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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Integration, Migration and Expulsion (IMEX Expulsion)
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Subject:	Regulation on establishing a common system for the return of third-country nationals staying illegaly in the EU - Compilation of drafting proposals and comments on Articles 1 to 11

Delegations will find attached the compilation of Member States' drafting proposals and comments on Articles 1 to 11 of the draft Regulation on establishing a common system for the return of third-country nationals staying illegaly in the EU, which was discussed at the Working Party on Intergration, Migration and Expulsion (IMEX Expulsion) meeting on 13-14 May 2025.

Art 1-11 Regulation on establishing a common system for the return of third-country nationals staying illegaly in the EU Deadline: ***26 May 2025***

From: SK, SE, RO, NO, NL, MT, LT, IT, IE, HR, FI, ES, EL, EE, DK, CZ, CH, BG, BE, AT, FR, LV, CY **Updated: 05/06/2025 15:15**

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Please kindly provide your contributions in the table below.

Drafting suggestions: you may use '**track changes**'* or formatting (for example **bold-underline** for additions and ~~strike-through~~ for deletions, **where necessary, in a different colour**). *Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted.**

New provisions may only be added in any of the **'existing cells'.**

Name of document: please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on … .docx**

Thank you for your cooperation!

Commission proposal	Drafting Suggestions and Comments
General Comments	SE (Comments): SE retains a scrutiny reservation on the proposal as a whole. NL (Comments): In addition to the contributions made in the IMEX working party, NL wishes to send the comments and suggestions below. On some articles deliberations are still ongoing. NL reserves the right to add additional suggestions later in

Commission proposal	Drafting Suggestions and Comments
	the process. NL would welcome a flowchart in which the different procedures proposed by the Commission are visible. MT (Comments): Malta maintains a general scrutiny reservation on the entire text. The following comments are preliminary as the text is still being examined. IT (Comments): IT appreciates the proposal which aims to increase the efficiency of the return process by providing clear, simplified and common rules that enable Member States to manage returns more effectively, eliminating the distorting effects and gaps in the functioning of the EU return system present in the current regulatory framework. We consider the Commission's proposal a good initial basis and we intend to play a constructive role in the negotiations. IE (Comments): We once again would like to thank the Commission for all its work on this important and timely proposal, and the Presidency for all its work in advancing the file. We wish to again reiterate that we welcome the fact that the measure has been drafted as a hybrid measure such as to allow the participation of all Member States and Schengen associated countries. We firmly believe it is in

Commission proposal	Drafting Suggestions and Comments
	our mutual interest to ensure as broad a level of participation as possible in order to reduce fragmentation, ensure coherence and support operational effectiveness across the Union. FI (Comments): We support the creation of a common European return system, as an effective and efficient return policy is a prerequisite for a credible asylum and migration system and a key factor for the security of the Union as a whole. A common approach is the best way to ensure the effective return of illegally staying third-country nationals. EL (Comments): - We consider that the Commission's proposal serves as a good basis for swift negotiations. - We attach great importance in establishing as soon as possible a truly European common system for returns by providing for a stronger European dimension of return decisions in a certain mandatory way.

Commission proposal	Drafting Suggestions and Comments
	- The European Return Order will disincentivize third-country nationals from absconding and moving to another Member State and it will encourage compliance and cooperation of returnees during the return process. - It is necessary to ensure that a responsibility system for returns among the Member States is not created under this Regulation. After the establishment of Home Affair Funds and the expansion of Frontex's mandate, the matter of reimbursement between the Member States has become obsolete. - With regards to the return hubs we deem that the permissive approach followed by the Commission goes in the right direction. Further clarifications and some small amendments may prove to be necessary. EE (Comments): Estonia wants to place a scrutiny reservation on the whole text of the Return Regulation as our positions have not been approved by the Parliament yet. DK (Comments): DK is generally concerned about the administrative burdens in the proposal. DK has along with other Member States identified a number of areas that

Commission proposal	Drafting Suggestions and Comments
	will increase the administrative burdens. These include *inter alia* mutual recognition, extension of entry bans every 5 years (instead of just longer than 10 years initial entry bans), data collection, issuance of a European Return Order etc. CH (Comments): The proposal contains many cross-references to legislation that is not part of the Schengen acquis. The SAC are not bound by the relevant provisions. Switzerland requests the Council Legal Service to examine this issue and to propose solutions. BG (Comments): Bulgaria welcomes the proposal of the Commission on a new Regulation establishing a common system for the return of TCN. We have consistent position in favour of setting up a common EU return system. CY (Comments): Cyprus extends its appreciation for the swift action on the negotiations regarding the legislative proposal on returns.

Commission proposal	Drafting Suggestions and Comments
	We commend the Presidency's stance and anticipate a fruitful discussion. In the spirit of beneficial cooperation, Cyprus is pleased to offer its initial written comments on **Articles 1-11** of the proposal. These comments reflect Cyprus's initial perspectives, considerations, aiming to foster a robust, effective, and harmonized EU framework. Cyprus strongly supports the intention of enhancing the effectiveness of return procedures and ensuring a more consistent application of common standards among Member States. We believe a harmonized and efficient returns policy is crucial for the credibility and sustainability of the common migration policy. At the same time, **it is imperative that the new framework maintains the necessary flexibility for national practices that have been proven successful.**
	CH (Comments): The below comments are not exhaustive and may be complemented with suggestions for additions, amendments or deletions by Switzerland in the same spirit in favour of a simplified regulation that focuses on the necessary elements that empower MS/SAC to carry out effective returns. BE (Comments):

Commission proposal	Drafting Suggestions and Comments
	1. <u>Regulation setting up EU return system</u> ➔ The main guiding principle for these negotiations for Belgium is the pursuit of a balanced administrative burden on Member States and the fact that this regulation should effectively pursue a more efficient return policy. ➔ The Commission's proposal is not clear regarding the sequence of the different steps in the return process as integrated in their proposal. A flow chart of the Commission which would further clarify at which moment a procedural step – mandatory or not – applies, would be useful. ➔ Our priority is sustainable return. The separation in the Regulation between voluntary return and removal is too strict, the Regulation should not create unreasonable obstacles to voluntary return and flexible transition to voluntary return in a later stage of the return procedure without administrative burden should remain possible. ➔ The relation between this Regulation and Pact related legislative texts such as AMMR is not clear at all. This Regulation should clarify further which text prevails in which situation.

Commission proposal	Drafting Suggestions and Comments
	<u>Mutual recognition of return decisions</u> BE is open to the further development of the instrument of mutual recognition of return decisions from other Member States, whereby return decisions delivered by one Member State take effect immediately and without additional formalities in another Member State. The exact modalities of COM's proposal and the feasibility of mandatory mutual recognition are still under consideration. What about the right to be heard, which according to our national jurisprudence should be maximum six months old, so how long is a return decision from another Member State enforceable? What if new elements emerge? What is the relationship with the new AMMR under the Pact? <u>Return decision and non-refoulement</u> A return decision is a decision which establishes that the third-country national is in illegal residence and must leave the MS as well as the EU, which is mandatory to issue to illegally staying TCN in accordance with the

Commission proposal	Drafting Suggestions and Comments
	return directive and with the proposed Regulation. It should in every circumstance remain possible to issue a return decision, which should never imply a breach of non-refoulement. The fulfilment of the obligation to leave the EU is the most important consideration at the moment of issuing the return decision, not the country to which the TCN would travel to. It's not the intention that the assessment of non-refoulement should be done at the stage of issuing the return decision, this assessment should be done at the time of drafting a removal decision because at that moment the country of removal is known and the assessment of non-refoulement can be done thoroughly. This means also that we are in the context of removal and not in the context of voluntary return. We ask for more clarity in the text of the Regulation to better reflect at which stages of the return procedure the non-refoulement assessment should happen. Otherwise, this Regulation will not contribute to the improvement of the efficiency of the return policy.
Proposal for a	

Commission proposal	Drafting Suggestions and Comments
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	HR (Comments): Croatia supports the Commission's proposal and will cooperate constructively during further discussions. We are in favour of a comprehensive and strong European common system for returns that helps prevent secondary movements and enables fast and efficient return procedures. We welcome that the proposal is introducing a legal basis for new and innovative solutions. However, we would like to underline in the text the need to ensure that new and innovative solutions do not create new migratory routes or additional pressure, which is in line with the Strategic Guidelines in the area of Justice and Home Affairs (16343/24) of 28 December 2024 explicitly state ("In parallel, new ways to prevent and counter irregular migration will be considered, in line with international law, while ensuring sustainable solutions and without generating new migratory routes or additional pressure.").

Commission proposal	Drafting Suggestions and Comments
Chapter I **GENERAL PROVISIONS**	
Article 1	MT (Comments): Malta agrees with the subject matter.
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.	NO (Drafting Suggestions): **1. This Regulation sets out common standards and procedures to be applied in Member States for the return of illegally staying third-country nationals, in accordance with fundamental rights as general principles of Union law as well as applicable obligations**

Commission proposal	Drafting Suggestions and Comments
	under international law, including refugee protection and human rights obligations. **2. The objective of this Regulation is to ensure the effective return of illegally staying third-country nationals.** NO (Comments): Art. 1(1) Where the regulation is stating "Union" it should say "Member States" to ensure that the regulation also applies for the SAC-countries. Art. 1(1) also contains a reference to the Fundamental Rights Charter to which the SAC are also not bound. We suggest a wording that is closer to the one in the Return Directive. NL (Drafting Suggestions): This Regulation sets out common standards and procedures to be applied in Member States ~~establishes a common system~~ for the return of third-country nationals staying illegally in the Union, in accordance with fundamental rights as general principles of Union law ~~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. NL

Commission proposal	Drafting Suggestions and Comments
	(Comments): NL is of the view that the word 'readmission' has been wrongly translated to the Dutch 'overname', what would confuse with the terminology used in the Dublin-context. Therefore we suggest the word 'terugname'. Furthermore, NL does not see added value in creating article 36. In coherence with adapting / deleting article 36, the word 'readmission' should be deleted in this article. Furthermore adaptions have been made to make the article fit for Schengen Associated Countries. CH (Drafting Suggestions): This Regulation **sets out common standards and procedures to be applied in Member States** ~~establishes a common system~~ for the return of ~~third-country nationals staying~~ illegally-staying **third-country nationals** ~~in the Union~~, **in accordance with fundamental rights as general principles of Union law** ~~, 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 CH (Comments):

Commission proposal	Drafting Suggestions and Comments
	"Staying illegally in the Union" in Paragraph 1 should be changed to "illegally staying" to ensure coherence with the definition of "illegal stay" in Art. 4(2) and applicability of the regulation to the SAC. FR (Drafting Suggestions): 1. This Regulation **sets out common standards and procedures to be applied in Member States** ~~establishes a common system~~ for the return of illegally staying third-country nationals, in accordance with fundamental rights **as general principles of Union law** ~~recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter')~~ as well as applicable obligations under international law, including refugee protection and human rights obligations. FR (Comments): À l'article 1er, la France propose, d'une part, de remplacer la référence à un « système commun » par une référence à des « standards et procédures communs applicables dans les États membres » (ce qui permet d'inclure les États associés), et, d'autre part, de remplacer la référence à la Charte des droits fondamentaux de l'UE par une référence aux « principes généraux du droit de l'Union » (les États associés n'appliquant pas la Charte). CY

Commission proposal	Drafting Suggestions and Comments
	(Comments): Cyprus generally supports the broad scope of the proposal, recognising the need for a comprehensive approach to returns.
2. The objective of this Regulation is to ensure the 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**.**	SE (Drafting Suggestions): 2. The objective of this Regulation is to ensure the 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. SE (Comments): SE agrees with the importance of effective readmission. We agree that a more coherent and consistent follow up on readmission requests is needed, as well as a coordinated approach in our expectations on third countries in the readmission procedure. However, we have doubts about the added value of regulating the readmission procedure as proposed in Article 36. Member States must have more flexibility to adapt their procedures to specific types of cases and the cooperation with third countries. This may vary, in particular, over time.

Commission proposal	Drafting Suggestions and Comments
	NL (Drafting Suggestions): The objective of this Regulation is to ensure the 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~~**.** IT (Drafting Suggestions): ~~2. The objective of this Regulation is to ensure the 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~~**.** IT (Comments): We believe that, based on the title of Article 1, the provision should be limited to the first paragraph only and that the second paragraph (in which the objective and not the subject matter is mentioned) should rather be moved in the preamble. Alternatively, the heading of the article should be amended accordingly. HR (Comments): It would be preferable to include this provision in the Recitals. ES (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~The objective of this Regulation is to ensure the 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.~~ ES (Comments): First of all, according to the title of Article 1, this provision should focus on the subject matter and not cover the objetive of the Regulation. Secondly, the objectives may preferably be placed in the preamble or the explanatory memorandum. Finally, the reference to Regulation 2024/1351 may pose legal and political challenges in view of the issue of variable geometry in the JHA field. EL (Drafting Suggestions): 2. The objective of this Regulation is to ensure the effective return ~~and,~~ **including** 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**.** EL (Comments):

Commission proposal	Drafting Suggestions and Comments
	Readmission is an integral part of the return process as a whole. CZ (Drafting Suggestions): The objective of this Regulation is to ensure the effective return**,** **including**~~**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. CZ (Comments): The concept of "readmission" should be considered as an integral part of the concept of "return". CH (Drafting Suggestions): The objective of this Regulation is to ensure the 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~~**.** CH (Comments): The term "readmission" is part of return and therefore not necessary.

Commission proposal	Drafting Suggestions and Comments
	The quoted procisions of Regulation 2024/1351 are not applicable to the SAC and DK. BG (Drafting Suggestions): 2. The objective of this Regulation is to ensure the effective return**,** **including** ~~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. BG (Comments): While we fully understand the reasoning behind the idea of incorporating the readmission as an integral part of the return process we have serious concerns that this approach could hamper the implementation of readmission agreements with third countries. In order to avoid any wrong interpretations or disputes with the third countries we prefer the texts regarding the readmission to be deleted or as a compromise to be modified in a more general way that respects the existing legal base on readmission and the bilateral agreements of the Member States. BE (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	The objective of this Regulation is to ensure the 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**.** BE (Comments): It is redundant to refer to readmission here, however, this is not a political statement in relation to the other provisions in the text on readmission. In our view, readmission is a component of return policy and is already covered under 'effective return'. There is no need to explicitly mention readmission here, given that there are after all other components of return policy that could be mentioned here as well (which is not the case). CY (Comments): We wish to receive clarification on the issue of variable geometry and whether this wording is in accordance with other relevant legislation.

Commission proposal	Drafting Suggestions and Comments
Article 2	NL (Comments): In retrospect and in reference to article 8 paragraphs 2 and 3 it should be taken into consideration to clarify that third country nationals, who are illegally staying in one Member State while benefiting legal stay in another Member State fall within the scope of this Regulation. The verification whether the Member State wants to withdraw the granted legal stay, and -in that situation- the process of voluntary and forced return to the Member State (including the possibilities of detention) should be stipulated in this Regulation to ensure that there are no loopholes for any more. MT (Comments): Malta agrees with the scope
Scope	AT (Drafting Suggestions): third country nationals ***and stateless persons*** AT (Comments):

Commission proposal	Drafting Suggestions and Comments
	Should **stateless persons** not also be included in the scope of application, as this is the case in the Return Border Procedure Regulation and other legal acts of the Pact (APR, Screening, Reception Directive)? In the abovementioned legal acts of the Pact both terms "third country nationals *and stateless persons*" are included/being used. This wording is however not included in the current proposal – the reason behind this choice was however not so clear from the COM explanation. In view of the general alignment with the Pact, which was something the COM stressed, this should be considered unless there is a specific reasoning behind the exclusion. In case of inclusion, a corresponding definition or reference to Art. 3 para 15 APR would be needed in Art. 4 (Art 3 para 15 APR: 'stateless person' means a person who is not considered to be a national by any State under the operation of its law;")
1. This Regulation applies to third-country nationals staying illegally on the territory of the Member States.	AT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	- To prevent such a "better position" as stated in the comments, we would propose to consider either to add "***has been staying illegally***" to Art. 2 or to extend Art. 10 para. 4, namely not only "***whose illegal stay is detected in connection with border check***", but also other apprehensions in the federal territory ("any detection within the territory of the Member States"), in the course of which the illegal stay is detected, should be included. In the case of an addition to Art. 10 para. 4, we would also be in favour of adding the possibility of initiating a procedure for issuing a return decision and/or entry ban within 8 weeks of departure. This would guarantee a SIS alert as well. In the case of an addition to Art. 2, the definition in Art. 4 para. 2 would probably also have to be adapted. AT (Comments): **Staying illegally"** refers to the **presence on the territory of the MS**. - With regards to the presence aspect, we need to consider whether persons who were staying illegally but went unnoticed and then absconded should remain without anything (without a return decision/entry ban)?

