps in the system. Whereas cooperating third-country nationals should continue to be returned primarily through voluntary return, reinforced rules on removal seek to ensure a direct and immediate consequence in case the third-country national does not respect the date by which they need to leave or does not comply with the obligations provided under this regulation (EPP 345). Coercive measures should be subject to the principles of proportionality and effectiveness with regard to the means used and objectives pursued. The possibility for a third-country national to comply voluntarily with their return obligation should remain available at all stages of the procedure, including after they have become subject to removal. (PfE 338 partially)
- (22) While respecting the criminal justice systems of the Member States (S&D 350 partially) Common rules are necessary to ensure that third-country nationals posing security risks and with no right to stay in the Union 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 2024/1356 of the European Parliament and of the Council¹³. For third-country nationals posing security risks, removal should be the rule, and it should be possible to derogate from the general rules in order to provide for longer entry bans, longer detention periods and from the use of the use of specialised (EPP 354) detention facilities so that those who threaten the security of Union are swiftly removed. An indefinite entry ban may be imposed to third country nationals posing a security risk (PfE 331 partially).
- (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 and the European Union (Rapp 23, EPP 360) with more options for returns subject to the conditions that the international human right standards and the principle of *non-refoulement* are respected by the third country concerned. ~~In particular, the agreement or arrangement should set out the modalities of transfer, the conditions for the stay in the country, the modalities in case of onward return to the country of origin, the consequences in case of violations or 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. (EPP 360)
- (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 establishes an evaluation and monitoring mechanism to verify the

¹³ 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>).

application of the Schengen *acquis* by means of periodic, unannounced and thematic evaluations, including in relation to the effective return of third-country nationals with no right to stay and the respect of fundamental rights. This mechanism allows to swiftly identify deficiencies that could disrupt the correct functioning of the Schengen area and ensures that those deficiencies are duly addressed.

- (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. The unaccompanied minor should be guided by a representative through all the steps of the return process.
- (26) Where there are grounds for doubting as to whether or not the third-country national is a minor, an age assessment should be carried out. Any previous age assessment conducted by competent authorities, in particular an age assessment carried out as part of the asylum procedure, should be taken into account (EPP 393, Rapp 13, S&D 388 partially). For the purpose of ensuring coherence across migration management in the Union the same procedure as provided for in Regulation (EU) 2024/1348 of the European Parliament and of the Council¹⁴ should be followed. When carrying out age assessments, Member States should in particular take into account relevant guidelines from the European Union Agency for Asylum.

¹⁴ 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 222, 22.5.2024, p. 1).

CA 2A:

- Chapter III - OBLIGATIONS OF THE THIRD-COUNTRY NATIONAL (Articles 21-23)
 - Recitals: 27-28
- Chapter IV - SAFEGUARDS AND REMEDIES (Articles 24-28)
 - Recitals: 29-30a
- Chapter V - PREVENTION OF ABSCONDING AND DETENTION (Articles 29-35)
 - Recitals: 31-35

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 (Rapp 102, ECR 1318) have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.
2. Third-country nationals shall:
 - a. remain available to the authorities (Rapp 103, EPP 1333, ECR 1327, ESN 1331 partially) on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State;
 - aa not physically obstruct the enforcement of the return (EPP 1334, ECR 13945, ESN 1394)
 - b. provide, ~~where requested by competent authorities and (ECR 1339)~~ without undue delay, all information and physical and digital (EPP 1338) documentation, including copies and electronic records (ECR 1339) necessary for establishing or verifying identity or otherwise relevant within the return and readmission procedure that they possess;
 - c. not destroy or otherwise dispose of such documents, use aliases with fraudulent intent, provide other false information in an oral or written form, mislead the authorities (Rapp 105) or withhold relevant information (Pfe 1347, ESN 1346), provide forged documents (EPP 1348) or otherwise fraudulently oppose the return or readmission 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 a connection or through which he or she may have transited (EPP 1357, ECR 1360);
- f. provide biometric data as defined in Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council¹⁵;
- g. provide, when requested by the competent authorities (Rapp 106, ECR 1372) precise contact details, including current place of residence, address, telephone number where they may be reached and, where available, an electronic mail address;
- h. provide, without undue delay, information on any changes to the contact details referred to in point (g);
- i. ~~remain available in accordance with~~ comply with any measure imposed under Article 23 and Article 31 throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return; (ECR 1379)
- 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. when necessary, appear in person or ~~when difficult~~ (EPP 1293) by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality and for acquiring travel documents (ECR 1388 partially);
- 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 (ECR 1399)

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. (Rapp 111, ECR 1381)

3. The information and ~~physical~~ (ECR 1410, P/E 1409) 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;

¹⁵ 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>).

- b. their family members and other personal details of the third-country national if relevant for carrying out the return or readmission 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 or readmission 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, removal order or entry ban (EPP 1413, ECR 1412, ESN 1414) issued by another Member State;
 - f. country or countries and place or places of previous residence, travel routes, countries transited (EPP 1415) and travel documentation.
4. Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or other appropriate proof of retention of the documents (EPP 1418, ECR 1417), ~~at the person's choice, electronic records of the originals~~. In the context of return pursuant to Article 13, 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 accept any communication from the competent authorities, ~~be it by telephone, electronic mail or mail (EPP 1422, ECR 1421)~~, using the most recent contact details indicated by himself or herself to the competent authorities ~~in accordance with paragraph 2, points (g) and (h) (EPP 1422, ECR 1421)~~. Member States shall either 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 Union for the purpose of such communication.
6. A third-country national may be searched or his or her personal belongings may be searched and seized, including digital and electronic devices and other items of relevance (EPP 1432, P/E 1441, ECR 1437, ESN 1430) where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation may be carried out without the consent of the third country national and (EPP 1432, ECR 1439) shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.

Any measure imposed in accordance with paragraph 6 of this Article shall respect the fundamental rights and be subject to the safeguards and remedies provided for in Union and national law. (ECR 1440)

Article 22

Consequences in case of non-compliance with the obligation to cooperate

In case of non-compliance with the obligations set out in Article 21 (1) and (EPP 1454, ECR 1452 partially) (2), points (a) to (k), Member States shall provide for a possibility to impose,

following an individual assessment, effective, proportionate and dissuasive measures or sanctions (EPP 1454) on the third-country national, out of the following:

- (1) refusal or reduction of certain benefits and allowances granted under Member State law to the third-country nationals concerned unless this would lead to the persons' inability to make provision of their basic needs;
- (2) refusal or reduction of incentives granted to promote voluntary return in accordance with Article 13 or reduced assistance in return and reintegration programmes pursuant to Article 46(3);
- (3) seizure of identity or travel documents provided that the third-country national receives a copy;
- (4) refusal or withdrawal of work permit, pursuant to national law;
- (5) extension of the duration of an entry ban in line with Article 10(7);
- (6) financial penalties.

(6a) criminal sanctions, including imprisonment, in accordance with national law (EPP 1483, PfE 1490, ECR 1475)

Failure to comply with the obligations set out in Article 21(1) and (2) shall result in the suspension or withdrawal of the postponement of removal provided for in Article 14. (EPP 1485)

Member States may provide for other dissuasive measures or sanctions in national law where it is necessary, proportionate and duly justified for the purpose of return or removal. (EPP 1488, PfE 1487, ECR 1483)

Article 23

Availability for the return process

1. To ensure a swift, efficient and effective return, and incentivise the compliance with the obligations to leave and cooperate (ECR 1495 partially) third-country nationals shall, for the duration of the return procedure, be subject to one or more of the following measures:
 - a. allocation to obligation to remain within (ECR 1500) a geographical area within the Member State's territory in which they are able to move freely;
 - b. obligation to residence at a specific address or place designated by the competent authority (ECR 1502, PfE 1504);
 - c. reporting to the competent authorities at a specified time or at reasonable intervals.
ca other measures than those referred to in (a) to (c) where provided for in national law (ECR 1512, PfE 1546, ESN 1511)
2. 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.
3. Upon request, competent authorities may grant the third-country national permission to:
 - a. temporarily leave the geographical area for duly justified urgent and serious family reasons or necessary medical treatment which is not available within the geographical area;

- b. reside temporarily outside the place designated in accordance with paragraph 1, point (b);
 - c. temporarily not comply with the reporting obligation.
4. Decisions regarding the permissions listed in paragraph 3, first subparagraph, shall be taken objectively and impartially on the merits of the individual case ~~and reasons shall be given if such permission is not granted~~ (EPP 1535).
 5. The third-country national shall not be required to request permission to attend appointments with authorities and courts ~~if where it would otherwise have violated the obligations in paragraph 1, and where~~ (ECR 1539) the attendance of that third-country national is necessary. The third-country national shall notify the competent authorities of such appointments.
 6. The ~~third country national shall be informed of the~~ decisions taken in accordance with paragraph 1, points (b) and (c), ~~and the consequences of non compliance with those decisions, and~~ shall be made in writing, be proportionate and take into account specific circumstances of the third-country national concerned (ECR 1534 partially, 1545).

RECITALS 27-28

- (27) To reinforce the effectiveness of the return procedure, clear ~~responsibilities-obligations~~ for third-country nationals should be established. Third country-nationals should cooperate with the authorities at all stages of the return procedure. Third-country nationals should remain available and provide the necessary information to prepare the return. In case the obligations to cooperate are not respected, effective, ~~dissuasive~~ and proportionate consequences should be imposed, including for instance reduced benefits and allowances granted in accordance with national law, seizure of ~~identity or~~ travel documents or the extension of the duration of an entry ban. The competent authorities should inform the third-country national of the different steps of return procedure, their ~~rights (S&D 402) and~~ obligations and the consequences of not complying with those obligations (EPP 400, PFE 396).
- (28) This Regulation should not affect the possibility for Member States to impose, where applicable, criminal sanctions in accordance with national criminal law to third-country nationals falling within the scope of this Regulation.

Chapter IV

SAFEGUARDS AND REMEDIES

SECTION 1

PROCEDURAL SAFEGUARDS

Article 24

Right to information

1. Third-country nationals subject to the return procedure shall be informed without ~~undue delay~~ (EPP 1550) about the following:
 - a. the purpose, duration and steps of the return procedure as well as information on the available legal remedies and the time-limits to seek those remedies;
 - b. the rights and obligations of third-country nationals during the return procedure as set out in Article 21 and Article 23, the consequences of non-compliance pursuant to Article 22 ~~and 29(3)(e)~~ (ECR 1562), 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 and obligations throughout the return procedure in accordance with this Regulation and national law, ~~in particular including~~ (EPP 1571) the right to legal assistance and representation pursuant Article 25.
2. The information provided shall be given without undue delay in simple and accessible language and in a language which the third-country national understands or is reasonably supposed to understand, including through written or oral translation and interpretation as necessary. That information shall be provided by means of standard information sheets, either in paper or in electronic form. In the case of ~~unaccompanied~~ (EPP 1578, P/E 1576 ECR 1577, ESN 1582) minors, the information shall be provided in a child-friendly and age-appropriate manner with the involvement of the holder of parental responsibility or the representative referred to in Article 20(2). ~~The third-country national shall be given the opportunity to confirm that he or she has received the information~~ (EPP 1575 partially).

Article 25

Legal assistance and representation

1. In the case of an appeal or a review before a judicial authority in accordance with Article 27, Member States shall, at the request of the third-country national, ensure that free legal assistance and representation is made available as necessary to ensure the right to an effective remedy and fair trial.
2. ~~Member States 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~~ (ECR 1595) shall automatically be provided with free legal assistance and representation.
3. ~~The legal assistance and representation shall consist of the preparation of the appeal or request for review, including, at least, the preparation of the procedural documents required under national law and, in the event of a hearing, participation in that hearing~~

~~before a judicial authority to ensure the effective exercise of the right of defence. Such assistance shall not affect any assistance provided for under Regulation (EU) 2024/1348. (Rapp 121, EPP 1603, PflE 1604, ECR 1600, ESN 1602)~~