Commission proposal	Drafting Suggestions and Comments
	- In AT opinion, this should not be the case. This would actually put people who abscond in a better position, as it would not be possible to subsequently issue a return decision and/or an entry ban. - Similarly, if the individual's illegal stay is discovered directly at border control during the departure, a return decision accompanied by an entry ban can still be issued afterward, while the person may still be allowed to leave the country voluntarily. Detaining the person solely to carry out the proceedings would otherwise be necessary, which would contradict the goal of a prompt departure and the legal obligation to leave the country.
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	
	IE (Comments): IE would like to reintroduce the Article 2(2)(b) of the Return Directive which expressly permitted Member States to disapply that Directive to TCNs who

Commission proposal	Drafting Suggestions and Comments
	were subject to return as a criminal law sanction or as a consequence of a criminal law sanctions under national law or who were the subject of extradition procedures.
Derogations	AT (Drafting Suggestions): Inclusion of the derogation in Art. 2 para 2 lit b of the Return Directive as a further derogation in a new lit. c AT (Comments): According to Art. 2 para. 2 lit. b of the Return Directive, Member States may decide not to apply this Directive to third-country nationals who are subject to a return obligation under national law due to a criminal sanction or as a result of a criminal sanction or against whom extradition proceedings are pending. The derogation provision of Art. 2 para. 2 lit. b of the Return Directive is no longer included in Art. 3 para. 1. These derogations should be retained, especially, the derogation relating to extradition proceedings should be included. CY

Commission proposal	Drafting Suggestions and Comments
	(Comments): National law should apply without preconditions, if deemed appropriate by the competent MS, as per the current framework, in cases of third country nationals posing a threat to national or internal security, irrespective of the provisions of Article 16.
1. Member States may derogate from the provisions of this Regulation for the following third-country nationals:	SK (Comments): In the exceptions in Art. 3, unlike the current regulation, the application of the exception to cases of TCN, for which return has been imposed as a criminal sanction under national law or return results from a criminal sanction, or against whom extradition proceedings are ongoing. • For legal certainty, we therefore propose to explicitly state this exception in Art. 3 IT (Comments): We welcome the methodological choice of giving the derogations an autonomous space, unlike in the current directive, and the decision to separate the derogation referred to in Article 2(2)(a) of the Return Directive into two separate points (a) and (b) of Article 3(1) of the Regulation, thus clearly distinguishing two different legal situations. HR

Commission proposal	Drafting Suggestions and Comments
	(Comments): We welcome the separation of the current Article 2(2)(a) derogation into two distinct provisions, as it clearly differentiates between two separate legal situations. FI (Comments): It should also be possible to derogate from the scope of application for criminals, as in the Return Directive. The Return Directive now allows derogation for criminal sanctions, but it should also be possible to derogate for persons posing a threat to security. The suspicion of a criminal offence should be sufficient and not require a criminal conviction. EL (Comments): We welcome the distinction of the current 2(2)(a) derogation into two separate derogations. It provides legal clarity, taking into acoount that those two derogations concern distinct cases (a: refusal of entry at the border crossing points, b: apprehensions or interceptions in the border surveillance context). DK (Comments):

Commission proposal	Drafting Suggestions and Comments
	An equivalent derogation to the Return Directive's article 2(2)(b) is needed in this proposal. There is also a need for a derogation for third-country nationals who pose a threat to national security. Please see suggested additions in the drafting column after letter b. LV (Comments): Latvia welcomes the provisions of Article 3 concerning derogations from the regulation regarding specific categories of third country nationals. CY (Comments): We support the distinction of the current 2(2)(a) derogation into two separate parts. It contributes to effective implementation.
a. those subject to a refusal of entry at external borders in accordance with Article 14 of Regulation (EU) 2016/399;	IE (Drafting Suggestions): **Insert** 'or equivalent national law' after 'Regulation (EU) 2016/399'. IE (Comments): IE requires an amendment to A3(1)(a), referring to the ability to derogate from provisions of this Regulation in cases where a person is subject to a

Commission proposal	Drafting Suggestions and Comments
	refusal of entry at the external borders and makes specific reference to the Schengen Borders Code. The proposed drafting is to reflect the fact the Ireland cannot participate in the Schengen Border Code. HR (Comments): We welcome the introduction of the term 'external', which provides legal certainty and it is in compliance with the ECJ case law (C-143/22). EL (Comments): We welcome the introduction of the term 'external', which provides legal certainty and it is in compliance with the ECJ case law (C-143/22).
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.	HR (Comments): We support MS in agreeing with the term 'illegal', as it is aligned with the Schengen acquis terminology. FI (Drafting Suggestions): c. third-country nationals who are subjected to return as a criminal law sanction or as a consequence of a criminal law sanction,

Commission proposal	Drafting Suggestions and Comments
	according to national law, or who are the subject of an extradition procedure. d. third-country nationals who pose a threat to public policy, to public security or to national security. EL (Comments): We agree with the term 'illegal', as it is aligned with the Schengen acquis terminology. CH (Drafting Suggestions): **c. third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of an extradition procedure.** **d. third-country nationals who pose a threat to public policy, to public security or to national security.** CH (Comments): The same wording as in Art. 2(2)(b) of Directive 2008/115/EC should be added to ensure a general derogation for criminal and extradition casee.

Commission proposal	Drafting Suggestions and Comments
	Furthermore, a derogation should be added for third country nationals who pose a threat to bublic policy, to public security or to national security. CY (Comments): Support the inclusion of the tern "illegal" as per the wording of the SBC.
	SE (Drafting Suggestions): **(c) those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are subject of extraditioin procedures.** SE (Comments): This paragraph should be discussed together with Article 16. The possibility to derogate from the application of the Return Directive regarding those who are subject to return due to a criminal offence should be kept in the Regulation. The special rules proposed in Article 16 regarding return of third-country nationals posing security risks provide MS with less flexibility and less favourable conditions for effective return when it comes to this particular category of return. We will elaborate more on this when commenting Article 16.

Commission proposal	Drafting Suggestions and Comments
	NO (Drafting Suggestions): **c. third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of an extradition procedure.** NO (Comments): We would prefer that the possibility to derogate third-country nationals who are subject to return as a consequence of a criminal law sanction, is clearly stated in the Regulation, as it is in the Return Directive Article 2 (2)(b). This will make the Scope for the Regulation clearer, both for the authorities and for the relevant individuals whether they fall within or outside the regulations. MT (Drafting Suggestions): **c. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.** MT (Comments):

Commission proposal	Drafting Suggestions and Comments
	Malta calls for an additional Article 3(1)(c), in line with Article 2(2b) of Directive 2008/115/EC. In addition, Malta could examine further the proposal of other Member States for the introduction of a derogation in this paragraph concerning the 'national security' cases. LT (Drafting Suggestions): **c. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.** LT (Comments): We propose to add an additional derogation to 3(1), which is allowed under point 2(2)(b) of the current Directive 2008/115/EC. We could support the proposal of other Member States to introduce a derogation in this paragraph for third-country nationals who pose a threat to national security (Article 16 and the other related provisions would then only

Commission proposal	Drafting Suggestions and Comments
	apply to third-country nationals who pose a threat to public policy or public security. IT (Drafting Suggestions): **f. <u>those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.</u>** IT (Comments): We believe that the deletion of the other possible derogation in Article 2(2)(b) of the current Return Directive, concerning the "criminal cases", may generate misunderstandings and legal uncertainty, and therefore we believe it would be better to reintroduce it in the text of the Regulation. HR (Drafting Suggestions): **<u>c. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, or who are the subject of extradition procedures.</u>** HR (Comments):

Commission proposal	Drafting Suggestions and Comments
	We support the introduction of a third derogation relating to 'criminal cases'—identical to the derogation in the Article 2(2)(b) Directive 2008/115/EC—in order to ensure legal certainty - Furthermore, we could examine further the proposal of other Member States for the introduction of a derogation in this paragraph concerning the 'national security' cases. ES (Drafting Suggestions): **g. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.** ES (Comments): Reintroduction of Article 2 (2) (b) of Directive 2008/115 EL (Drafting Suggestions): **c. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, or who are the subject of extradition procedures.** EL

Commission proposal	Drafting Suggestions and Comments
	(Comments): - For reasons of legal certainty, we support the introduction of a third derogation concerning the 'criminal cases' (identical to the current 2(2)(b) derogation), meaning decisions by criminal courts that order the removal of convicted third-country nationals. - We could also examine the option to introduce similar wording in Article 2 (2), in order to provide for that those cases are not covered by the scope of this Regulation. - Furthermore, we could examine further the proposal of other Member States for the introduction of a derogation in this paragraph concerning the 'national security' cases. In such a case, Article 16 would regulate only the 'internal security cases', taking also into account that the Pact legislation includes provisions on how to hadle the third-country nationals that 'pose a threat to the internal security'. EE (Drafting Suggestions): **h. <u>those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.</u>** EE (Comments):

Commission proposal	Drafting Suggestions and Comments
	The derogation of Article 2(2)(b) of the Return Directive should be inserted into Article 3 of the Return Regulation. Although criminal legislation falls within the competence of the Member States, this area of law may nevertheless be affected by EU law. Despite the COM explanation on recital 28, for the sake of legal certainty, the operative part of the text should clearly stipulate that MS are free to decide not to apply the Regulation in cases where the third country nationals are returned as a criminal law sanction or as a consequence of a criminal law sanction; or who are who are subject of extradition procedures. DK (Drafting Suggestions): **c. third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of an extradition procedure.** **d. third-country nationals who pose a threat to national security.** CZ (Drafting Suggestions): **c. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.** CZ (Comments):

Commission proposal	Drafting Suggestions and Comments
	We support the inclusion of the provision of Art 2(2)b of Return Directive. FR (Drafting Suggestions): **1 bis. Members States may decide not to apply this Regulation to third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.** FR (Comments): À l'article 3, la France sollicite la reproduction du point (b) du paragraphe 2 de l'article 2 de la directive de 2008, qui permet aux États membres de ne pas appliquer cette directive aux étrangers faisant l'objet d'une procédure d'éloignement fondée sur une sanction pénale, telle que l'interdiction judiciaire du territoire français (ITF), ou faisant l'objet d'une procédure d'extradition. Ces deux procédures répondent en effet à des logiques différentes de celle de la directive de 2008 et du présent règlement : elles ne découlent pas du constat que l'étranger se trouve en situation irrégulière – il peut d'ailleurs tout à fait disposer d'un titre de séjour –, mais du fait qu'il a été reconnu coupable par les autorités compétentes de l'État membre d'avoir commis une ou plusieurs infractions pénales justifiant son éloignement, à titre de peine principale ou complémentaire, ou qu'il

Commission proposal	Drafting Suggestions and Comments
	est poursuivi ou a été condamné par les autorités compétentes d'un État tiers auxquelles il doit être remis en vue de son jugement ou de l'exécution de sa peine. Le règlement doit ainsi offrir toute latitude aux États membres pour maintenir un cadre pénal adapté à la situation de ces étrangers, et ne pas remettre en cause les accords bilatéraux d'extradition conclus par ces derniers. LV (Drafting Suggestions): **c. those subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures**. LV (Comments): However, we consider that Article 3(1) should be supplemented with the category of persons specified in Article 2.2.b of the Return Directive (see drafting suggestions on the left). CY (Drafting Suggestions): i. those who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

Commission proposal	Drafting Suggestions and Comments
	CY (Comments): National law should apply for the criminal cases (convicted), if a conviction is not required in the context of applying article 16(1)(a).
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.	NO (Drafting Suggestions): LT (Drafting Suggestions): 2. When Member States apply derogations pursuant to paragraph 1**, points (a) and (b)** 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. LT (Comments): In view of the proposal to add point 3(1)(c). IE (Drafting Suggestions): **Insert** '[pursuant to Article 12]' after 'Article 14(2)'.

Commission proposal	Drafting Suggestions and Comments
	HR (Drafting Suggestions): 2. When Member States apply derogations pursuant to paragraph 1**, points (a) and (b)** 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. HR (Comments): We support the Member States proposing to further examine the necessity of referring to all the articles mentioned in this paragraph, as suggested during IMEX meeting. ES (Drafting Suggestions): When Member States apply derogations pursuant to paragraph 1**, points (a) and (b),** 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~~

Commission proposal	Drafting Suggestions and Comments
	~~12(4) and Article 12(5), Article 14(2), Article 14(6), point (c), Article 14(6), point (e), Article 34 and Article 35.~~ ES (Comments): The seond sentence seems an unnecessary addition EL (Drafting Suggestions): 2. When Member States apply derogations pursuant to paragraph 1**, points (a) and (b)** 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. EL (Comments): - National law should apply for the 'criminal cases', without any other requirements, as it is the case with the current Return Directive. - We could also examine further the need for referring to all those articles mentioned in this paragraph, as it was proposed by other Member States. EE

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): When Member States apply derogations pursuant to paragraph 1 **points (a) and (b)** 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 (e), Article 14(6), point (e), Article 34 and Article 35~~ **ensure that their treatment and level of protection are no less favourable than as set out in Article 12(4) and (5), Article 14 (6) points (a), (c) and (e) and Article 35. When the person subject to Article 1 point (a) or (b) is detained for more than 4 days, the Article 34 shall apply.** EE (Comments): Member States are already bound to respect EU and international human rights law, incl. obligations arising from the Charter. Highlighting the obligation to respect the principle of *non refoulement* is not needed. We propose to use the current wording of the Article 4(4) of the Return Directive and refer to specific Articles of the Return Regulation that are applicable. In this respect we believe that also Article 14 (6) point (a) is relevant.

Commission proposal	Drafting Suggestions and Comments
	In our view, it is not reasonable nor practical to require that third country nationals subject to Article 1 point (a) or (b) are immediately placed in a special detention centre. First, it is unfeasible to establish special detention centres in every region where the person might be apprehended. Second, it is not practical to transport the returnee to a special detention centre in cases when the person is readmitted to the third country under accelerated readmission procedure next day. According to the EU readmission agreements, under accelerated procedure a reply to a readmission application has to be given within two working days and the person shall be transferred within two working days. MS should be granted flexibility to detain the person for a short period of time (up to 4 days) under national law. If the detention of the person is needed for more than 4 days, Articles 34 shall apply. CZ (Drafting Suggestions): ~~**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 (c), Article 34 and Article 35.**~~

Commission proposal	Drafting Suggestions and Comments
	OR : 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**~~. CZ (Comments): Persons are either IN, or OUT of the Return Regulation. These categories shall be allowed to be OUT. Option 2 is to exclude them from the scope already in Art 2. CH (Drafting Suggestions): When Member States apply derogations pursuant to paragraph 1**(a) and (b)** 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. CH

Commission proposal	Drafting Suggestions and Comments
	(Comments): The suggested amendment corresponds to Art. 4(4) of Directive 2008/115/EC which limits similar guarantees to these cases, but not to criminal and extradition cases, in order to ensure that returns at the external border meet certain minimal conditions. Such an explicit extension of guarantees appears only necessary for refusal of entry and border cases, but not for other derogations for criminal and extradition cases and persons posing a security risk. These cases already benefit from specific guarantees and minimum standards under national law.

Commission proposal	Drafting Suggestions and Comments
Article 4	NL (Comments): The Dutch alternative includes the possibility of taking a return decision in all circumstances. To ensure that the return decision allows for the possibility of not mentioning a country of return, or one or more countries of return. NL proposes to redefine 'country of return' to 'country of removal'. This makes clear that the third country national is able to return wherever he wants (and is admitted) untill the moment that auhtorities need to remove a third country national. CY (Comments): We maintain our reservations on the whole of the article. Clear and unambiguous definitions are absolutely essential for ensuring uniform application and consistent interpretation across all Member States. Without such precision, there is a significant risk of divergent practices, legal ambiguities, and potential inconsistencies in the implementation of the proposed measures throughout the European Union. Therefore, meticulously drafted definitions are paramount to achieving the desired level of harmonization and legal certainty.

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Commission proposal	Drafting Suggestions and Comments
Definitions	CH (Comments): As a general remark, further additions, amendments and/or deletions of the definitions will likely be necessary in line with adaptations of the contents of Chapters II to VIII.
For the purpose of this Regulation the following definitions shall apply:	DK (Comments): A “removal order” in accordance with Article 12 needs to be defined. AT (Comments): If “**stateless person”** is added to the scope of application (see comments to article 2), then a referral to the definition in Art. 3 para. 15 APR would need to be included here. Despite being mentioned several times in the proposal (e.g. in Art. 6, 21, 23, 24, 30 etc.), the term of “return procedure” is not defined, unlike “readmission procedure”. Therefore, AT is for **the inclusion of a definition of return procedure.** However, at this point, AT does not have a concrete drafting proposal, but would be willing to actively contribute at a later stage.

Commission proposal	Drafting Suggestions and Comments
(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;	MT (Comments): Malta welcomes the definition
(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;	MT (Comments): Malta welcomes the definition
(3) 'country of return' means one of the following:	SE (Comments): Se welcomes the broader definition of "country of return", which enables the application of the safe third country concept in the Asylum Procedure Regulation, as well as further development of the idea of establishing "return hubs" in third countries.

Commission proposal	Drafting Suggestions and Comments
	NO (Drafting Suggestions): country of ~~return~~ **removal**' means one of the following: NO (Comments): The "country of return" is irrelevant in case of voluntary return which enables the third-country national to choose any country which is willing to accept him or her. The country is only relevant in removal, specifically for the assessment of obstacles to removal, but not for return at large. We therefor suggest that the word "return" is to be replaced with "removal". NL (Drafting Suggestions): 'country of ~~return~~ removal' means one of the following: NL (Comments): Changing the word 'return' into removal ensures that it is possible to not mention a country in the return decision. MT (Comments):

Commission proposal	Drafting Suggestions and Comments
	Malta welcomes the expanded list in the definition of country of return and calls for point h to be introduced in line with Directive 2008/115/EC. IE (Comments): IE welcomes the broadening of the definition of the country of return, as this will support more effective returns. EE (Drafting Suggestions): 'country of ~~return~~ **removal**' means one of the following: EE (Comments): In case of voluntary return, the person should be allowed to return to any third country he/she has the right to enter, not just the destinations listed in a-g. Article 4 (3) should regulate to which country the third country national can be removed if the return decision is enforced. Other parts of the proposal should be thus modified accordingly. CH (Drafting Suggestions): '~~country of~~ return' means **the process of a third-country national going to** ~~one of the following~~"

Commission proposal	Drafting Suggestions and Comments
	CH (Comments): -The shift away from a definition of "return" in Article 3(3) of Directive 2008/115/EC to "country of return" is problematic. The “country of return in irrelevant in case of voluntary return. Therefore, the notion of “country of return” is not sufficiently precise in itself. In case of removal, the country of return is only relevant for the assessment of obstacles to removal, but not for return at large. The definition of “country of return” as proposed by the Commission in the proposal has consequences issuance of return decisions (Article 7) and removal (Article 12). It would be better if "return" would remain the term to be defined, e.g. with a wording similar to Directive 2008/115/EC such as "'return' means the process of a third-country national going (….) to: (a) a third country that is (…)".
(a) a third country that is the country of origin of the third-country national;	

Commission proposal	Drafting Suggestions and Comments
(b) a third country that is the country of formal habitual residence of the third-country national;	CZ (Comments): We would like to enquire about the content of the category "country of formal habitual residence" and its relation to point (d). However, we would like to underline that both bilateral and EU readmission agreements also cover cases of readmission of third country nationals who, at the time of entry, held a valid visa or residence permit issued by the requested state. This means that the visa or residence permit may no longer be valid at the time of readmission (return). Please state if there is such a category of "country of return" in paragraph (3) that would cover such case. If there is none, we suggest that this paragraph is amended and some category is expanded in that way. BE (Drafting Suggestions): (b) a third country that is the country of ~~formal~~ ~~habitual~~ residence of the third-country national; BE (Comments): In our opninion, formal residence or habitual residence are not easy to interpret. Therefore, we would like to keep it simple and refer only to

Commission proposal	Drafting Suggestions and Comments
	residence, since we think this would broaden the scope of this definition and thus be better in view of a more effective return policy.
(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), (b) and (g), where the third-country national has a right to enter and reside;	BE (Comments): In our opinion the provision in (b) and (d) could be merged, since the situations referred to do not differ that much in practice.
(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;	BG (Comments): We place a scrutiny reservation due to the new proposal on the STC concept.
(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;	RO (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	the first **third** 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; RO (Comments): RO considers that it is important to expressly indicate the first third country of asylum as already proposed in the other points (a-e and g), in order to provide clarity and predictability to the legal concepts, both for the authorities that will implement this Regulation and for the persons concerned by this Regulation, and to eliminate any ambiguity in the application of this concept (country of return). RO believes that not indicating the Third country of asylum could lead to misunderstandings, even to the third-country nationals concerned, that the first country of asylum may be an EU Member State, within the meaning of this Regulation. BG (Comments): We place a scrutiny reservation due to the new proposal on the STC concept.

Commission proposal	Drafting Suggestions and Comments
(g) a third country 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.	SE (Comments): See comment for paragraph 3 above. IT (Comments): We welcome the new definition of "country of return" that allows for different and more ambitious solutions to be configured than those provided in the current Directive, but we believe that the text needs to be more explicit about the fact that, based on specific agreements or arrangements, even only certain "moments" or phases of the return process can take place in the third country, such as the mere detention in a closed center. HR (Drafting Suggestions): (g) a third country with which there is a~~n~~ **Union or Member States'** agreement or arrangement on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation. HR (Comments): We support Member States proposing the introduction of identical wording to the one used in point (c), in order to avoid any misinterpretations. ES (Comments):

Commission proposal	Drafting Suggestions and Comments
	ES upholds its concerns on this provision for serveral reasons. On the hand, the concept of arrangement remains unclarified from the legal perspective, lacking a definition or agreed form that those arrangemente could take. On the other hand, strong reservations arise in connection with the conditions and content of such agreements or arrangements laid down in Article 17. ES believes it is still unclear the legal consequences, liabilites, jurisdiction, responsiblities and cost-effectiveness that the establishment of such mechanism will entail. Finally, ES raises concerns on the impact that these provisions could have on the bilateral and EU relations with key third countries, particularly those relevant to the Mediterranean and Atlantic routes. EL (Drafting Suggestions): (g) a third country with which there is a~~n~~ **Union or Member States'** agreement or arrangement on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation. EL (Comments): We propose the introduction of identical wording to the one used in point (c), in order to avoid any misinterpretations.

Commission proposal	Drafting Suggestions and Comments
	BG (Drafting Suggestions): a third country with which **<u>the Union or the Member State has concluded</u>** ~~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. BG (Comments): We expect the Union, not just MS, to be involved in the process of establishing such agreements or arrangements as described in Article 4(3)(c). BE (Drafting Suggestions): (g) a third country with which there is an **Union or Member States** agreement or arrangement on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation. BE (Comments): We could support the addition that the agreement or arrangement should be a "…Union or a Member State…". However, at this stage of the negotiations, we emphasize that the "or" in the addition is of importance. FR

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): (3) 'country of return' means one of the following: (…) (g) a third country with which **a Member State has concluded** **a bilateral** agreement ~~or arrangement~~ on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation. FR (Comments): Si la France salue les apports sur les définitions prévues à l'article 4, elle souhaite toutefois encadrer strictement la possibilité prévue à l'article 4(3), point (g), afin de palier plusieurs risques juridiques identifiés : - Les garanties attendues du pays-tiers, au regard de la jurisprudence de la Cour EDH, sont très strictes et doivent tenir compte de certaines assurances s'agissant des étrangers en situation irrégulière (cf. Cour EDH, Cour EDH, Othman (Abu Qatada), n°8139/09, 17 janvier 2012, § 189), notamment en matière d'échange de données à caractère personnel (cf. Cour EDH, Compaoré c. France, n°37726/21, 7 septembre 2023 mais aussi par exemple la durée et la force des relations bilatérales entre l'Etat d'envoi et l'Etat d'accueil, y compris l'attitude passée de l'Etat d'accueil face à des assurances analogues). Leur fiabilité doit être assurée tout au long du processus. Or, un « arrangement », notion imprécise et qui pourrait couvrir des accords non contraignants, est un cadre insuffisant pour s'assurer que les pays tiers respectent ces obligations. C'est une question de sécurité juridique.

Commission proposal	Drafting Suggestions and Comments
	- Par ailleurs, s'agissant du respect des conventions internationales en matière de droits fondamentaux, et notamment de la CEDH, l'externalisation du retour – qu'il s'agisse d'un renvoi depuis un Etat membre vers une plateforme de retour ou dans le cas du renvoi depuis la plateforme vers le pays de destination finale –pourrait soulever un risque d'inconventionnalité. En effet, si ces plateformes reposaient sur des arrangements, il n'y aurait alors aucune obligation juridique pour les pays-tiers de respecter les garanties prévues (à l'image de la situation observée avec la Turquie) ; - Par ailleurs, la FRA elle-même rappelle que cette possibilité doit être encadrée par des accords contraignants afin de respecter la Convention de Vienne sur le droit des traités de 1969, les arrangements non-contraignants étant considérés comme insuffisants (cf. analyse de la FRA sur les plateformes de retour, publiée le 6 février 2025). La France demande dès lors la suppression des références à un « arrangement » et l'ajout du mot « bilatéral » devant le mot accord, à l'article 4.3(g) et dans l'article 17 afin d'insister sur la flexibilité à accorder aux Etats étant entendu que cette application resterait une faculté pour les Etats membres d'y avoir recours. CY (Drafting Suggestions): (g) a third country with which there is an agreement or arrangement, **either with the Commission on behalf of the Union, or with a Member State,** on the basis of which the third-country national is accepted, in accordance with Article 17 of this Regulation.

Commission proposal	Drafting Suggestions and Comments
	MT (Drafting Suggestions): **(h) another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted.** MT (Comments): Vide above. ES (Drafting Suggestions): **(h) another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted** ES (Comments): Reintroduction of Article 3 (3) third indent of Directive 2008/115.
(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;	NO (Drafting Suggestions): (....) an obligation to leave the ~~European Union~~ **Member States;"** NO (Comments):

Commission proposal	Drafting Suggestions and Comments
	The obligation to leave the "European Union" should be changed to "Member States", to ensure that it also covers the SAC-area. This is a recurring issue in the regulation. MT (Comments): Malta welcomes the definition. ES (Drafting Suggestions): (4) 'return decision' means an administrative or judicial decision **or act**, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to leave the European Union; BG (Drafting Suggestions): 'return decision' means an administrative or judicial decision **or act**, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to leave the European Union. BG (Comments): According to the national legislation the return decision is an „administrative act", not a decision. We propose that amendment in order to reflect better the

Commission proposal	Drafting Suggestions and Comments
	national administrative system. Current Return Directive uses both words: decision or act and we believe that restoring this wording would not affect the proposal of the Commission at all. CY (Comments): Scrutiny reservation. We strongly support reformulation of the paragraph, to guarantee there won't be any unnecessary burden.-
(5) 'removal' means the enforcement of the return decision by the competent authorities through the physical transportation out of the territory of the Member State;	MT (Comments): Malta welcomes the definition. BE (Comments): We propose to integrate the definition of "removal order" mentioned in the Return Handbook in this text as well, or to merge the definition of "removal" and "removal order". The definition of removal order in the Return Handbook is as follows: "*Administrative or judicial decision or act ordering the [enforcement of the obligation to return, namely the physical transportation out of the Member State.]*"

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Commission proposal	Drafting Suggestions and Comments
(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;	SE (Drafting Suggestions): (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~~; SE (Comments): We are hesitant about linking the definition of "voluntary return" to the time limit for voluntary departure. We are concerned about the consequences this might have in situations where a third country national follows the return decision and leaves the Member State, but after the period for voluntary departure has expired. According to Art. 12, it will be mandatory for the authorities to remove the third country national in this scenario. In our view such a system is too binary and might have a negative impact on the efficiency of the return work. There should be some room for manouvering for Member States in situations that lie between voluntary return and removal and we are not convinced that the possibility to indicate a date for departure

Commission proposal	Drafting Suggestions and Comments
	in Art.12 paragraph 6 is sufficient in this regard, at least not with the curren wording in paragraph 6. RO (Drafting Suggestions): '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;~~ RO (Comments): RO considers that the definition should not be linked to a deadline established by the return decision as in practice there are situations where the third country national or his/her family purchase plane tickets from their own funds and they are complying with the obligation to leave the territory, even at a later date (when detected, TCN has an airplane ticket). The definition could be switched for 'voluntary departure'. RO suggests to delete *"within the date set out in the return decision in accordance with Article 13 of this Regulation".* NO (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	‘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;~~ NO (Comments): The definition of voluntary return is too narrow. Voluntary return should also apply to individuals voluntarily leaving after the date set out in the return order. In certain cases, this provides for a cheaper and more effective return, even if the person has not followed the original return order and has stayed on illegally for a long time. Voluntary return should also apply to individuals who have not received a return decision. The wording “within the date set out…” should be cut from the text. NL (Drafting Suggestions): ‘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~~; NL

Commission proposal	Drafting Suggestions and Comments
	(Comments): To ensure that also voluntary departure can take place after the set date of departure in the return decision, NL suggests to delete the latter half of the sentence. MT (Drafting Suggestions): (6) 'voluntary return' means compliance by the illegally staying third-country national with the obligation to leave the territory of the Member States **without resorting to a removal.** ~~within the date set out in the return decision in accordance with Article 13 of this Regulation;~~ MT (Comments): Malta has reservations on the definition of voluntary return. Return decisions should not be a prior mandatory requirement to consider a return as voluntary. In order to foster the effectiveness and efficiency of returns, the definition should be broad enough to cover different situations whereby a return effectively takes place without necessarily adopting a return decision. IT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	(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~~ **without resorting to a removal** IT (Comments): We believe that the reference in the text to compliance with the time limit granted in the return decision to leave the territory of the Member States should be eliminated, since the case in which the third-country national leaves after the expiration of that time limit should also be considered voluntary return. Nevertheless, we continue to support the Commission's proposal that even in cases of voluntary return, a return decision should always be issued. IE (Comments): IE would welcome a change of definition for VR to include those who have left the State voluntarily prior to a return decision being issued. FI (Comments): Voluntary return should also be possible after the expiry of the period of voluntary return, if the authority considers it appropriate. The definition of voluntary return is now too restrictive. We have no problem with allowing voluntary return even without a return decision, but there should still be some

Commission proposal	Drafting Suggestions and Comments
	trace of the person in the systems so that it can be verified later that TCN has already been on the territory of the Member States once. ES (Drafting Suggestions): 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;~~ **without resorting to a removal.** ES (Comments): Return decisions should not be a prior mandatory requirement to consider a return as voluntary. In order to foster the effectiveness and efficiency of returns, the definition should be broad enough to cover different situations whereby a return effectively takes place without necessarily adopting a return decision. EL (Comments): -We agree with the approach that the definition of 'voluntary return' is linked with the obligation to leave the territory of the Members States, stated by a return decision.