4. Free legal assistance and representation shall be provided by legal advisers or other suitably qualified persons or organisations (PflE 1610), as admitted or permitted under national law, whose interests do not conflict or could not potentially conflict with those of the third-country national.
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.
7. With the exception of any assistance provided to unaccompanied minors, and in line with the respect of the essence of the right to an effective remedy, 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 ~~nor undermine the exercise of the right of defence (Rapp 123, EPP 1664, ECR 1660)~~;
 - 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; third country nationals shall immediately inform the competent authorities of any significant change in their financial situation (Rapp 124)
 - 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 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 judicial authority 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 judicial authority against that decision. ~~For that purpose, the applicant shall be entitled to request free legal assistance and representation (EPP 1689, ECR 1686 partially).~~
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, Article 10 and Article 12(2) before a competent judicial authority.
2. The effective remedy shall provide for a full ~~and *ex nunc*~~ (EPP 1703, P fE 1704 partially, ECR 1702 partially, ESN 1705 partially) examination of both points of facts and points of law, including compliance with the requirements arising from the principle of non-refoulement (ECR1702).
3. ~~Member States shall ensure that compliance with the requirements arising from the principle of non-refoulement is verified by the competent judicial authority, at the request of the third-country national or *ex officio*.~~ (Rapp 128, EPP 1710, 1713 partially, ECR 1706, ESN 1709)

Article 27

Appeal before a competent judicial authority

1. For the purpose of ensuring the right to an effective remedy in accordance with Article 26, Member States shall lay down in their national law reasonable time limits for the competent judicial authority of first instance to examine the decisions referred to in Article 7, Article 10 and Article 12(2), providing for an adequate and complete examination of the appeal. The period for lodging an appeal before a judicial authority of first instance shall not exceed 14 days.
2. Time limits referred to in paragraph 1 shall start to run from the date when any of the decisions referred to in Article 7, Article 10 and Article 12(2) are notified to the third-country national, or from another date to be determined by national law, notably when the third-country national concerned has absconded.
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 a decision ordering the removal is issued together with a return decision as referred to in Article 7, it shall be appealed against jointly with that return decision, before the same judicial authority and within the same judicial proceedings and the same time limits. Where an entry ban and/or a 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. The time limits to bring such separate judicial proceedings shall be the same as those laid down in case where the entry ban is jointly appealed against with the return decision. Rapp 130, EPP 1733, P fE 1735, ECR 1732, ESN 1734
5. Where the documents are not submitted in due time, as determined by the competent judicial authority, in the event that the translation is to be provided by the applicant, or where documents are not submitted in time for the judicial authority to ensure that they are translated in the event that the translation is ensured by the competent judicial authority, the judicial authority may refuse to take those documents into account.

5a In the context of the recognition and enforcement of return decisions issued by another Member State, as provided for in Article 9, the remedy against the decisions referred to in Article 7, Article 10 and Article 12(2) shall be exercised in the issuing Member State. (EPP 1743)

Article 28

Suspensive effect

1. This Regulation does not provide for the automatic suspensive effect of an appeal. (Rap 16). The enforcement of the decisions issued pursuant to Article 7, Article 10 and Article 12(2) shall may, upon request or ex officio, be suspended by the competent judicial authority until the expiry of the time limit within which they third country national can may exercise their right to an effective remedy or, where an appeal has been lodged, pending the outcome of the appeal before a judicial authority of first instance referred to in Article 27 has expired. This shall be without prejudice to provisions of national law according to which remedies before a court or tribunal of first instance have suspensive effect. (Rapp 132 partially, EPP 1750 partially, ECR 1747 partially).
- 1a In the assessment of this request, the competent authorities may rely on an existing thorough assessment of all relevant circumstances carried out at previous stages of the return procedure and, where relevant, of the asylum procedure (EPP 1755).
2. ~~Third country nationals shall be granted the right to submit an application to suspend the enforcement of a return decision before the time limit within which they can exercise their right to an effective remedy before a judicial authority of first instance referred to in Article 27 has expired. A judicial authority shall have the power to decide, following an examination of both facts and points of law, whether or not the enforcement of the return decision should be suspended pending the outcome of the remedy. The enforcement of the return decision shall be suspended where there is a risk to breach the principle of non-refoulement. (Rapp 133 partially, EPP 1760, 1761, PfE 1763, ECR 1757, S&D 1762, Greens 1758, Left 1759)~~
3. ~~Where a further appeal against a first or subsequent appeal decision is lodged, the enforcement of a return decision shall not be suspended unless the third country national requests suspension and a competent judicial authority decides to grant it, taking due account of the specific circumstances of the individual case. (EPP 1768, 1770, PfE 1767, Greens 1766, Left 1769)~~
4. ~~A decision on the application for suspension of the enforcement of a return decision shall be taken within 48 hours. In cases involving complex issues of fact or law, that time limit may be exceeded. (EPP 1774, 1778, PfE 1779, ECR 1776, Greens 1777, Left 1775)~~

RECITALS 29-30a

- (29) A set of legal remedies against decisions related to return should be established to guarantee effective protection of the interests of the individuals concerned. The necessary legal aid should be made available, upon request, to those who lack sufficient resources in cases of appeal or review before a judicial authority.

(29a) Legal assistance and representation should include the preparation of an appeal or request for review, comprising, at a minimum, the drafting of the procedural documents required under national law and, where a hearing takes place, participation in that hearing before a judicial authority, in order to ensure the right to an effective remedy and to a fair trial. (Rapp 14)-

(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 suspensive effect should comply with the right to an effective remedy as provided for in Article 47 of the Charter of Fundamental Rights.

(30a) This Regulation does not provide for the automatic suspensive effect of an appeal. However, a third-country national should be able to submit a request to suspend the enforcement of a return decision. In order to avoid duplication in the assessment of the risk of non-refoulement, reliance should be placed on previous assessments, including those carried out in the context of an asylum procedure. It should remain the responsibility of the third-country national to indicate, in a timely manner, any risk of non-refoulement and to request suspension of the return decision. (Rapp 16)

Chapter V

PREVENTION OF ABSCONDING AND 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 preparing the return, readmission (ECR 1794) or 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 30;
 - b. the third-country national avoids or hampers the preparation of the return, the readmission (ECR 1802) or the removal process;
 - 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 measures ordered pursuant to Article 21 and Article 31, including the lack of cooperation in obtaining travel documents. (EPP 1814, PFE 1809, 1817, ECR 1812)
 - ea. any other relevant factor indicating that detention is necessary to ensure a timely and effective return, as determined by the Member States and in accordance with national law. (EPP 1818, PFE 1822, ECR 1819, ESN 1821)
4. Those detention grounds shall be laid down in national law.

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 notified communicated to the third-country national orally on in writing in a language that the third-country national understands or may reasonably be presumed to understand, including the use of interpretation or translation services (ECR 1827, PfE 1828, ESN 1831).
6. When detaining a third-country national pursuant to paragraph 2, Member States shall take into account any visible signs, statements or behaviour related to, or made or shown by, the third-country national indicating that he or she is a vulnerable person.

Article 30

Risk of absconding

1. There is a risk of absconding in an individual case, unless proven otherwise, when one of the following criteria is fulfilled:
 - a. the third-country national has entered or (ECR 1847) moved without authorisation to the territory of another Member State or other Member States, including following a transit through a third country, or attempts to do so;
 - b. the third-country national is subject to a return decision or enforcing 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 non-compliance with the measures pursuant to Article 23 (ECR 1854).
 - ca. the third-country national has re-entered the territory of the Member States in violation of a valid entry ban (EPP, 1870, PfE 1859, ECR 1860, ESN 1877)
 - cb. the third-country national physically or violently opposes the removal (EPP 1861)
2. In cases not covered by paragraph 1, the risk of absconding shall be determined on the basis of an overall assessment of the specific circumstances of the individual case and where one of the following criteria regarding the third-country national concerned is met:
 - a. lack of residence, fixed abode or reliable address;
 - b. explicit (EPP 1888, ECR 1887) expression of intent of non-compliance with return-related measures applied by virtue of this Regulation, or actions clearly demonstrating intention not to comply with such measures;
 - c. non-compliance with the obligations of a return decision until the date by which the third-country national is to leave the territory of the Member States as set out in Article 13;
 - cc. when departure is imminent and there are reasonable grounds to believe that the third country national intends to violate the obligation to cooperate as set out in Article 21(2)(a) (ECR 1889)
 - d. non-compliance with the obligation to cooperate with the competent authorities of the Member States at all stages of the procedures pursuant to this Regulation, as referred to in Article 21(2), points (a) to (k) (EPP 1891, ECR 1892);

- e. when departure is imminent and there are serious reasons to believe third-country national intends to violate the obligation to cooperate as set out in Article 21(2), point (l);
- f. 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;
- g. ~~opposing the return procedure violently~~ (EPP 1895);
- h. ~~re-entering the Union in violation of a valid entry ban~~ (EPP 1899, PflE 1898, .

2a Member States may determine that a third-country national poses a risk of absconding on the basis of additional factors or evidence recognised under national law, insofar as these elements justify such a conclusion and contribute to ensuring the effective and timely enforcement of the return decision. (EPP 1900)

Article 31

Alternatives to detention

1. Member States shall provide for alternative measures to detention in national law. Such measures shall primarily aim to ensure the effective and timely return of the third-country national and shall be ordered taking into account the individual circumstances of the third-country national concerned, including ~~any vulnerabilities, and be proportionate to~~ the level of the risk of absconding assessed in accordance with Article 30. (EPP 1908)
2. For that purpose, Member States ~~shall provide for any~~ may impose one or more (EPP 1915 S&D 1917, ESN 1914) of the following measures:
 - a. the obligation to regularly report to competent authorities with a frequency of up to 3 days, based on the individual circumstances;
 - b. the obligation to surrender identity or travel documents to the competent authorities;
 - c. the obligation to reside in a place designated by competent authorities;
 - d. deposit of an adequate financial guarantee;
 - e. the use of electronic monitoring, ~~including guarantees and procedures provided for under national law.~~ (PflE 1936, ECR 1935)
 - ea restriction of movement or curfews to designated areas (EPP 1939)
 - eb any other measures where provided for in national law (ECR 1942, ESN 1941)
3. A decision to apply measures referred to in paragraph 2 shall state the relevant reasons in fact and in law.
4. Third-country nationals shall be notified of any decision to apply measures referred to in paragraph 2 of this Article and shall be informed about the consequence of non-compliance with that decision, including detention pursuant to Article 29(3), ~~point (e), and the legal remedies referred to in paragraph 5 of this Article.~~ (EPP 1957)
5. Member States shall ensure that the decisions taken in accordance with paragraph 2 of this Article are reviewed speedily by a judicial authority on application by the person concerned ~~or ex officio, and at the latest within two months.~~ (EPP 1962, ECR 1961 partially, ESN 1963)

Article 32

Detention period

1. Detention shall be maintained for as short a period as possible and for as long as the ~~conditions-grounds~~ (ECR 1970) laid down in Article 29 are fulfilled and it is necessary to ensure the effective, timely and successful return of the third-country national (EPP 1971).
 2. When it appears that the ~~conditions-grounds~~ laid down in Article 29 are no longer fulfilled, detention shall cease to be justified ~~and~~ the third-country national shall be released. Such release shall not preclude the application of measures ~~to prevent the risk of absconding~~ in accordance with Article 23 and Article 31 (ECR 1974).
 3. The detention shall not exceed 12 months in a given Member State. Detention may be extended for a period not exceeding a further 12 months in a given 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 exceptional circumstances provided for in national legislation, where necessary to ensure return (EPP 1983).
 4. The expiry of the maximum detention period in accordance with paragraph 3 does not preclude the application of measures in accordance with Article 23 and Article 31. (ECR 1993)
- 4a Member States may prolong the detention of third-country nationals identified as posing a security risk in accordance with Article 16(3)(c) for a period exceeding the maximum duration referred to in paragraph 3 (EPP 1996).
- 4b Where a third-country national is cooperating on their return during detention, the voluntary return of the third-country national concerned shall be organised without undue delay. Detention may, where relevant, be maintained until departure to ensure effective return (ECR 1995).