Commission proposal	Drafting Suggestions and Comments
	-We would also positively examine any suggestion for clarifying here that this ddefinition also covers the case where the third-country national is willing to leave and leaves voluntarily after the expiration of the set time limit. DK (Drafting Suggestions): (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~~. DK (Comments): "Voluntary return" needs to be redefined in order to allow for a voluntary return after the date set out in the return decision. The defining circumstance for a voluntary return should be whether or not the third-country national cooperates with the authorities on their return or not. Please see drafting suggestion. CH (Drafting Suggestions): 'voluntary return' means the **departure of** ~~compliance by~~ the ~~illegally staying~~ third-country national **from the territory of the Member States on**

Commission proposal	Drafting Suggestions and Comments
	his or her own in compliance with **an** ~~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~~ **due to an irregular stay. This includes cases where a formal return decision has not yet been issued or the date set out in the return decision has expired. The term also covers the voluntary return of a third-country national in an ongoing procedure, or who holds a legal status granted under asylum or alien law, and who decides to return.** CH (Comments): Switzerland – together with Germany and Austria - supports a definition of voluntary return that is not limited to the time between the return decision and the expiration of the time limit as envisaged in the proposal. BG (Drafting Suggestions): 'voluntary return' means compliance by the illegally staying third-country national **who is identified and holds a valid travel document** 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 BG

Commission proposal	Drafting Suggestions and Comments
	(Comments): We believe that voluntary return should not be permitted for unidentified persons. To return voluntarily, third-country nationals must have an established identity and a valid travel document. BE (Drafting Suggestions): (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~~; BE (Comments): The definition of voluntary return proposed by the Commission is too strict. We agree that the issuance of a return decision should be mandatory. On the other hand, the definition of voluntary return should also take into account the fact that a significant amount of persons comply with the return obligation in an autonomous manner after the date set out in the return decision in accordance with Article 13 of the regulation. AT (Drafting Suggestions): ***'Voluntary return' means the departure of a third-country national on his or her own from the territory of the Member States in compliance with an***

Commission proposal	Drafting Suggestions and Comments
	obligation to leave due to an irregular stay. This includes cases where a formal return decision has not yet been issued or the date set out in the return decision has expired. The term also covers the voluntary return of a third-country national in an ongoing procedure, or who holds a legal status granted under asylum or alien law, and who decides to return. AT (Comments): AT rejects the linking of the definition of voluntary return to illegal stay, the return decision or even within the specified departure period. The proposed definition of voluntary return is too narrow. This narrow definition would severely restrict the possibility of voluntary return, e.g. in ongoing proceedings or legal residents, and run counter to increasing the effectiveness of return. This could also lead to voluntary returns, for example before the conclusion of a procedure, not being sufficiently (statistically) recognized. Such departures would then possibly be classified as less relevant or only be taken into account if a return decision is issued before the departure - which is not mandatory in some MS, such as AT.

Commission proposal	Drafting Suggestions and Comments
	Maintaining the priority of voluntary return at every stage of the procedure, even without a return decision, is essential. It also contradicts current practice and the current AT support system. In our opinion, more leeway would be expedient in order to also support other groups of people, such as people who decide to leave the country voluntarily during the ongoing asylum procedure or legally resident persons who are willing to leave the country (e.g. protection status/residence permit). Persons with a protection status would not be eligible under the current definition, but at least based on experience, they represent a not insignificant proportion of persons currently returning voluntarily. The aim of the definition should be to record those persons who have stayed illegally on the territory of a Member State at a certain point in time and subsequently decide to leave voluntarily. With regard to statistical recording, this limitation ensures that only those persons are included in the exit statistics who have already been recorded in the entry statistics at some point. This creates a consistent and reliable statistical basis. **Here is a summary of the most important arguments in favour of changing the definition as proposed by Austria:**

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	Departures of individuals from the asylum system without a formal return decision serve the same purpose as those with such a decision. However, failing to recognize these as voluntary returns undermines the efforts of many Member States to promote voluntary return at an early stage. If these types of departures are not recorded statistically, it creates a distorted picture of the relationship between asylum applications and actual departures. Not acknowledging this form of return in official statistics results in the loss of valuable data and downplays the success of return incentives that are applied earlier in the process. Once a person subject to a return decision (without an entry ban) leaves the Schengen Area, the decision is considered fulfilled and is no longer visible in the Schengen Information System (SIS). As a result, it becomes impossible to determine retrospectively whether the departure was voluntary and accompanied by a return decision. Therefore, the argument that only voluntary returns with a return decision should be counted—on the basis that an SIS entry exists—lacks validity, since in many cases involving a standard return decision issued after departure, no such SIS record is available. In Austria, return decisions can be issued up to six weeks after a person has left

Commission proposal	Drafting Suggestions and Comments
	the country in order not to delay the departure process of a voluntary returnee. In some cases, particularly where an entry ban is involved, return decisions are issued only after the individual has already departed. Even though they meet the criteria in practice, these cases are not recorded as voluntary returns under the new definition. Recognizing only departures accompanied by a formal return decision as voluntary returns could also create unintended disincentives. Migrants may feel compelled to wait for the outcome of their asylum or immigration procedures simply to qualify for voluntary return programs, instead of returning earlier on their own initiative. Creating such disincentives at the European level runs counter to a holistic approach to migration management. Currently, individuals who leave without a return decision are excluded from European support services, as access to such support is often conditional on the existence of a return decision. This results in unequal treatment of objectively similar cases and undermines the fairness of the system. Insisting on a formal return decision for every departure considered "voluntary" increases administrative burden and significantly reduces the

Commission proposal	Drafting Suggestions and Comments
	efficiency and speed of return processes. This requirement places an unnecessary strain on administrative systems. Moreover, the EU Strategy on Voluntary Return and Reintegration makes no explicit link between voluntary return and the presence of a return decision. It focuses instead on irregular migrants and emphasizes the benefits of promoting early voluntary return, which is presented as the most cost-effective solution and the most beneficial for returnees. The repeated goal of harnessing the full potential of voluntary return is incompatible with the current narrow interpretation of the concept. The very definition of "voluntariness" logically includes individuals without a return decision. In fact, one could argue that this group best represents the idea of voluntary return, as no departure obligation has been imposed on them. If the current narrow definition persists, the term "voluntary" would need to be redefined in the relevant regulations, as the existing legal definition does not reflect the real meaning of the term. Allowing individuals to be recognized as voluntary returnees and receive support from Frontex even without a return decision would enhance the

Commission proposal	Drafting Suggestions and Comments
	appeal of early return counseling. This, in turn, can help prevent irregular stays and reduce pressure on asylum systems. Finally, the restrictive definition hampers clear and effective communication with migrants about their return options. Yet such communication is essential for the success of programs aimed at promoting voluntary return. A consistent and credible approach is key to building trust and ensuring informed decision-making. FR (Drafting Suggestions): '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,~~ **whether on his or her own or with the assistance of the Member States**; FR (Comments): - La France demande au paragraphe 6, d'une part à ce que soit supprimée la référence à la date marquant le terme du délai de départ volontaire, dès lors que le retour volontaire ne se réduit pas au départ spontané de l'étranger au cours de ce délai, mais peut au contraire intervenir à tout moment au cours de

Commission proposal	Drafting Suggestions and Comments
	la procédure de retour, et d'autre part à ce qu'il soit précisé que le retour volontaire peut être spontané ou aidé ; CY (Comments): The requirement to set a time limit for individuals to leave the territory of an MS in return decisions significantly hampers the ability of competent authorities to implement these decisions. We strongly advocate for its removal. In the alternative, we could explore the possibility of replacing 'shall' with 'may' in the second sentence of Article 13(4) ('If not, the third-country national ***may*** be [the] subject of removal in accordance with Article 12').
	IT (Comments): We believe that the Regulation should provide for a distinction, at the level of both definitions and operational consequences, between assisted voluntary return with reintegration (a measure already applied and consolidated at the European level) and voluntary return, also in light of the EU Strategy on voluntary return and reintegration 2021, which in section 3.1 stresses the need for a more effective legal and operational framework. CZ (Drafting Suggestions): **"assisted voluntary return" means the return supported by the assistence defined, but not limited to in Article 46 of this Regulation**

Commission proposal	Drafting Suggestions and Comments
	provided for the third-country national who voluntarily cooperates on the obligation to leave the territory of the Member States within the date set out in the return decision; CZ (Comments): We suggest to include the definition of "assistance for voluntary return/assisted voluntary return" for the purpose of assistance described in Art 46.
(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.	SE (Drafting Suggestions): (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~~. SE (Comments): We think it is superfluous and might have a negative impact to exemplify what this definition might refer to. NO

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): '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.~~ NO (Comments): It is not necessary to specify an example here, any action where the TCN is not available should be considered as absconding. NL (Drafting Suggestions): '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~~. NL (Comments):

Commission proposal	Drafting Suggestions and Comments
	To ensure a simple definition, NL proposes to delete the example, and move this to the recitals. MT (Comments): Malta welcomes the definition. HR (Drafting Suggestions): 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~~. HR (Comments): No clarification needed, otherwise it could lead to overregulation ES (Drafting Suggestions): '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~~

Commission proposal	Drafting Suggestions and Comments
	~~competent authorities, for reasons which are not beyond the third-country national's control~~. ES (Comments): No examplification and clarification on absconding seems necessary. DK (Drafting Suggestions): (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~~. CH (Drafting Suggestions): (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~~. CH

Commission proposal	Drafting Suggestions and Comments
	(Comments): Since the act of absconding is relatively simple, the definition should also be simple and does not need an example in order to be understood. The example in the Commission's proposal of leaving the territory of the Member State is correct, but bsconding within a Member State is also possible. Furthermore, the requirement that it is not 'beyond the control' of the third-country national to remain available is not necessary as it adds a subjective element to absconding that would make the qualification of absconding more difficult. BE (Comments): In our view, there are two options. However, to be clear, we do not support the deletion asked by a lot of Member States of the example provided in the definition starting with "such as…". The two options which we can support are: - No changes to the COM proposal since this is the same definition as in RCD - Align the definition with the definition provided for in AMMR, which provides more useful examples AT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	Deletion or perhaps it would make more sense to replace this - as in the Return-Directive - with the definition "*risk of absconding*". AT (Comments): Absconding should not only refer to leaving the territory of the Member State but should also cover the cases within the territory of the Member State. What exactly is meant by "*without permission from the competent authorities*"? Necessity of the definition of "absconding"? What was the reason behind changing the current "risk of absconding" Definition to just "absconding"? FR (Drafting Suggestions): (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 **to go to another Member State** without permission from the competent authorities, for reasons which are not beyond the third-country national's control; **OU :** (7) 'absconding' means the action by which the third-country national does not remain available to the competent administrative or judicial authorities~~,~~

Commission proposal	Drafting Suggestions and Comments
	~~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;~~ FR (Comments): - La France demande au paragraphe 7, à ce qu'il soit précisé que la fuite n'est caractérisée que lorsque l'étranger se rend, sans l'autorisation de l'État membre ayant édicté la décision de retour, dans un autre État membre – en effet, si l'étranger se rend dans un pays tiers, quel qu'il soit, la décision de retour doit être regardée comme exécutée –, ou, à titre subsidiaire, à ce que soit supprimée la deuxième partie de la phrase comportant l'exemple de fuite ;
(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;	SE (Drafting Suggestions): (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~~; SE (Comments):

Commission proposal	Drafting Suggestions and Comments
	We think that in some cases (third country nationals subject to return due to a criminal offence or who poses a security threat in accordance with Article 16) it should be possible to issue entry bans with no specified time limit. Therefore, we suggest deleting "for a specific period" in the end of the proposed definition. NO (Drafting Suggestions): '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~~; NO (Comments): See the comments below cf. Art. 10(6) and the possibility to issue a permanent entry ban. MT (Comments): Malta welcomes the definition. IE (Drafting Suggestions): ~~'for a specified period'~~.

Commission proposal	Drafting Suggestions and Comments
	IE (Comments): IE would welcome the possibility to impose entry bans of indefinite duration. This is the case under national law currently…. FI (Drafting Suggestions): (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~~; FI (Comments): The entry ban should not be linked to any time limit. CH (Drafting Suggestions): (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~~; CH (Comments): See comment on Art. 10.

Commission proposal	Drafting Suggestions and Comments
	BE (Drafting Suggestions): (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~~; BE (Comments): The definition of "entry ban" should not hinder the possibility of issuing an entry ban of an indefinite period, which could at any time subeject to judicial review. To clarify our position, for Belgium it is crucial to have this possibility in the context of article 16. This possibility is not targeted to "normal" cases, so it should not be integrated in article 10, unless it would be legally necessary to do so. AT (Drafting Suggestions): Deletion of "*for a specific period*". AT (Comments):

Commission proposal	Drafting Suggestions and Comments
	AT strongly supports the possibility of imposing unlimited entry bans in individual cases, especially in the case of persons posing a security risk or represent a threat to public order. From a national security and migration management perspective, the ability to apply such measures remains an essential tool. Restricting or eliminating this option would significantly hinder Member States' ability to respond effectively and sustainably to serious risks. FR (Drafting Suggestions): (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~~; FR (Comments): - La France demande au paragraphe 8, à ce que soit supprimée la référence à une durée déterminée, dès lors que l'interdiction d'entrée peut être indéfiniment renouvelée ;
(9) 'readmission procedure' means all steps conducted by a competent authority or, where relevant, by the European Border and Coast Guard	SE (Comments):

Commission proposal	Drafting Suggestions and Comments
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;	We do not see the need to define "readmission procedure" in the regulation. Nonetheless, the proposed definition is too narrow and lacks several steps in the procedure. RO (Drafting Suggestions): '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, **based on a readmission instrument, as defined at point 12**"; Or ~~readmission~~ **return** 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 RO (Comments):

Commission proposal	Drafting Suggestions and Comments
	Concerning the readmission concepts outlined in Article 4(9) and (10), RO proposes expanding the definitions to explicitly provide their application within the framework of a readmission instrument, as specified in Article 4(12) ("readmission instrument" refers to a legally binding or non-legally binding instrument that outlines cooperation between a Member State or the Union and a third country regarding the readmission procedure, including readmission agreements, arrangements, or other international agreements and arrangements). RO proposes adding in Article 4(9) and (10) "**based on a readmission instrument, as defined at point 12**" to the end of each definition . Another issue is the concept of "readmission" in relation with Frontex activity. This concept is not used in the Regulation (EU) 2019/1896, as in the meaning proposed in this regulation. According to the Section 8- Action by the Agency in the area of return (Articles 48-53 of Regulation 2019/1896), Frontex can provide support and assistance, as in the meaning of point 9, in the area of return, not in the area of readmission. The concept of readmission is used in the Regulation 2019/1896 only in the context of transfer of personal data to third countries.

Commission proposal	Drafting Suggestions and Comments
	As an alternative solution, point 9 could be the definition ***return*** *procedure* instead of the *readmission procedure*, with the consequential amendment of Article 36 also ("readmission procedure") NL (Drafting Suggestions): ~~'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;~~ OR (in case the result does not end with deletion): '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 identity or/and, nationality of a third-country national, the issuance of a travel document for the third-country national and the organisation of a return operation; NL (Comments):

Commission proposal	Drafting Suggestions and Comments
	To simplify the regulation, NL suggests to remove paragraphs 9-13. In the case that paragrahs 9 and 10 are not deleted, the word 'identity' should be included. MT (Comments): Malta welcomes the definition. IT (Comments): We place a scrutiny reservation. We believe that the definition of "readmission procedure" and "readmission application" should be revised in order to avoid ambiguities and obstacles in the implementation of such activities, also in the context of interactions with third countries. HR (Drafting Suggestions): ~~readmission procedure'~~ "return procedure" HR (Comments): We believe that the definitions of 'readmission procedure' and 'readmission application' require clarification to prevent uncertainties and practical obstacles.

Commission proposal	Drafting Suggestions and Comments
	We find that the current definition of the readmission procedure is too limited in scope and does not fully reflect all practical procedural steps. We would prefer the definition to allow for greater flexibility. We support MS that are of the opinion that the definition doesn't seem to cover the cases of readmission to a third country of transit, taking into account that the confirmation of nationality or issuance of a travel document for the third-country national in those cases is not necessary due to readmission agreements. EL (Comments): We place a scrutiny reservation. The proposed definition doesn't seem to cover the cases of readmission to a third country other than the country of origin, taking into account in particular that the confirmation of nationality in those cases may not be necessary or feasible. CZ (Comments): We expect to return to the examination of the definition of "readmission procedure" after a thorough discussion of Article 36. BG (Comments):

Commission proposal	Drafting Suggestions and Comments
	We place a scrutiny reservation. We prefer not to introduce definitions linked to the readmission. We are concerned that including these definitions may lead to differences in the interpretation of important elements of the readmission agreements. The definitions are not correct as they limit the readmission procedure, duplicate the existing application forms and raise many questions on the implementation and the link with the readmission agreements in force. BE (Comments): Could it be clarified again what is to be understood by 'all steps'? FR (Drafting Suggestions): ~~(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;~~ **OU, si le paragraphe 9 est maintenu :** (9) 'readmission procedure' means all steps conducted by a competent authority or, where relevant, by the European Border and Coast Guard

Commission proposal	Drafting Suggestions and Comments
	Agency ('Frontex'), in relation to the confirmation **<u>of the identity or/and</u>** nationality of a third-country national, the issuance of a travel document for the third-country national and the organisation of a return operation; FR (Comments): - La France demande à ce que les paragraphes 9, 10 et 12 relatifs à la réadmission soient supprimés, d'une part afin de faire disparaître la notion de procédure de réadmission en tant que notion autonome, les différentes étapes décrites au paragraphe 9 s'inscrivant directement dans la procédure de retour (la distinction procédure de réadmission / procédure de retour est source de complexité), et d'autre part afin de prévenir tout empiètement du règlement sur la compétence des États membres en matière de réadmission, et en particulier sur leur compétence pour conclure des accords de réadmission.
(10) 'readmission application' means a request for the purpose of readmission submitted by a competent authority 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;	SE (Comments): See above. RO (Drafting Suggestions): 'readmission application' means a request for the purpose of readmission submitted by a competent authority to a competent authority of a third

Commission proposal	Drafting Suggestions and Comments
	country consisting of a request for confirmation of nationality and a request for issuance of a travel document **and readmission of the third country national**, as relevant, **based on a readmission instrument, as defined at point 12**; or '~~readmission~~ **return** application' means a request for the purpose of ~~readmission~~ return submitted by a competent authority 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; RO (Comments): observations: RO believes the definition needs to be broadened to explicitly cover official requests made to third countries for the **readmission** of their nationals. For the issues related to the readmission instrument or return application, please see our proposal to point 9 NL (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~'readmission application' means a request for the purpose of readmission submitted by a competent authority 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;~~ OR (in case the result does not end with deletion): 'readmission application' means a request for the purpose of readmission submitted by a competent authority to a competent authority of a third country consisting of a request for confirmation of identity or/and, nationality and a request for issuance of a travel document, as relevant; NL (Comments): To simplify the regulation, NL suggests to remove paragraphs 9-13. In the case that paragrahs 9 and 10 are not deleted, the word 'identity' should be included. MT (Comments): Malta welcomes the definition. LT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	(10) 'readmission application' means a request for the purpose of readmission submitted by a competent authority to a competent authority of a third country consisting of a request for confirmation of nationality and **(or)** a request for issuance of a travel document, as relevant; LT (Comments): The proposed definition of a readmission application does not cover cases where the identity of the TCN has been establishedand and only a travel document needs to be issued. Therefore, we propose to clarify the definition by replacing "and" with "and (or)". IT (Comments): We place a scrutiny reservation, for the same reasons mentioned above. HR (Drafting Suggestions): 'readmission application' means a request for the purpose of readmission submitted by a competent authority 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;~~ HR

Commission proposal	Drafting Suggestions and Comments
	(Comments): We would prefer a more general wording, avoiding specific references to elements that the readmission application may consist of, to ensure greater flexibility. EL (Comments): We place a scrutiny reservation, for the same reasons mentioned above. An option could be to keep a more general wording, without referring to any elements that the request may consist of. CZ (Comments): We expect to return to the examination of the definition of "readmission application" after a thorough discussion of Article 36. CH (Drafting Suggestions): ~~(10) 'readmission application' means a request for the purpose of readmission submitted by a competent authority 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;~~ CH

Commission proposal	Drafting Suggestions and Comments
	(Comments): The term 'readmission application' does not appear to be frequently used in practice and is mostly associated with readmission requests between MS/SAC to readmit third-country nationals within EU/EFTA country in accordance with bilateral readmission agreements. As proposed, the term subsumes two requests under one, i.e. a request for confirmation of nationality and a request for issuance of a travel document. It is also uncertain whether the proposed defintion includes situations of consular interviews or identification missions in delegations are invited and no formal request to identify individual third-country nationals may be formulated. Therefore, the definition of 'readmission application' should be deleted or redrafted. BG (Comments): We place a scrutiny reservation. We prefer not to introduce definitions linked to the readmission. We are concerned that including these definitions may lead to differences in the interpretation of important elements of the readmission agreements.

Commission proposal	Drafting Suggestions and Comments
	The definitions are not correct as they limit the readmission procedure, duplicate the existing application forms and raise many questions on the implementation and the link with the readmission agreements in force. BE (Comments): We support the MS who asked for a broadening of this defintion and in particular the fact that mentioning more examples could be helpful. Other examples could be a proof of transit through a country or a proof of residence in a third country or a verification that the TCN does not possess the nationality of a certain third country. FR (Drafting Suggestions): ~~(10) 'readmission application' means a request for the purpose of readmission submitted by a competent authority 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;~~ **OU, si le paragraphe 10 est maintenu :** (10) 'readmission application' means a request for the purpose of readmission submitted by a competent authority to a competent authority of a third country consisting of a request for confirmation **of the identity**

Commission proposal	Drafting Suggestions and Comments
	or/and nationality and a request for issuance of a travel document, as relevant; FR (Comments): - La France demande à ce que les paragraphes 9, 10 et 12 relatifs à la réadmission soient supprimés, d'une part afin de faire disparaître la notion de procédure de réadmission en tant que notion autonome, les différentes étapes décrites au paragraphe 9 s'inscrivant directement dans la procédure de retour (la distinction procédure de réadmission / procédure de retour est source de complexité), et d'autre part afin de prévenir tout empiètement du règlement sur la compétence des États membres en matière de réadmission, et en particulier sur leur compétence pour conclure des accords de réadmission. À titre subsidiaire, si les paragraphes 9 et 10 devaient être maintenus, nous proposons de préciser que la procédure de réadmission recouvre également les démarches entreprises pour établir ou vérifier l'identité de l'étranger, et pas seulement sa nationalité ;
(11) 'return operation' means an operation that is organised or coordinated by a competent authority by which third-country nationals from one or more Member States are returned;	NL (Drafting Suggestions): ~~'return operation' means an operation that is organised or coordinated by a competent authority by which third-country nationals from one or more Member States are returned;~~

Commission proposal	Drafting Suggestions and Comments
	NL (Comments): To simplify the regulation, NL suggests to remove paragraphs 9-13. MT (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority**, including Frontex,** by which third-country nationals from one or more Member States are returned; MT (Comments): Malta calls for an explicit reference to Frontex. LT (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority **or the European Border and Coast Guard Agency ('Frontex')** by which third-country nationals from one or more Member States are returned; LT (Comments):

Commission proposal	Drafting Suggestions and Comments
	We propose to explicitly stipulate that Frontex may also organise or coordinate return operations. IT (Drafting Suggestions): 11) 'return operation' means an operation that is organised or coordinated by a competent authority **or the European Border and Coast Guard Agency ('Frontex')** by which third-country nationals from one or more Member States are returned; IT (Comments): We deem preferable to include an express reference to the role of Frontex in the text rather than only to "competent authorities", similar to the wording used in definition 9 of Article 4. HR (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority **or the European Border and Coast Guard Agency ('Frontex')** by which third-country nationals from one or more Member States are returned; HR (Comments):

Commission proposal	Drafting Suggestions and Comments
	Our preference is for the provision to include an explicit reference to Frontex to ensure that operations led by the Agency are also covered ES (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority **or the European Border and Coast Guard Agency ("Frontex"),** by which third-country nationals from one or more Member States are returned; EL (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority **or the European Border and Coast Guard Agency ('Frontex')** by which third-country nationals from one or more Member States are returned; EL (Comments): This addition is necessary in order to cover the Frontex-led return operations. Referring just to 'a competent authority' would mean only the national authorities (see the wording used in the definition (9)). CH

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): ~~(11) 'return operation' means an operation that is organised or coordinated by a competent authority by which third-country nationals from one or more Member States are returned;~~ CH (Comments): Art. 2(27) of Regulation (EU) 2019/1896 offers a different definition of 'return operation' by defining it as 'an operation that is organised or coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement provided to one or more Member States under which returnees from one or more Member States are returned, either on a forced or voluntary basis, irrespective of the means of transport'. The content of the definition in Art. 4(11) appears adequate as a basis for discussion but the regulation should not introduce a new definition that would be in contradiction with of Art. 2(27) of Regulation (EU) 2019/1896. BE (Drafting Suggestions): (11) 'return operation' means an operation that is organised or coordinated by a competent authority **or Frontex/EBCG** by which third-country nationals from one or more Member States are returned;

Commission proposal	Drafting Suggestions and Comments
	BE (Comments): Assuming that Frontex is not a competnt authority, Belgium supports the mentioning of Frontex or EBCG. A clarification in the recitals, if more suitbale, could suffice as well. FR (Drafting Suggestions): ~~(11) 'return operation' means an operation that is organised or coordinated by a competent authority by which third-country nationals from one or more Member States are returned;~~ FR (Comments): - La France demande à ce que le paragraphe 11 soit supprimé, dès lors que la notion d'opération de retour est déjà définir par l'article 2(27) du règlement 2019/1896 relatif au corps européen de garde-frontières et de garde-côtes *(«opération de retour», une opération qui est organisée ou coordonnée par l'Agence européenne de garde-frontières et de garde-côtes et implique l'apport d'un renfort technique et opérationnel au profit d'un ou de plusieurs États membres, dans le cadre de laquelle des personnes faisant l'objet d'une décision de retour au départ d'un ou de plusieurs États membres sont renvoyées, volontairement ou en y étant forcées, indépendamment du moyen de transport employé*);

Commission proposal	Drafting Suggestions and Comments
	CY (Comments): We support possible inclusion of Frontex operations.
(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;	NL (Drafting Suggestions): ~~'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;~~ NL (Comments): To simplify the regulation, NL suggests to remove paragraphs 9-13. MT (Comments): Malta welcomes the definition. BG (Comments): We place a scrutiny reservation.

Commission proposal	Drafting Suggestions and Comments
	We prefer not to introduce definitions linked to the readmission. We are concerned that including these definitions may lead to differences in the interpretation of important elements of the readmission agreements. The definitions are not correct as they limit the readmission procedure, duplicate the existing application forms and raise many questions on the implementation and the link with the readmission agreements in force. FR (Drafting Suggestions): ~~(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;~~ FR (Comments): - La France demande à ce que les paragraphes 9, 10 et 12 relatifs à la réadmission soient supprimés, d'une part afin de faire disparaître la notion de procédure de réadmission en tant que notion autonome, les différentes étapes décrites au paragraphe 9 s'inscrivant directement dans la procédure de retour (la distinction procédure de réadmission / procédure de retour est source de complexité), et d'autre part afin de prévenir tout empiètement du règlement sur la compétence des États membres en matière de réadmission, et en particulier sur leur compétence pour conclure des accords de réadmission. À titre subsidiaire, si les paragraphes 9 et 10 devaient être maintenus, nous

Commission proposal	Drafting Suggestions and Comments
	proposons de préciser que la procédure de réadmission recouvre également les démarches entreprises pour établir ou vérifier l'identité de l'étranger, et pas seulement sa nationalité ;
(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 Council[1].	NL (Drafting Suggestions): ~~'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 Council[2].~~ NL (Comments):

[1] 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).

~~[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).~~

Commission proposal	Drafting Suggestions and Comments
	To simplify the regulation, NL suggests to remove paragraphs 9-13. NL is however interested to learn from BE where in the acquis cross-references exist to paragraph 13, and the comment that this paragraph should remain. MT (Comments): Malta welcomes the definition. CH (Drafting Suggestions): ~~(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 Council[3].~~ CH (Comments):

[3] 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).

Commission proposal	Drafting Suggestions and Comments
	In accordance with Art. 1 and 2, the subject matter and scope of the regulation concern illegally-staying third-country nationals. The proposed definition concerns aspect of legal stay, which is outside the scope of this regulation. Therefore, the proposed definition should be deleted. BG (Comments): We would like the text to be deleted as it is irrelevant for this Regulation. BE (Comments): In our opinion, it is better to keep this provision in relation to article 8 (2), we don't support the call to delete this defintion. The situation of TCN who don't have a resicence permit or a long stay visa, but still have a temporary document issued by a MS otherwise is clarified herewith. FR (Drafting Suggestions): ~~(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~~

Commission proposal	Drafting Suggestions and Comments
	~~exception of the document referred to in Article 6 of Directive (EU) 2024/1346 of the European Parliament and of the Council.~~ FR (Comments): - La France demande à ce que le paragraphe 13, qui entend définir la notion d'« autre autorisation offrant un droit au séjour », au demeurant relativement explicite, soit supprimé, dès lors qu'il n'appartient pas au règlement de définir ou de régir d'une quelconque façon le droit au séjour.

Article 5	NL (Drafting Suggestions): ~~*Article 5*~~ NL (Comments): NL proposes to delete article 5 as there is no added value to article 1(1) and the recitals. Member States must always adhere to fundamental rights. It is important to guide the Court of Justice on this matter. MT (Comments): Malta can accept the wording in Article 5 CH (Drafting Suggestions): ~~*Article 5*~~ CH (Comments): Article 5 in Directive 2008/115/EC was relatively general but essentially restates the requirement of the respect of the principle of non-refoulement which is already well reflected in the instruments quoted in Art. 1.

Commission proposal	Drafting Suggestions and Comments
	Art. 5 has prompted the European Court of Justice to issue far-reaching rulings on the issuance of return decisions and removal (C-546/19 Westerwaldkreis, C-663/21 Bundesamt für Fremdenwesen und Asyl, C-156/23 Ararat) in which more specific provisions on non-refoulement such as Article 9 of Directive 2008/115/EC on removal that offered Member States more flexibility were not considered.
	The proposed new Article 5 is similar to the previous Article 5 and equally general. For purposes of legal security, Art. 5 should be deleted and instead more specific provisions on fundamental rights requirements including non-refoulement in relation to return should be provided in the specific articles, for example on removal.
Fundamental rights	NL (Drafting Suggestions): ~~**Fundamental rights**~~ CH (Drafting Suggestions): ~~**Fundamental rights**~~

Commission proposal	Drafting Suggestions and Comments
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.	SE (Comments): See comments for article 7. NL (Drafting Suggestions): ~~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.~~ IE (Comments): IE is pleased to see a requirement that obligations under the Charter, international law, fundamental rights and the principle of non-refoulement are to be respected in all instances where applying the Regulation. FI (Comments): What is the added value of this article, because MS shall anyway act in full compliance with all provision listed in here? CZ (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	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 **in case of removal**, and with fundamental rights. CZ (Comments): See below the comment on Art 7(4) concerning the country of removal. CH (Drafting Suggestions): ~~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.~~ AT (Drafting Suggestions): Deletion of the article. AT (Comments):

Commission proposal	Drafting Suggestions and Comments
	AT supports the deletion of this article as proposed by other MS and supported by AT during the latest IMEX negotiations.
Chapter II **RETURN PROCEDURE**	
SECTION 1 **START OF THE RETURN PROCEDURE**	IT (Drafting Suggestions): ~~**SECTION 1**~~ ~~**START OF THE RETURN PROCEDURE**~~ ES (Drafting Suggestions): ~~**SECTION 1**~~ ~~**START OF THE RETURN PROCEDURE**~~

Article 6	NL (Drafting Suggestions): ~~*Article 6*~~ NL (Comments): NL wishes to delete this article alltogether. The proposal goes further than neccessary and is therefore not proportional. This article would lead to more administrative burdens, if necessary it could be moved towards the recitals. MT (Drafting Suggestions): ~~*Article 6*~~ MT (Comments): Malta calls for the deletion of this Article as this provision, is not necessary. IT (Drafting Suggestions): ~~*Article 6*~~ IT (Comments): We do not consider it necessary to maintain this provision in the Regulation. Alternatively, we call for a complete revision of the text, which in many parts

Commission proposal	Drafting Suggestions and Comments
	is unclear and excessively generic, configuring the risk of increasing the administrative burdens on the competent authorities and the activities required of them for detection purposes, for example with regard to the provision on vulnerability checks or the one in paragraph 3 that authorities should rely on information acquired in previous checks and only "where necessary" may carry out additional security verifications, with the risk of having to justify such initiatives and the risk of the resulting litigation. ES (Drafting Suggestions): ~~*Article 6*~~ EE (Drafting Suggestions): ~~**Article 6**~~ EE (Comments): Article 6 goes beyond the scope of the Return Directive. European Court of Justice has found that common standards and procedures established by Return Directive concern only the adoption of return decisions and the implementation of those decisions (Case C-329/11, point 29). That finding is corroborated by recital 17 of Return Directive stating that initial apprehension by law-enforcement authorities is regulated by national legislation. We do not