Article 33

Review of detention orders

1. Detention shall be reviewed at regular intervals of time and at least every ~~three-six~~ months either on application by the third-country national concerned or *ex officio*. (EPP 2005)
2. Detention of unaccompanied minors shall be reviewed *ex officio* at regular intervals of time and at least every three months or, when duly justified, upon request of a representative appointed pursuant to Article 20(2). (Pfe 2012).
3. Where detention has been ordered or extended by administrative authorities, Member States shall ensure that all relevant facts, evidence and observations submitted during the proceedings are subject to judicial review, by providing that:
 - a) any judicial review of the lawfulness of detention be concluded as speedily as possible after the beginning of the detention, whitin a period provided for in national law (ECR 2027) ~~and no later than 15 days thereafter~~ (Rapp 152, EPP 2028); or
 - b) the third-country national concerned be granted the right to initiate proceedings by means of which the lawfulness of detention is subject to judicial review, to be concluded as speedily as possible after the launch of the relevant proceedings, ~~and no later than 15 days thereafter~~ (Rapp 152) within a period provided for in national law (ECR 2035). In such cases Member States shall immediately upon detention

inform the third-country national concerned about the possibility of initiating such proceedings.

Article 34

Detention conditions

1. Detention shall take place, as a rule, 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, when possible (EPP 2044) be kept separated from ordinary prisoners. Member States may adopt temporary measures to expand capacity in exceptional return situations. (EPP 2044)
 2. Detained third-country nationals shall have access to open-air space. Access may be restricted for a limited period of time, if necessary and proportionate to ensure a well functioning detention facility (ECR 2052)
 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 subject to practical arrangements and security considerations (EPP 2054).
 4. Particular attention shall be paid to, and special accommodation provided for, 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, at the request of the third-country national (Rapp 154, PFE 2072, ECR 2066, ESN 2069) 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. Member States may impose limits on such access by virtue of national law where such limits are objectively necessary for the security, public order or administrative management of the facility. (ECR 2066)
 6. Third-country nationals kept in detention shall be provided in writing with information which explains the rules applied in the facility and sets out their rights and obligations in plain intelligible language and in a language they understand or they are supposed to understand (EPP 2074, PFE 2075, ECR 2076, ESN 2077). 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. (EPP 2051)

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. Families with minors (ECR 2012) and unaccompanied minors detained in preparation for return shall be provided with separate accommodation guaranteeing adequate privacy. Personnel shall be adequately trained, and facilities adapted to take into account the needs of persons of their age and of their gender, including appropriate hygiene, food, health services and other infrastructure.
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 in the format most appropriate to the length of their detention.

RECITALS 31-35

- (31) Member States should be provided with the necessary tools for assessing, managing and preventing the risk of absconding. Absconding include actions such as leaving the the territory of the Member States without permission from the competetn authorities, for reasons that are not beyond the control of the third country national (S&D 434). Common rules should streamline the assessment of this risk in individual cases and seek to increase the use of efficient alternatives to detention 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, including consideration of any situation of vulnerability, only for the purpose of preparing return. For this purpose, detention could be imposed when there is a risk that third-country nationals abscond, when third-country nationals hamper or avoid return, or when they pose a security risk, or do not comply with alternatives to detention, or detention is necessary to determine or verify identity or nationality. The authorities should act with due diligence and detention should be maintained only for as short a period as possible and may not exceed 24 months. Where national law provides for the detention of minors, the best interests of the child should be a primary consideration. Minors, as a rule, should not be detained and Other less coercive alternative measures to detention should be used when they can be applied effectively to illegally staying third-country nationals.
- (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 longer period, 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 rule, may~~ 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 the third-country nationals separate from ordinary prisoners. Third country nationals who pose asecurity risk may be placed under enhanced security arrangements within detention facilities (EPP458)

- (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 and unrelated to the third-country national's illegal stay.

CA 3A:

- Chapter VI - READMISSION (Articles 36-37)
 - Recitals: 36-38
- Chapter VII - SHARING AND TRANSFER OF PERSONAL DATA (Articles 38-41)
 - Recitals: 39-41
- Chapter VIII - COMMON SYSTEM FOR RETURNS (Articles 42-46)
 - Recitals: 42-44b
- Chapter IX - FINAL PROVISIONS (Articles 47-52)
 - Recitals: 45-55

Chapter VI READMISSION

Article 36

Readmission procedure

1. Upon issuance of an enforceable return decision ~~and notwithstanding Article 28~~, competent authorities, with the support of Frontex where applicable, shall where relevant and necessary systematically and without undue delay initiate the readmission procedure for the purpose of implementing a return decision or a removal order. (EPP 2119, PFE 2114, ECR 2117)
2. When a travel document needs to be obtained from the third country authorities, the competent authorities shall submit a readmission application. ~~Such readmission application shall include, as relevant, a request necessary for establishing identity, confirmation of nationality and a request for issuance of or to obtain travel documents. Readmission applications shall be submitted without delay and where possible using a standard form pursuant to paragraph 6 (Rapp 159 partially, EPP 2121).~~
3. The competent authorities may submit the request for travel document separately where it is preferable for legal or operational reasons, ~~including due to the duration of the validity of the travel document to be issued and the non-availability of the third-country national to receive the travel document immediately after the confirmation of nationality.~~ Where applicable, the European travel document for return shall be used in compliance with the applicable readmission instrument and Regulation (EU) 2016/1953¹⁶. (Rapp 160, EPP 2125, ECR 2124 partially)
4. Information about the outcome of the request for confirmation of nationality and the travel document obtained shall be ~~uploaded in the Schengen Information System by the competent authority concerned. Such information and travel document shall be made~~

¹⁶ 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>).

available to the competent authorities of other Member States upon request via the Schengen Information System. (EPP 2130, S&D 2129, ECR 2128 partially)

5. Member States may enter into appropriate arrangements for the purpose of facilitating the organisation of identification interviews in another Member State, including for the purpose of implementing Article 44.
- 5a Upon request of the competent authorities, Frontex may support the Member States in the readmission process, including through identification assistance, liaison officer networks and coordination with third-country authorities, in line with its mandate (EPP 2136).
6. ~~The Commission shall be empowered to adopt an implementing act in accordance with Article 49(2) for the purpose of determining the standard form to be used to submit readmission applications referred to in paragraph 2. Such standard form shall set out:~~
 - a. ~~the format for readmission applications;~~
 - b. ~~the elements of a readmission application including the request for confirmation of nationality and the request for issuance of travel document.~~ (Rapp 161, EPP 2138, ECR 2137)
7. The readmission procedure 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.