Commission proposal	Drafting Suggestions and Comments
	support the proposed (disproportionate) changes in the proposal and advocate for initial checks to be left to national competence. CH (Drafting Suggestions): ~~*Article 6*~~ CH (Comments): This article provides for far-reaching checks and yet the contents of the proposed measures are vague and look more like those in a directive. It is questionable whether this article is really needed. BG (Drafting Suggestions): ~~*Article 6*~~ BE (Comments): We can support the philosophy of this article, but wish to reiterate that it is full of concepts of whch the scope is rather unclear. It is also unclear when Member States meet the obligations of this provision. CY

Commission proposal	Drafting Suggestions and Comments
	(Comments): Scrutiny, the wording of this article should be refined, since it creates obligations that are unclear and will hamper effective implementation.
Detection and initial checks	NL (Drafting Suggestions): ~~**Detection and initial checks**~~ 1. MT (Drafting Suggestions): ~~**Detection and initial checks**~~ IT (Drafting Suggestions): ~~**Detection and initial checks**~~ ES (Drafting Suggestions): ~~**Detection and initial checks**~~ ES (Comments):

Commission proposal	Drafting Suggestions and Comments
	This provision, besides not being necessary, establishes open and unconcrete obligations for Member States. EE (Drafting Suggestions): ~~**Detection and initial checks**~~ EE (Comments): See the previous comment. CZ (Drafting Suggestions): ~~**Detection and initial checks**~~ CZ (Comments): We suggest to translate Art 6 to the recitals. CH (Drafting Suggestions): ~~**Detection and initial checks**~~ BG (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~**Detection and initial checks**~~ AT (Drafting Suggestions): As proposed by some Member States, AT would support a complete deletion. AT (Comments): AT shares the concerns of the Member States with regards to additional administrative burden and the mentioned risks of a broad wording "*put in place efficient and proportionate measures*" in the context of Schengen Evaluations. It is of utmost importance to avoid any kind of duplications. FR (Comments): S'agissant de l'article 6, la France s'oppose à la création d'un examen systématique visant à détecter l'éventuelle vulnérabilité d'un étranger faisant l'objet d'une vérification de son droit au séjour. Cet alourdissement ne pèserait que sur les forces de sécurité. Elle s'oppose également au fait de subordonner à une « évaluation du risque » et à l'examen de « critères objectifs définis par le droit national » la possibilité de

Commission proposal	Drafting Suggestions and Comments
	réaliser des « vérifications de sécurité supplémentaires » : ces dispositions (§3), au demeurant peu claires, risqueraient de conduire les États membres à devoir justifier toute « vérification de sécurité » postérieure à l'édiction de la décision de retour, telle que la consultation des fichiers européens et nationaux, justification qui serait totalement disproportionnée. Par conséquent, la France sollicite la suppression de l'article 6. Cette suppression serait bien entendu sans conséquence sur la possibilité pour l'étranger de faire valoir son état de santé à un stade ultérieur de la procédure, en particulier dans le cadre d'une demande de report de l'éloignement formulée en application de l'article 14 du règlement, ou d'un placement en rétention.
	BG (Comments): We are not convinced of the added value of this article because there are still uncertainties regarding the obligations for the Member States and in the application of the Screening Regulation. For these reasons, we prefer the whole article to be deleted or as a compromise to be redrafted and removed to the preamble.
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	NL (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
additional verifications needed, including any vulnerability and security verifications.	~~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.~~ MT (Drafting Suggestions): ~~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.~~ LT (Comments): It is not entirely clear what measures and checks MS are obliged to carry out - we would not be willing to create additional administrative burdens for MS, and there is a risk that the additional checks could lead to longer delays in the return itself. If these provisions are not intended to increase the scope of checks, and MS are free to define this in national law, the question is what is the added value of this Article. IT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~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.~~ IE (Comments): IE would welcome clarity on the meaning of "efficient and proportionate measures" to detect TCNS staying illegally on territory as the potential resourcing implications will vary significantly depending on the shared understanding of this. HR (Comments): We would like to place scrutiny reservation. The provision lacks clarity and is very vague, which may lead to varying interpretations and consequently result in increased administrative burden. Further clarity is necessary with regards to the measures that the Member States are obliged to put in place for detection purposes. ES (Drafting Suggestions): ~~1. Member States shall put in place efficient and proportionate measures to detect third-country nationals who are staying illegally on their territory in~~

Commission proposal	Drafting Suggestions and Comments
	~~view of carrying out the return procedure and to carry out any additional verifications needed, including any vulnerability and security verifications.~~ EL (Comments): - We place a scrutiny reservation. Further clarity is deemed as necessary with regards to the measures that the Member States are obliged to put in place for detection purposes. We would support the deletion of this article in case it becomes clear that its provisions have no real added value. - In any case, it would be more appropriate and clearer to provide for the obligation to detect in a separate paragraph and not mixing it with obligation for any additional verifications. - For the persons detected as staying illegally and who are subject to screening within the territory in accordance with the Regulation (EU) 2024/1356, there is no need to provide for another obligation at EU level for the Member States to put in place measures to carry out any additional verifications needed. If additional verifications are deemed as necessary, they will be conducted in any case, under national law. - For the persons detected as staying illegally and who are not subject to screening (i.e. overstayers or persons who have been subject), it should be

Commission proposal	Drafting Suggestions and Comments
	kept in mind that they have already undergone the needed checks. Verifications will be conducted in any case, in accordance with national law. EE (Drafting Suggestions): ~~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.~~ EE (Comments): See the previous comment. CZ (Drafting Suggestions): ~~**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.**~~ CH (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~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.~~ BG (Drafting Suggestions): ~~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.~~ FR (Drafting Suggestions): ~~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.~~ CY (Drafting Suggestions): Member States ~~shall~~ **may** put in place efficient and proportionate measures to detect third-country nationals

Commission proposal	Drafting Suggestions and Comments
	CY (Comments): This paragraph is self-declaratory and we would prefer its deletion. Alternatively, we could examine the possitbilituy of introducing "may", instead or "shall"
2. 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.	NL (Drafting Suggestions): ~~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.~~ MT (Drafting Suggestions): ~~2. 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.~~ IT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~2 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.~~ IE (Comments): IE welcomes inclusion of phrase 'equivalent checks under national law', as this assists in ensuring IE's ability to effectively participate in the measure. ES (Drafting Suggestions): ~~2. 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.~~ EL (Comments): - Based on our comments mentioned above and in case this paragraph is maintained, it should be clear that the obligation, to put in place measures for any additional verifications, concerns only the illegally staying persons that are not subject to screening within the territory. EE

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): ~~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.~~ EE (Comments): See the previous comment. CZ (Drafting Suggestions): ~~**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.**~~ CH (Drafting Suggestions): ~~2. 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.~~

Commission proposal	Drafting Suggestions and Comments
	BG (Drafting Suggestions): ~~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~~. FR (Drafting Suggestions): ~~2. 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.~~
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.	NL (Drafting Suggestions): ~~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.~~ MT

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	(Drafting Suggestions): ~~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.~~ LT (Comments): The risk assessment criteria may vary between MS. How will return decisions be enforced in such a case, if the person does not pose a risk in one Member State, but poses a risk according to the criteria of the executing Member State? Will the executing MS be able to take an expulsion decision and(or) impose an entry ban? Why does 9(4) only provide an exception for the enforcement of decisions where this is manifestly contrary to public policy whereas threat to national security is not foreseen? IT (Drafting Suggestions): ~~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.~~ IT (Comments):

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	For the reasons stated above, if the entire article is not deleted, we believe that at least this paragraph, which hinders the possibility of competent authorities to conduct security verifications, should be deleted. ES (Drafting Suggestions): ~~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.~~ EL (Comments): - This paragraph limits the posibilities of the Member States to carry out security verifications (i.e. requirement for a risk assessment) and we would support its deletion. EE (Drafting Suggestions): ~~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.~~ EE (Comments):

Commission proposal	Drafting Suggestions and Comments
	See the previous comment. CZ (Drafting Suggestions): ~~**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.**~~ CH (Drafting Suggestions): ~~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.~~ BG (Drafting Suggestions): ~~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.~~ FR (Drafting Suggestions):

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	~~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**	CH (Comments): As a general comment, the procedure ordering return needs to be simplified with provisions that can be implemented by all MS/SAC and will facilitate effective returns. . The below comments focus on specific aspects. However, it will be important that future discussions in the IMEX Working Parties and JHA Counsellors meeting will be used to find an agreement on the general aspects to ensure coherence, in particular on Art. 7 to 9 and 12 to 14 which together with the relevant defitions constitute foundational provisions for the Regulation and need to be coherent as whole.

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Article 7	AT (Comments): A general question, which remained unanswered in the IMEX was, whether the return decision is consumed upon departure or remains in place for a certain period. We would be interested to know COM's opinion on the duration of validity. LV (Comments): According to Latvia, it is necessary to consider the possibility of supplementing Article 7 with a provision regarding the assessment of the principle of non-refoulement if a person refuses to indicate the country of return.
Issuance of a return decision	FR (Comments): L'article 7 doit faire l'objet de plusieurs ajustements.
1. A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, without prejudice to the exceptions referred to in Article 8.	SE (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, without prejudice to the exceptions referred to in Article 8 **or to whether it is possible to enforce the return decision at the time of the issuance**. SE (Comments): As we have understood the answeres from the Commission in the IMEX Working Party meeting on May 13-14, Member States are indeed allowed to issue return decisions also in situations where it is clear that the decision cannot be enforced for an indefinite period due to impediments relating to the principle of non-refoulement. Sweden fully agrees about this and welcomes this clarification. Given the importance of this provision and for clarity , we think that this should be clearly stated in the text in order to avoid any ambiguities in the interpretation of the Regulation. NL (Drafting Suggestions): A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, regardless to the possibility of removal and without prejudice to the exceptions referred to in Article 8.

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	NL (Comments): This suggestion overturns the ruling in cases **C-663/21** and **C-441/19**. It should always be possible to take a return decision (in some situations it is impossible to enforce the return decision). When necessary, the recital could point out that the co-legislators have taken a different route than the Court of Justice of the EU. NL was first of the view to suggest the phrasing 'without prejudice to the possibility of removal' but found that 'regardless' would be better. CH (Drafting Suggestions): 1. A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, without prejudice to **the possibility of removal and** the exceptions referred to in Article 8. CH (Comments): The paragraph should clarify explicitly that MS/SAC may issue a return decision to illegally-staying third-country nationals without prejudice to

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	removal. This will help clarify that an obstacle to removal such as new-refoulement will not prevent issuance of a return decision. BE (Drafting Suggestions): A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, **without prejudice to the possibility of removal and** without prejudice to the exceptions referred to in Article 8. BE (Comments): We could support the addition proposed by the NL delegation. AT (Drafting Suggestions): A return decision shall be issued to any third-country national who is or has been staying illegally on their territory or within the Schengen Area by competent authorities of the Member States, without prejudice to the exceptions referred to in Article 8. AT (Comments):

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	The Regulation should clarify that a return decision can also be issued in the case of obstacles such as non-refoulement. It should be noted that return decisions can be issued if the person is no longer present in the territory. If the individual's illegal stay is discovered directly at border control, a return decision accompanied by an entry ban can still be issued afterward, while the person may still be allowed to leave the Schengen Area voluntarily. Detaining the person solely to carry out the proceedings would otherwise be necessary, which would contradict the goal of a prompt departure and the legal obligation to leave the country. In addition, the issuance of a return decision should not be restricted solely to situations where the individual is physically present "in the territory of the Member State". In cases where, for example, a third-country national has committed a criminal offence that justifies a return decision with an entry ban and is known to be residing in another Member State, the Member State where the offence occurred must retain the ability to take appropriate action. Without this possibility, individuals could easily circumvent return measures by relocating within the Schengen Area, thereby undermining the effectiveness of the EU's return policy. FR (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	1. A return decision shall be issued to any third-country national staying illegally on their territory by competent authorities of the Member States, without prejudice to the exceptions referred to in Article 8, **and independently from the assessment pursuant to article 12§3, which shall be carried out by Member States when determining the country of return and carrying out the removal**. FR (Comments): Au paragraphe 1er, il est nécessaire d'indiquer que le principe de non-refoulement ne fait pas obstacle à l'édiction de la décision de retour, dès lors que c'est uniquement au stade de la fixation du pays de renvoi et de l'éloignement effectif (dans le cadre d'un « removal ») que l'État membre est tenu de s'assurer que ce principe est respecté.
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.	MT (Drafting Suggestions): 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

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	to seek those remedies. The return decision shall be notified to the third-country national ~~without undue delay~~ **as soon as possible in accordance with the national law of the Member State concerned.** MT (Comments): Malta calls for Article 7(2) to be worded in line with Article 36 of the Asylum Procedures Regulation. HR (Drafting Suggestions): 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 in accordance with the national law of the Member State concerned**. HR (Comments): Alignment with the wording of Article 36 APR ES (Drafting Suggestions):

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	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**, **in accordance with the national law of the Member State concerned** ES (Comments): Wording inspired by the one used in Article 36 (1) APR EL (Drafting Suggestions): 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 in accordance with the national law of the Member State concerned**. EL (Comments): A similar wording to the one used in Article 36 APR is proposed. We deem as appropriate the alignment of the wording here, taking into account the case where the return decision is issued as part of the decision rejecting the

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	application for international protection. Furthermore the phrase 'without undue delay' could raise misinterpretation issues. CH (Drafting Suggestions): 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. FR (Drafting Suggestions): 2. The return decision shall be issued in writing and give reasons in fact and in law. ~~**as well as**~~ **The** information about available legal remedies and time limits to seek those remedies **shall be laid out either in the return decision or in the notification document.** The return decision shall be notified to the third-country national without undue delay. FR (Comments): Le paragraphe 2 doit ensuite être modifié pour permettre l'inscription de la mention des voies et délais de recours soit dans la décision de retour elle-même, soit dans la lettre accompagnant cette décision lorsqu'elle est notifiée à l'étranger.

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	En droit français, l'absence de cette mention n'est en effet pas de nature à vicier la décision de retour, mais simplement à rendre inopposable le délai de recours : l'étranger dispose alors en principe d'un délai d'un an pour contester cette décision devant le juge. CY (Drafting Suggestions): 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 in accordance with the national law.** CY (Comments): We are concerned that the reference to "without undue delay" is too vague and might result to interpretation issues.
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	RO (Drafting Suggestions): 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

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grounds on which a return decision is taken for the purpose of access to an effective remedy.	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.~~ RO (Comments): According to the national legislation, the information extracted from a classified file has the same regime as the file itself. For this reason, RO does not support the idea of providing some information to the third coutry national, in the context described by Article 7 Para. (3) IE (Comments): This provision provides that competent authorities may limit information on reasons where national law provides for information to be restricted or where it is necessary to safeguard public order & security. In such cases, the TCN shall be informed of the 'essence of the grounds' on which a decision has been made. This may benefit from further definition or rewording as the lack of clarity carries a high litigation risk, particularly in IE where migration cases are heavily litigated.

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	ES (Drafting Suggestions): 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**, in accordance with national law,** 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 one or more countries of return.	SE (Comments): It should be considered whether, in situations where a country of return cannot be determined at the time of issuing the return decision, it should also be permitted not to indicate any country at this stage at all. Sweden is positive about the intention to create greater flexibility for Member States by allowing the possibility to provisionally indicate one or more third countries for enforcement of the return decision. However, we believe that the added value is relatively limited. The limited information available at the time of

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	the decision makes this a lot more cumbersome and time-consuming than not indicating any return country at all. As Member States still would have to assess whether the return would violate the principle of non refoulement at a later stage, when acutally enforcing the return decision, there seems to be few arguments saying that such a possibility would not be legitimate. NL (Drafting Suggestions): ~~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 one or more countries of return.~~ NL (Comments): NL is of the view that the return decision should not state the country of return (or as NL suggested 'removal'), as it is the third country national's prerogative to decide to which country he wants to depart. NL is still considering whether a new paragraph should be added that states that the return decision states none, one or more countries of removal; in order to speed up the removal process when all necessary information is already available. MT (Drafting Suggestions):

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	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 one**, several** or ~~more~~ **no** countries of return. MT (Comments): Malta calls for more flexibility on the reference to the country of return in the return decision, as this could be stated in the removal order. LT (Comments): We support the MS which propose that the requirement to indicate the country of return should only apply to expulsion decisions and that in the case of voluntary return, the indication of the country should not be mandatory. We also look forward to clarification as to whether the principle of *non-refoulement* could only be considered in the case of expulsion - we would strongly support this position. IT (Comments): We place a scrutiny reservation. As also indicated in the Imex meeting of 14 May by other Member States, we believe that the possibility of indicating the country of return in the removal

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	order, and not at the time of issuing the return decision, should be further explored. We also believe that a distinction should be made between voluntary return (where the indication of the country of return may not be required) and forced return. HR (Comments): We would like to place scrutiny reservation. During IMEX meeting in May, the opinion of the Council Legal Service has been requested to clarify the precise possibilities regarding the designation of the country of return in the return decision, as well as the option to determine it at a later stage, namely in the removal decision. ES (Drafting Suggestions): 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 one**, several** or **no** ~~more~~ countries of return. ES (Comments):

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	At this stage of the procedure and taking into consideration that the return decision is meant to state that the person is ilegally staying in the Schengen area, Member States should retain the possibility of not identifying the country of return EL (Drafting Suggestions): 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~~ **A** return decision may indicate provisionally one or more countries of return. **In case the third-country national decides to return voluntarily in another country, the issuance of a new return decision is not necessary.** EL (Comments): - We consider that it should be possible to indicate in the return decision, one or more countries that fall under the definition of 'country of return', without any other requirements. We are interested in discussing further the cases where no country of return could be determined. - However, we bring to the attention the provision of Art. 37 APR, where it is stated: '…, Member States shall issue a return decision that respects

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	Directive 2008/115/EC and that is in accordance with the principle of non-refoulement'. To our understanding the return decisions that are linked with asylum should indicate a country of return, in any case, in order to comply with the provision mentioned above. - Furthermore, we propose providing for that it is not necessary to issue a new return decision in the cases where the third-country national decides in a voluntary way to return in a different country than the one/s indicated in the return decision. EE (Drafting Suggestions): ~~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 one or more countries of return~~. EE (Comments): We suggest looking Art 7 (4) in conjunction with Article 12 (2). We do not support the obligation under Article 7(4) to determine the country of return or countries of return in the return decision. The country of return may not be known at the time the return decision is issued. Furthermore, in case of voluntary return, the person should be allowed to return to any third country he/she has right to enter. The country of removal should be determined 1) in

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	a return decision when the Member State has decided to refrain from granting a period for voluntary departure; 2) in a separate administrative act or judicial decision when the return decision allowing for a period for voluntary return is enforced. DK (Drafting Suggestions): 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 one or more countries of return.~~ **The country of return may be determined after the issuance of the return decision, in the removal order referred to in Article 12(2).** DK (Comments): This Article needs to be modified in order to state that a country of return does not need to be determined in a return decision, since the return decision – as defined by Article 4 – obligates the person to leave the territory of the Member States. The country of destination is only relevant in cases of removal. CZ

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	(Drafting Suggestions): ~~**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 one or more countries of return.**~~ **Art 12** **When the third-country national is subject to removal, a country of removal shall be determined in the return decision or in a separate administrative act or judicial decision ordering removal or detention.** CZ (Comments): We apply the scrutiny reservation. It is crucial that the country of return is determined obligatorily before the removal, not necessarily already at the time of issuing the return decision. The issuance of the return decision shall not be limited by the determination of the country of return. Moreover, it should not be necessary to determine the country of return in the case of voluntary return. The review of the principle of non-refoulement in relation to more provisional countries of return poses additional administrative burden.

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	We suggest looking at Art 7(4) in conjunction with Article 12(2). The country of removal should be determined either (1) in the return decision when the Member State has decided to refrain from granting a period for voluntary departure; or (2) in a separate administrative act or judicial decision when the return decision allowing for a period for voluntary return is enforced. CH (Drafting Suggestions): ~~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 one or more countries of return.~~ CH (Comments): Since the country of return is only relevant for the consideration of obstacles to removal such as non-refoulement, the country of return should not have to be included in the return decision. The country of return is not relevant for voluntary return which allows the third-country national to choose any country which accept him or her.

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	In case the third-country national fails to comply with his or her obligation to cooperate by hiding his or her identity, MS/SAC should be able to issue a return decision and not be compelled to speculate on the origin of the third-country national at that stage to insert even a provisional or country of return or several countries of return. - Placing such a burden on MS/SAC would not be coherent with the emphasis of the regulation on the obligation of the third-country national to cooperate. This is reflected in Article 23, which explicitly places the burden on the third-country national to reveal his or her identity. In addition, the requirement to state one provisional country of return or several provisional countries of return would entail the risk of litigation that may result in invalidation of the return decision as a whole. Possible scenarios are as follows: a) the judge reviewing the return decision believes that one of the countries mentioned exposes the foreign national to inhumane treatment; or b) the third-country national could rightly challenge the determination of countries of return determined inaccurately on a provisional basis by the MS/SAC. BE (Comments):

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	At the moment, we are critical concerning this provision (see general positions) and don't support the fact that a mention country of return would be mandatory. A return decision determines illegal stay and imposes the obligation to leave the Union, issuing a return decision should never imply a breach of non-refoulement, and therefore this obligation is not applicable. In article 12 we suggest to further clarify that a removal decision should contain a country of removal, in which context we could accept a definition of "country of removal" in article 4 instead of "country of return" and a definition of "removal order" could be useful, since it is undeniable that at the moment of removal a non refoulement check should be done. AT (Drafting Suggestions): AT proposes to the following addition to the current wording: "*may indicate **no** or provisionally one or more countries of return."* AT (Comments): As mentioned by several Member States incl. AT in the IMEX, the country of return should not have to be part of the return decision. Even though there are only very few cases, it is still problematic if a third country-national does not cooperate at all, therefore country of return (or

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	origin) cannot be determined. For these few cases, the possibility to issue a return decision without naming the country of return would be useful (even if this raises questions regarding mutual recognition). If in these cases, we would not be able to issue a return decision, we would be opening the possibility to circumvent the system by not cooperating. FR (Drafting Suggestions): 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 one or more countries of return.~~ **The country of return may be determined after the issuance of the return decision, in the removal order referred to in Article 12(2).** FR (Comments): Il convient également de réécrire le paragraphe 4 pour permettre aux États membres de fixer le pays de retour soit immédiatement dans la décision de retour, soit à un stade ultérieur, dans la décision dite « ordre d'éloignement » (« removal order »). Nous rappelons en effet que la détermination du pays de retour :

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	1) n'est pas forcément nécessaire, l'étranger pouvant toujours décider de quitter volontairement le territoire de l'État membre pour se rendre dans le pays tiers de son choix ; 2) n'est, lorsqu'elle est nécessaire, par forcément possible à un stade précoce de la procédure ; 3) conditionne l'examen du respect du principe de non-refoulement, qui n'a pas à intervenir au stade de l'édiction de la décision de retour. La vérification du respect de ce principe de non-refoulement ne peut s'effectuer qu'au moment de l'exécution de l'éloignement, en aval donc, pas au moment de l'édiction de la décision de retour. LV (Drafting Suggestions): 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, **assessing the principle of non-refoulement and fundamental rights,** a return decision may indicate provisionally one or more countries of return**, except in cases where the third-country national refuses to leave for the country(ies) of return provisionally indicated in the return decision.** LV (Comments): In Latvia in practice so far, the country of return in a voluntary return decision is not indicated, which allows the returnee to assess himself/herself

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	the most appropriate country of return in which he or she may feel safe and in which he or she has the right of residence. Country of return, however, is indicated in a removal decision. If one or more countries of return are indicated in a voluntary return decision, there is a risk of dispute between the person and the institution concerned during the appeal process. Further challenges with such approach as currently indicated in Article 7(4) may result in a situation where the returnee does not wish to return to the country of return (or any of the countries of return if there are more than one) indicated in the return decision. Here, a question arises – what shall be the actions of the responsible authorities in such a situation? Furthermore, as the current wording of Article 7(4) places an obligation for the Member States to return the person to a specific third country, how will the enforcement of the return decision be controlled regarding person returning to the country of return (or one of them in case more than one country of return is indicated), in other words, how are Member States supposed to ensure in case of a voluntary return that the person return to the country specified in the return decision and does not, for example, stay in a country of transit?

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	Additionally, it is necessary to clarify the course of action where a person wishes to voluntarily return to a country where there is a serious risk to person's life or health, in which case the Member State could not indicate such country in the return decision. To sum up, Latvia is of the opinion that indicating one or more countries of return in a voluntary return decision would limit the possibilities for the returnees and unnecessarily complicate the process for the responsible authorities. Latvia considers that the Return Regulation should reflect/provide for exceptions to the inclusion of the country of return in the return decision, in particular in cases where the person refuses to leave for them and wishes to choose the country of return himself/herself. CY (Comments): Member States should maintain the possibility not to identify, at this stage, ~~to not identify~~ the country of return, if deemed appropriate by the competent authority.
	EE (Drafting Suggestions): **Article 12**

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	~~2. Member States' competent authorities may issue a separate administrative or judicial decision in writing ordering the removal.~~ **When the third country national is subject to removal, a country of removal shall be determined in a return decision or in a separate administrative act or judicial decision ordering removal.** EE (Comments): See the previous comment.
3. 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.	CZ (Drafting Suggestions): 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. **The translation may be done by means of artificial intelligence.** CZ (Comments): We suggest an explicit reference to the possible use of tools of AI. CH

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	(Drafting Suggestions): 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. **Member States may decide not to apply subparagraph 1 to third country nationals who have illegally entered the territory of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State. In such cases decisions related to return shall be given by means of a standard form as set out under national legislation. Member States shall make available generalised information sheets explaining the main elements of the standard form in at least five of those languages which are most frequently used or understood by illegal migrants entering the Member State concerned.** CH (Comments):

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	It is difficult to understand why Art. 7(5) has not maintained the possibility offered explicitly in Art. 12(3) of Directive 2008/115/EC that standard forms such as information sheets can be used for translations of the main elements of the return decision. Switzerland is in favour of maintaining this provision so that Member States do not have to send each return decision to a translator and can directly hand them out to third-country nationals, which is particularly important in cases of transit migration when many return decisions have to be issued in a short timeframe that does not allow translation of each return decision. AT (Drafting Suggestions): AT proposse the deletion of "***as referred to in para. 2".*** AT (Comments): AT sees the current wording of para. 5 with mentioning of "main elements" as well as the referral to para. 2 as very critical. It is of utmost importance that a translation cannot include the facts or the legal reasoning (explanation). If facts/reasoning elements also had to be translated, this would result in an individualised translation and therefore also cause delays. Apart from this

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	immense administrative burden, the financial aspects must also be taken into account! Further counterarguments: in principle, the laws (not only in migration but in any area) that must be complied with are not translated either (as well as other court decisions). In addition, interpretation is provided in ongoing proceedings and legal assistance is also provided. FR (Drafting Suggestions): 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. **When a Member State decides not to apply subparagraph 1, it shall make available generalised information sheets or relevant information online explaining the main elements of a return decision in at least five languages most frequently used or understood by illegally staying third-country nationals.** FR

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	(Comments): Au paragraphe 5, il convient d'ajouter un alinéa pour permettre, à titre d'alternative à l'obligation de traduire les principaux éléments de la décision de retour dans une langue que l'étranger comprend ou est présumé comprendre, de prévoir une notice d'information générale (papier ou numérique) traduite au minimum dans les cinq langues les plus couramment utilisées par les étrangers en situation irrégulière dans l'État membre.
4. The return decision pursuant to paragraph 2 shall be issued in the same act or 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.	SK (Drafting Suggestions): 5. The return decision pursuant to paragraph 2 shall be issued in the same act or at the same time or **WITHOUT UNNECESSARY DELAY** 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. SK (Comments): • In view of the practice in the Slovak Republic, the implementation of Article 7, paragraph 6 will be specific. In Slovak practice, the decision on

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	international protection is taken by a different body of the Ministry of the Interior of the Slovak Republic than the body taking the decision on return. In paragraph 6, I therefore propose to add "WITHOUT UNNECESSARY DELAY" NL (Drafting Suggestions): The return decision ~~pursuant to paragraph 2~~ shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national or in a separate act, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and ~~inter~~national law. Where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection or without undue delay thereafter. NL (Comments): Suggestion to make the text congruent with the APR. MT (Drafting Suggestions): 6. The return decision pursuant to paragraph 2 shall be issued in the same act ~~or at the same time and together with~~ **as** the decision ending a legal stay of a third-country national, **or without undue delay thereafter,** without affecting

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	the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law. MT (Comments): Malta is of the view that Article 7(6) should be reworded in line with the agreement reached in the Pact on Migration and Asylum: 'without undue delay' instead of 'at the same time'. LT (Drafting Suggestions): The return decision pursuant to paragraph 2 ~~shall~~ **may** be issued in the same act or 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. or The return decision pursuant to paragraph 2 shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national **if that person is illegally present in the territory of the Member States**, without affecting the procedural safeguards provided for

Commission proposal	Drafting Suggestions and Comments
	under Chapter IV and other relevant provisions of Union and international law. LT (Comments): Sometimes the residence permit is withdrawn when the TCN is not in the territory. Moreover, the immediate withdrawal of a residence permit does not always make the person's stay illegal. Therefore, the withdrawal of the permit does not always justify a return decision. We suggest that the provision in paragraph 6 should be written more flexibly (with "may") or that appropriate exceptions should be made. IE (Drafting Suggestions): Change 'at the same time or together with' to 'without undue delay'. IE (Comments): The proposed drafting amendment will ensure the text is more closely aligned with the Pact. ES (Drafting Suggestions):

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	The return decision pursuant to paragraph 2 shall be issued in the same act ~~or at the same time~~ and together with the decision ending a legal stay of a third-country national **or without undue delay thereafter**, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law. ES (Comments): Wording aligned with the provisions under the Pact, particularly Article 37 APR. CZ (Drafting Suggestions): The return decision pursuant to paragraph 2 shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national **or without undue delay thereafter**, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law. New para: **Issuance of the return decision under this Regulation is not affected by any ongoing procedures related to ending of legal stay or to international protection procedure**. CZ

Commission proposal	Drafting Suggestions and Comments
	(Comments): The wording should be aligned with the provisions under the Pact, particularly Art 37 APR. In order to ensure effectivness in return related procedures, return related procedures must be conducted simultaneously with asylum procedure and procedure terminating legal stay as any of those shall not affect the conduct of return procedure. Therefore new para 2 is added. *We would also appreciate if we could take into consideration the illegal stay preceding an asylum application.* CH (Drafting Suggestions): 6. The return decision ~~pursuant to paragraph 2~~ shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national **or in a separate act**. without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and ~~inter~~national law. **Where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection or without undue delay thereafter.** **This Regulation shall not prevent Member**

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	States from adopting a decision on a removal and/or entry ban in a single administrative or judicial decision or act as provided for in their national legislation, without prejudice to the procedural safeguards available under Chapter IV and under other relevant provisions of Union and national law. CH (Comments): The regulation should ensure coherence with Art. 37 of Regulation 2024/1348 which includes the wording for return decisions in Art. 37 as requested by several MS. The proposed wording also explicitly provides for the flexibility of MS/SAC to issue return decisions together with decisions on removal and entry bans in a single administrative act as specified in Art. 6(6). Both proposals touch upon different aspects: -Subparagraph 1 concerns the sequencing of the decision ending legal stay with the return decision. -Subparagraph 2 concerns the sequencing of the return decision with the removal order and entry ban. BE

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): The return decision pursuant to paragraph 2 shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national **or without undue delay thereafter**, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law. BE (Comments): It is very important to align this provision on the corresponding article 37 in APR. This was shared by several other MS during the IMEX meeting. AT (Drafting Suggestions): AT proposal is to either keep the wording of Art. 6 para. 6 of the Return Directive or if not possible at least to align with the wording of Art. 37 APR. The alignment with APR would mean the addition "[in the same legal act or] ***in a separate legal act***" and the addition "***where the return decision is issued as a separate legal act, it shall be issued without undue delay***". AT (Comments):

Commission proposal	Drafting Suggestions and Comments
	-The wording of this para is different to that in the Pact Art 37 APR – despite the general ambition to align as much as possible with the Pact – namely, the possibility of a separate decision or immediately thereafter are not provided for in para. 6. AT is in favour of retaining the current text of the Directive (Art. 6 para. 6), as this covers our current system of ending legal residence (in residence permit cases). With the current proposal, we see problems with procedures in connection with renewal procedures or termination in the renewal procedure in the area of residence permits (legal migration), as this is decided by the "residence permit authority" and after legal force the procedure is transferred to the Federal Office for Immigration and Asylum to issue a return decision. Accordingly, the decision on the termination of legal residence in cases under the Residence Permit Act is currently not made at the same time as the return decision and not in the same decision. In addition, we have a problem with the federal/provincial competencies and due to the division of competences we also have two different courts dealing with the remedies.