Article 37

Communication with non-recognised third-country entities

1. The competent authorities may communicate, as necessary and in a strictly operational capacity, with non-recognised third country ~~entities representatives~~ responsible for one or more of the steps of the readmission procedure. (EPP 2156, ECR 2157)
2. Such communication shall be limited to what is necessary for carrying out the readmission procedure and shall not amount to diplomatic recognition of the entities concerned.
- 2a. Any communication under this Article shall be strictly without prejudice to the Union's position on the status of the territories or entities concerned and shall not be considered as recognition, support or endorsement of their authority or legitimacy. (EPP 2158)

Article 37a (EPP 2159)

External dimension and cooperation with third countries

1. 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
2. The Union and the Member States shall pursue balanced and comprehensive partnerships with third countries, making return, readmission and reintegration core components of their engagement
3. The coordinated use of all relevant Union policies and tools, including visa policy, trade, development and diplomatic instruments, shall be directly conditional to the level of cooperation on readmission, in order to support predictable and effective procedures with third countries.

4. Member States shall inform the Commission and the other Member States of the implementation of their partnerships, the challenges encountered and the level of cooperation of the third countries concerned, in order to support a coordinated Union approach.
5. Where persistent or unjustified lack of cooperation from a third country is identified, the Union shall take appropriate measures, including the use of restrictive policy tools, to ensure that effective and sustained cooperation on readmission is restored. (ESN 2144)

RECITALS 36-38

- (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. The existence of such a duty is further evidenced by the consistent practice of States in implementing readmission agreements and arrangements, combined with their recognition of this principle as a necessary aspect of international cooperation in managing migration.
- (37) A systematic and 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 the submission of readmission requests to third countries' authorities, in cases where nationality is in doubt or a travel document needs to be obtained.
- (38) While readmission also depends on the cooperation of third countries, a coherent approach should be taken among Member States to increase the efficiency and effectiveness of readmission procedures, and to ensure unity among Member States. Transparency and coordination on engagement with third countries, including in the context of negotiating readmission instruments, should be ensured to strengthen a coherent Union approach. To ensure effective returns, communication with relevant third country entities for the purpose of the readmission procedure should not amount to diplomatic recognition of the third-country entities concerned.

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 communicate to each other, on request, information concerning a person within the scope of this Regulation for the purpose of carrying out the return procedure, the readmission procedure and providing 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 Council¹⁷ or through supplementary information in compliance with Regulation (EU) 2018/1860, such information shall be exchanged only through those means.
5. The requested data shall be adequate, relevant, accurate, limited to what is necessary for the intended purpose and shall set out the grounds on which it is based.
6. The information referred to in paragraph 3 ~~shall~~may (EPP 2167, S&D 2169, ECR 2168) 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, ~~in particular surname(s); forename(s); where appropriate, former name(s) and other name(s) (alias(es), pseudonym(s)); date, place and country of birth; sex;~~ (Rapp 171, EPP 2170, ECR 2171)
 - b. information related to the biometric data taken of the third-country national in accordance with Regulation (EU) 2024/1358, ~~in particular facial image(s); dactyloscopic data; the date on which the biometric data were taken; the Eurodac reference number used by the Member State of origin;~~ (Rapp 172, EPP 2173, ECR 2172)
 - c. information related to the nationality and the travel document(s) of the third-country national, ~~in particular current nationality(ies) and previous nationality(ies); type, number and country of issue of the travel document(s); the date of issue and the date of expiry of the travel document(s);~~ (Rapp 173, EPP 2177, ECR 2176)
 - 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 residence documents or visas issued by a Member State or a third country;
 - f. information related to the return operation of the third-country national, ~~in particular on flight details; other travel arrangements; indication of whether the third-country national is a particularly dangerous person requiring specific arrangements during the return operation; information relating to escorting;~~ (Rapp 174, EPP 2180, ECR 2179)
 - g. information related to the reintegration of the third-country national, ~~in particular family composition, marital status, contact information of family members in the country of return, work experience, education level, diplomas;~~ (Rapp 175, EPP 2181, ECR 2182)
 - h. the grounds for any return decision, removal order and/or entry ban (EPP 2185) taken concerning the third-country national;

¹⁷ 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>).

- 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.
- ka information on the cooperation of the third-country national in accordance with the obligations laid down in Article 21 (EPP 2188, ECR 2186)
7. The requested Member State shall be obliged to reply as soon as possible and at the latest within ~~three~~ two weeks (Pfe 2189, ECR2190). Member States shall, upon request, transfer to each other the original travel documents of a third-country national where such documents are necessary to ensure return. (ECR 2193)
- 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 execution 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 law and national law. (EPP 2191)
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 procedure or the provision of reintegration assistance.

Article 39

Transfer of data to third countries relating to third-country nationals for the purposes of return, readmission and reintegration (EPP 2196)

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 where the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country provided it is necessary for the purposes of carrying out the return, removal and/or readmission procedure. (EPP 2198)
2. Without prejudice to Articles 40 and 41, data referred to in Article 38(6), points (a), (c), (f) and (g), may be processed and transferred by a competent authority, and, where applicable, Frontex to third parties competent for reintegration assistance where the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with third parties competent for reintegration assistance provided it is necessary for the purposes of providing reintegration assistance.
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 and information about the receiving third country's competent authority. This

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. (EPP 2203)

Article 40

Transfer of data to third countries relating to criminal convictions of third-country nationals for the purposes of readmission and reintegration

1. Data relating to one or several 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 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 Council¹⁸ or has committed an offence carrying a penalty involving the deprivation of liberty (ECR 2112) if it is punishable by a custodial sentence or a detention order for a maximum period of at least three years one year (EPP 2210) under the national law of the convicting Member State;
 - b. the transfer of data is necessary for the purposes of carrying out the readmission procedure referred to in Article 36;
 - c. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country for the purpose of carrying out the readmission procedure;
 - d. prior to the transfer, the competent authority and, where applicable, Frontex, has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement;
 - e. prior to the transfer, the competent authority and, where applicable, Frontex, has satisfied itself that the transfer of data does not risk breaching Article 50 of the Charter.
2. Data relating to one or several 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 party competent for reintegration assistance 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 if it is punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of the convicting Member State;
 - b. the transfer of data is necessary for the purposes of providing a tailor-made and non-financial reintegration assistance referred to in Article 46;

¹⁸ 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>).

- c. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with a third party competent for reintegration assistance for the purposes of providing tailor-made and non-financial reintegration;
 - d. prior to the transfer, the competent authority and, where applicable, Frontex has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement.
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.

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 where the following conditions are met:
 - a. the transfer of data is necessary for the purposes of carrying out the return operation;
 - b. the third-country national whose personal data is transferred has been informed that his or her personal data may be shared with the authorities of a third country for the purposes of carrying out the return operation;
 - c. prior to the transfer, the competent authority and, where applicable, Frontex has satisfied itself that the transfer of data does not risk breaching the principle of non-refoulement.
2. Data concerning health and medical needs (ECR 2235) 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 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 been informed that his or her personal data may be shared with a third party competent for reintegration assistance, for such assistance to be tailored to his or her medical needs, and 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.

RECITALS 39-41

- (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 Council¹⁹. 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, readmission, and reintegration, and is protected against unauthorised access, disclosure, or use.
- (40) Member States should take the necessary measures to ensure competent authorities respect Directive [...] amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime to encourage crime reporting and foster trust in the justice system.
- (41) Regulation (EU) 2016/679 of the European Parliament and of the Council²⁰ 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 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, 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 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) 2018/1725²¹, as applicable, as well as with the principles of non-

¹⁹ 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>).

²⁰ 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>).

²¹ 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>).

refoulement, proportionality and necessity and the Charter of Fundamental Rights of the European Union.

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 Union, including a common procedure for readmission as an integral part thereof;
 - b. a system of recognition and enforcement of return decisions among Member States;
 - c. the necessary resources and sufficient competent personnel in Member States for the implementation of this Regulation, including for detention;
 - d. digital systems for managing the return, readmission and reintegration of third-country nationals;
 - e. cooperation between Member States;
 - f. Financial support by the Union and operation support by the (Rapp 182, EPP 2257, 2258, ECR 2259) Union bodies, offices and agencies supporting pursuant to Article 43(4) and 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. (EPP 2265)
2. The Union and the Member States shall identify common priorities in the field of return, readmission 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) 2024/1351, 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 of the European Parliament and of the Council²² 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, taking into account their shared interest in the effective functioning of the Union's asylum and migration management policies.

Article 43

Competent authorities and resources

²² 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>).

1. Each Member State shall designate, in accordance with national law, the competent authorities responsible for fulfilling the obligations arising under this Regulation.
2. Each Member State shall allocate the necessary resources to competent authorities, including appropriately trained staff ~~who received guidance to fulfil their obligations set out in this Regulation (EPP 2280).~~
3. Member States shall ensure a sufficient level of detention capacity taking into account actual needs and expected returns in the next 12 months, particularly for the purpose of well-prepared systems and contingency planning pursuant to Article 7 of Regulation (EU) 2024/1351.
4. Member States may be supported by competent authorities of another Member State in accordance with Article 44 and relevant staff of Union Agencies, including in accordance with Article 45.

Article 44

Cooperation between Member States

1. Cooperation and assistance between competent authorities designated in accordance with Article 43 shall 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, financial or other material or in-kind assistance;
 - ba facilitating the transfer referred to in Article 8(1)(b) (ECR 2300)
 - c. leading or supporting the policy dialogue and exchanges with the authorities of third countries for the purpose of facilitating readmission;
 - d. contacting the competent authorities of third countries for the purpose of verifying the identity of third-country nationals and obtaining a valid travel document;
 - da supporting the return or removal of a third-country national to the Member State in which he or she has a right to stay in accordance with Article 8(3). (ECR 2301)
 - e. organising, on behalf of the requesting Member State, the practical arrangement for the enforcement of return;
 - f. facilitating the transfer referred to in Article 8(1), point (b);
 - g. 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(1), first subparagraph.

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 line with the Union priorities in the area of return, readmission and reintegration, the implementation of the return border procedure pursuant to Regulation (EU) 2024/1349, the European Asylum and Migration Strategy pursuant to Article 8 of Regulation (EU)

2024/1351 and the priorities in the context of the regular assessment of readmission cooperation pursuant to Article 25a of Regulation (EC) 810/2009.

Article 46

Support for return and reintegration

1. Member States shall establish return and reintegration counselling structures to provide 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 also provided prior to issuing the return decision, in particular when Article 37 of Regulation (EU) 2024/1348 is applicable.
3. Member States shall ~~establish national~~ ensure the availability of programmes supported or financed at national or Union level for supporting the return and reintegration ~~and shall, as a general rule, make use of the programmes provided by the Union~~. National programmes and reintegration assistance provided by the Union shall consist of logistical, financial and other material or in-kind assistance or incentives, including reintegration assistance in the country of return, provided to a third-country national. (ECR 2330)
4. Return and (ECR 2342) 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 be strictly linked to the level of cooperation and compliance of the third-country national and may ~~decrease over time be reduced or withdrawn~~. The following criteria may shall be taken into account when determining the kind and extent of the return and reintegration assistance where applicable: (EPP 2347).
 - 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;
 - 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.
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.

RECITALS 42-44b

- (42) Obstacles to cooperation and communication among Member State authorities responsible for the asylum and the return procedures represent a key structural challenge for a more efficient return process. Competent authorities involved in the different phases of the return process should work and coordinate closely. Where Member States designate law enforcement authorities as competent authorities under this Regulation, it should be understood that this designation is limited to such authorities when acting in their capacity of enforcing return decisions. Law enforcement authorities acting in their capacity as investigative authorities in criminal proceedings should not be covered by such a designation.
- (43) A common system for returns should make full use of digital systems supporting managing returns, readmission and reintegration either operationally managed on Union level or by the Member States, with an emphasis on efficient administrative procedure, cooperation, information sharing and interoperability.
- (44) The Union provides financial and operational support 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 Council²³, 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 Council²⁴. Such support should be used in particular for establishing return management systems and programmes for providing logistical, financial and other material or in-kind assistance to support the return of illegally staying third-country nationals.
- (44a) The external dimension of return policy should form an integral part of the Union's comprehensive approach to migration management. To that end, the Union and the Member States should pursue balanced and comprehensive partnerships with third countries, in which return, readmission and reintegration constitute core components of their engagement. The coordinated use of all relevant Union policies and instruments, including visa policy, trade, development cooperation and diplomatic tools, should contribute to supporting predictable and effective readmission procedures and may take into account the level of cooperation of the third country concerned (EPP 2159, P/E 503).
- 44b In order to strengthen the external dimension of the Union return policy and ensure coherence across Union instruments, the information gathered pursuant to this Regulation regarding cooperation of third countries on readmission should contribute to the Union's existing mechanisms assessing such cooperation. In particular, the data and information collected under this Regulation should support the annual assessment

²³ 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>).

²⁴ 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>).

carried out by the Commission pursuant to Article 25a of the Visa Code of Regulation (EC) No 810/2009. That assessment should rely, inter alia, on objective indicators relating to the effectiveness of return and readmission procedures, including the proportion of third-country nationals effectively returned in relation to the total number of enforceable return decisions for which readmission was requested.

Chapter IX FINAL PROVISIONS

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 ~~for judicial review~~ longer than those provided for in Article 27(1) 33(3) and 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). (ECR 2380)
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. (EPP 2378)
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. Without prejudice to Regulation (EC) 862/2007 of the European Parliament and of the Council²⁵, Member States shall communicate to the Commission (Eurostat) on a quarterly basis the following data:
 - a. number of third-country nationals subject to recognised return decisions issued by another Member State;
 - b. number of third-country nationals subject to alternative measures to detention;
 - c. number of third country nationals subject to detention.
2. The data communicated shall be disaggregated by age, sex and citizenship. The data shall relate to the reference period of one quarter. Member States shall supply to the

²⁵ 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. 23, ELI: <http://data.europa.eu/eli/reg/2007/862/oj>).

Commission (Eurostat) data for three calendar months constituting one quarter within two months of the end of each quarter. The first reference period shall be [second quarter following entry into application of this Regulation].

3. Member States shall communicate to Frontex on a monthly basis the following data, as well as the corresponding datasets, regarding each third country:
 - a. number of readmission applications submitted;
 - b. number of requests for confirmation of nationality and number of positive and negative replies received concerning confirmation of nationality requests;
 - c. number of requests for issuance of travel documents, number of travel documents issued by the third-country authorities and number of negative replies concerning the request of travel documents;
 - d. number of beneficiaries of reintegration assistance broken down by third-country.

da. number of effective returns carried out following a readmission procedure (PfE 2391)

Frontex shall grant the Commission access to the data referred to in this paragraph.

4. The data referred to in paragraphs 1 and 3, disaggregated by Member State, may be communicated to third countries for the purposes of monitoring the implementation of, and compliance with, the principle of readmission, including in the framework of Union readmission instruments.

4a The Commission shall adopt implementing acts laying down the uniform format and technical specifications for the transmission of the data referred to in paragraphs 1 and 3, in order to ensure the comparability, consistency and harmonisation of the data collected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 49(2). (PfE 2392)

4b The Commission may use the data and information collected pursuant to this Article, including the data transmitted to the European Border and Coast Guard Agency in accordance with paragraph 3, for the purposes of assessing the cooperation of third countries on readmission within the framework of Union instruments concerning migration management, including the annual assessment carried out pursuant to Article 25a of the Visa Code of Regulation (EC) No 810/2009.

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 [date] 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 it the necessary information for drawing up its report no later than nine months before the time limit expires.

Article 51

Repeal

1. Directive 2008/115/EC is repealed for the Member States bound by this Regulation. Directive 2001/40/EC and Council Decision 2004/191/EC are repealed with effect from the publication of the implementing decision referred to in Article 9(2) for the Member States bound by this Regulation.
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

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

[...] [...]

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- (45) The collection and analysis of reliable and comparable statistics on return, readmission, and reintegration are essential for monitoring the effectiveness of this Regulation and for identifying areas for improvement, as they provide valuable insights into the efficiency of return procedures, the cooperation of third countries, and the outcomes of reintegration efforts. Common standards and definitions for the collection and reporting of relevant data should be established to enable the Commission and the Member States to assess the impact of this Regulation and to contribute to making informed decisions on future policy developments.

- (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 and the common form of readmission requests. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶.
- (47) Directive 2001/40/EC, 2008/115/EC and Council Decision 2004/191/EC should be repealed.
- (48) Since the objectives of the Regulation to improve the efficiency of return to safeguard the area without internal borders, 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 — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council²⁷ - 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) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399, this Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC²⁸; Ireland is therefore not taking part in the adoption of this Regulation and, subject to the application of Article 4 of 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, is not bound by it or subject to its application. [Nevertheless, to the extent that this Regulation does not constitute a development of the Schengen *acquis*, Ireland has, in accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and the TFEU, notified [, by letter of ...] its wish to take part in the adoption and application of this Regulation.]
- [or]

²⁶ 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>).

²⁷ 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). OJ L 2016/399, 15.3.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/399/oj>).

²⁸ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20, ELI: <http://data.europa.eu/eli/dec/2002/192/oj>).

[In addition, to the extent that this Regulation does not constitute a development of the Schengen *acquis*, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is therefore not bound by it or subject to its application.]

- (51) As regards Iceland and Norway, this Regulation constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399 — 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*²⁹, which fall within the area referred to in Article 1, point C, of Council Decision 1999/437/EC.
- (52) As regards Switzerland, this Regulation constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399— 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*³⁰, 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/EC³¹.
- (53) As regards Liechtenstein, this Regulation constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EU) 2016/399 — 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/EU³².
- (54) Where this Regulation refers to an obligation to leave the European Union, this should be understood as an obligation to leave the territory of all the Member States to which this Regulation applies, including in the light of the preceding recitals.

²⁹ OJ L 176, 10.7.1999, p. 36, ELI: [http://data.europa.eu/eli/agree_internation/1999/439\(1\)/oj](http://data.europa.eu/eli/agree_internation/1999/439(1)/oj).

³⁰ OJ L 53, 27.2.2008, p. 52.

³¹ 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>).

³² 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 [...].