Commission proposal	Drafting Suggestions and Comments
	As also mentioned by other Member States in the context of Art. 4 para. 10, we do see the need to not mix the target groups, Return Regulations applies to illegally staying third country nationals, not to legal stay. In the context of our questions hereto, COM answered that the difference in wording was due to different target groups. We would like to therefore point out that this is not the case. Art. 37 APR entails – exactly as the current para. – end of a legal stay (due to the neg. outcome of asylum proceedings) and foresees the issuance of a return decision. It is in our opinion the same situation, which is however been dealt with differently without an objective explanation. FR (Drafting Suggestions): 6. The return decision pursuant to paragraph 2 shall be issued in the same act or at the same time and together with the decision ending a legal stay of a third-country national **or in a separate act**, without affecting the procedural safeguards provided for under Chapter IV and other relevant provisions of Union and international law. **Where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the**

Commission proposal	Drafting Suggestions and Comments
	application for international protection or without undue delay thereafter. FR (Comments): Le paragraphe 6 doit également être modifié pour permettre l'édiction de la décision de retour dans un acte distinct de la décision déclarant l'illégalité du séjour, lequel peut être pris ultérieurement, sans « retard injustifié » (« without undue delay thereafter », termes de la directive).
6. 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.	SE (Drafting Suggestions): Upon issuance of the return decision, its main elements ~~shall~~ **may** 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. SE (Comments):

Commission proposal	Drafting Suggestions and Comments
	Sweden believes that the intention of the proposal for a common form (European Return Order) is good. However, in order to function as intended (to facilitate mutual recognition of return decisions), it will need constant updates by the authorities. We therefore see a risk that this can entail an increased administrative burden for the authorities that is not in proportion to the benefits. NO (Comments): We seek clarity regarding the difference between ERO-form and the return form that is already registered in SIS, and suggest that we further develop the system we already have rather than creating a new one that will entail additional costs and more administrative burden for the MS. NL (Comments): NL would like to know what the difference is between the duty to insert information in the SIS via the ERO and the duty to insert the main elements of the return decision in the SIS that is already there. MT (Comments):

Commission proposal	Drafting Suggestions and Comments
	In Article 7(7), Malta is of the view that a European Return Order does not need to be issued or entered into the SIS if the return is carried out immediately, or if the individual is held in detention until the return is executed, and the return will result in a SIS alert for refusal of landing. LT (Comments): The alternative, where a Member State does not enter the elements of the decision into the form, but provides such data through a bilateral information exchange procedure, will take more time and we therefore proposed to abandon it for the quicker flow of information. As the COM has clarified that this is necessary for MS that do not have access to the SIS, we propose to specify this provision and to make it clear when such an alternative can be used. IT (Comments): We place a scrutiny reservation. There is concern that the inclusion of the European order in SIS or its sharing through other channels (under Article 38) will result in additional administrative burdens as well as problems with personal data management. HR (Comments):

Commission proposal	Drafting Suggestions and Comments
	Given the numerous ambiguities regarding the European Return Order (ERO) that Member States have highlighted during previous IMEX meetings, we believe that a clearer definition of its content should be considered. We are inclined to support those Member States proposing the addition of an Annex containing a ERO form. We believe this could add to more clarity and make the discussion more transparent and constructive. Since most concerns regarding the ERO and the mutual recognition of decisions are mainly focused on the administrative burden, efforts should be made to ensure the highest possible level of digitalisation of procedural workflows, including full use of the SIS, as well as the automatic transfer of data into the ERO form. EL (Comments): - In order to move safer and directly or faster to the mandatory recognition and enforcement of return decisions, we would support the establishment of the ERO form as an annex to this Regulation. We also consider the need for a definition concerning ERO. - For reasons of reducing possible administration burden, we consider that the ERO shall always be made available through the SIS. In case the

Commission proposal	Drafting Suggestions and Comments
	reference to Article 38 is made for reasons of variable geometry, another 'wording solution' could be found. EE (Drafting Suggestions): ~~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.~~ EE (Comments): At the moment, we think that the mandatory issuance of the European Return Order has no added value and causes but additional administrative burden. According to the Return Regulation, European Return Order is issued upon issuance of the return decision potentially leading to inconsistencies in data when the return decision is enforced. Even if MS are obliged to ensure that the data in the European Return Order is accurate and up-to-date (further clarification is needed whether the obligations set out in the SIS regulation apply to European Return Order), without technical solutions, the obligation can be only met by MS issuing a new European Return Order and uploading it once again in SIS when the elements of the European Return Order change. Article 26 (1) of the proposal provides that the third country national has the right to challenge the decisions referred to in Article 7. Taking into account that European Return Order is established under Article 7(7), the third country

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	national may challenge the European Return Order as well. As a result, the appeal against the European Return Order may prolong the return process. Instead of issuing a European Return Order, Member States could enforce the return decision issued by another Member State on the basis of the SIS alert on return. Therefore, clarity on the possible content of the European Return Order is needed already during the negotiations. Then we are able to assess whether and what information could not be obtained via SIS. If necessary, necessary amendments in either the Return Regulation or SIS Regulation should be considered. CZ (Comments): CZ is fine with all the options (keeping, deleting). CH (Drafting Suggestions): ~~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.~~ CH (Comments):

Commission proposal	Drafting Suggestions and Comments
	The European Return Order would be a separate document in addition to the return decision. The creation of additional documents would overburden national authorities and should be avoided. More practical solutions that should be discussed would be an upload of the return decision, transcription of all relevant information of the return decision into SIS or an AI-based solution. BE (Comments): Belgium agrees with the structure of the proposal regarding the EU return order and we don't oppose the fact that this issue should be dealt with through an implementing act. However, we want to emphasize two elements: - We think "main elements" should be further explained in the Regulation itself. - The process of making available through SIS should be as automated and digital as possible. AT (Comments): What is the time frame for adoption of the ERO? It is important to include all elements that will be relevant for the recognition (as well as for the return process as such) here in order to prevent/eliminate inadequate entries here or in SIS.

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	With regards to the passage stating the upload to SIS or through information exchange pursuant to 38 and COM's explanation in this context, we see the need that for all Member States using SIS, it should be obligatory to only upload via SIS and not use the bilateral exchange under Art. 38. This should be limited only to those who are not using SIS. FR (Drafting Suggestions): ~~7. Upon issuance of the return decision, its mail 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.~~ FR (Comments): Nous nous opposons par ailleurs à l'obligation de recopier ne serait-ce que le « principaux éléments » de la décision de retour dans un formulaire unique européen, dans la mesure où cela représenterait une charge supplémentaire pour les États membres. Nous demandons par conséquent la suppression des paragraphes 7 et 8.

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7. 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).	EE (Drafting Suggestions): ~~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).~~ EE (Comments): See the previous comment. CH (Drafting Suggestions): ~~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).~~ CH (Comments): Idem. AT (Comments):

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	See comments to para 7 FR (Drafting Suggestions): ~~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).~~ FR (Comments): Nous nous opposons par ailleurs à l'obligation de recopier ne serait-ce que le « principaux éléments » de la décision de retour dans un formulaire unique européen, dans la mesure où cela représenterait une charge supplémentaire pour les États membres. Nous demandons par conséquent la suppression des paragraphes 7 et 8.
8. 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	NL (Drafting Suggestions): ~~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~~

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suspended for the duration of the validity of the residence permit, long-stay visa or other authorisation offering a right to stay.	~~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.~~ NL (Comments): The Regulation does not regulate the issue of legal stay. This would however be a good opportunity to point out that in the situation that removal cannot be enforced, the Member States are **not** obliged to grant legal stay. A text that could also be moved to the recitals. BE (Comments): Belgium doesn't agree with the suggestion of deleting this provision, since in other legal texts regularly (the whistleblower directive, domestic violence directive, directive regarding victims of crimes in general) there are useful references to this provision. Therefore we would prefer not to delete this provision. AT (Comments): Which cases would be covered under this paragraph. In contrast to Art. 6 para. 4 Return Directive, the first sentence here does not state that a return decision is not to be issued → "*In that event no return*

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	decision shall be issued". Shouldn't this be included here to? If not, is there an explanation for the exclusion? Ad 2nd sentence (withdrawal/suspension): Also in this context we would kindly ask for clarification whether this contradicts SIS, according to which consultations must be carried out? Another general question, which remained unanswered in this regard was, whether the return decision is consumed upon departure or remains in place for a certain period. We would be interested to know COM's opinion on the duration of validity.
9. 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.	MT (Drafting Suggestions): 10. The Member State **on whose territory the illegally staying third-country national is detected** ~~that issues a return decision in accordance with this Article~~ shall take all necessary measures in accordance with this Regulation to ensure effective return. MT (Comments): Malta calls for Article 7(10) to be reworded as proposed or for the paragraph to be deleted.

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	LT (Comments): We suggest aligning this provision with Recital 12, which states that the MS where illegally staying TCN is detected is responsible for ensuring his/her return. HR (Comments): We enter a scrutiny reservation. This provision creates the potential for differenet interpretations, particularly in light of the wording of Recital 12 of the Return Directive. Therefore, in order to support a constructive discussion and avoid potential misunderstandings, we propose either redrafting this paragraph to align more closely with the language used in Recital 12 or alternatively its deletion. ES (Drafting Suggestions): OPTION A ~~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.~~

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	OPTION B ~~The~~ Member State**s** ~~that issues a return decision in accordance with this Article~~ shall take all necessary measures in accordance with this Regulation to ensure effective return**.** OPTION C **The Member State on whose territory the illegally staying third-country national is detected** ~~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 ES (Comments): This provision is of declaratory and rethorical nature and thus unnecessary. If such a provision remains in the text, it should be maed clear that the wide obligation laid down in this paragraph affects all Member States and Schengen associate countries in order to effectively remove ilegally staying persons from the Schengen area. Since responsibility rules in the area of returns are not changed by this proposal, no margin of misinterpretation should be left and hence option C reflects in the text the content of recital (12)

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	EL (Drafting Suggestions): 10. The Member State **on whose territory the illegaly staying third-country national is detected and** that issues **and/or enforces** a return decision ~~in accordance with this Article~~ shall take all necessary measures in accordance with this Regulation to ensure effective return. EL (Comments): - We fail to understand the added value of this provision, taking into account that there are provisions within the text that set clear and specific obligations for the Member States in order to ensure effective return, i.e. Articles 23 & 36. In addition to that, this provision, by referring only to the Member State that issues the return decision and not to the Member State that issues and/or enforces it, creates ambiguity in terms of responsibility, especially if it is read in conjunction with recital 12. - Therefore, we propose either the redrafting of this paragraph by including wording similar to the one in the recital 12 or the deletion of this paragraph in order to avoid unnecessary misinterpretations. BG (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	The Member State **on whose territory the illegally staying third-country national is detected** ~~in accordance with this Article~~ shall take all necessary measures in accordance with this Regulation to ensure effective return. BG (Comments): We find an inconsistency with the text of Recital 12 of the Preamble, which states that the Member State on whose territory the illegally staying TCN is detected is responsible for ensuring his or her return. For the reason of legal clarity, we suggest either revising this paragraph in a way to reflect the principal under recital 12 or deleting this paragraph to avoid unnecessary misinterpretations. FR (Drafting Suggestions): ~~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.~~ FR (Comments): Nous proposons enfin d'inscrire au début de l'article 12 les dispositions du paragraphe 10 de l'article 7, aux termes desquelles les États membres prennent toute

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	mesure nécessaire pour garantir l'éloignement effectif des étrangers auxquels ils notifient une décision de retour, et proposons donc la suppression de ce paragraphe 10. CY (Comments): The provision is redundant.
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:	NO (Comments): Art. 8.1 does not list all cases of non-issuance of a return decision, notably Dublin-cases, and we would like to have this included in the provision. BG (Comments): We place a scrutiny reservation on the whole paragraph.

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	Taken into account the comments made during the meeting we would like to underline that we will not agree with new texts referring to asylum *acquis* since the act is part of the Schengen *acquis*. Dublin cases and AMMR are lex specialis and there is no need for further clarity on that issue.
a. transferred to another Member State in accordance with the procedure provided for in Article 23a of Regulation (EU) 2016/399;	IT (Comments): With regard to point 1, letters a and b, it is noted that, in a common return system, cases of transfer of illegally staying third-country nationals from one Member State to another, without proceeding to return, should become increasingly exceptional. The provisions in question, moreover, do not impose any return obligation on the receiving Member State. IE (Drafting Suggestions): **Insert** 'or equivalent national law' after 'Regulation 2016/399'. IE (Comments): IE requires an addition to A8(1)(a) to reference national law, as IE cannot participate in the Schengen Borders Code. ES (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	a. transferred to ~~another~~ **the** Member State **that issued the return decision** in accordance with the procedure provided for in Article 23a of Regulation (EU) 2016/399; ES (Comments): Subsequent and chain transfers within the Schengen area should be avoided in order to enhance the effectiveness and efficiency of the return policy
b. transferred to another Member State pursuant to bilateral agreements or arrangements or based on cooperation between Member States in accordance with Article 44;	SK (Comments): We believe that the procedure under letter b) providing for the possibility of not issuing a return decision in the event of the transfer of a TCN to another MS on the basis of a bilateral agreement or arrangement will lead to the prolongation of the return process and the transfer of responsibility for return to another MS, which SK does not agree with. • Such a procedure is not effective and does not meet the objective of the reason and purpose of the regulation "returns must follow immediately to avoid overloading our systems, leaving people in limbo and preventing attempts to move further within the EU".

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	• The disadvantages of using chain readmissions are also currently pointed out in the "Return Handbook", which in section 5.5 regulates the returns of illegally staying TCN, while in conclusion the European Commission calls on Member States to refrain from applying chain readmissions. SE (Comments): Sweden welcomes the removal of the current "stand still" clause.een Memer States. I.e that the proposal thus opens up the possibility for Member States not having to make a return decision when transferring a third-country national to another Member State in accordance with an agreement or arrangement between the Member States that was concluded even after 2009. RO (Drafting Suggestions): transferred to another Member State pursuant to bilateral agreements ~~or arrangements or based on cooperation between Member States in accordance with Article 44;~~ RO (Comments): We consider the addition to be irrelevant as an exception from the issuance of a return decision

Commission proposal	Drafting Suggestions and Comments
	IT (Drafting Suggestions): b. transferred to another Member State pursuant to bilateral agreements or arrangements **existing on the date of entry into force of this Regulation** or based on cooperation between Member States in accordance with Article 44; IT (Comments): We believe that the standstill clause of Article 6 (3) of Return Directive should remain. HR (Drafting Suggestions): b. transferred to another Member State pursuant to **pre-existing** bilateral agreements or arrangements ~~or based on cooperation between Member States in accordance with Article 44~~; HR (Comments): - The main objective of the Regulation is to ensure the effectiveness of return. Therefore, priority should be given to measures enabling direct return from the Schengen area. We note that, in a common return system, transfers of illegally staying third-country nationals from one Member State to another without proceeding to return should be only exceptional.

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	- Therefore, we consider that the standstill clause with regards to bilateral agreements or arrangements should remain. ES (Drafting Suggestions): b.transferred to **the** Member State **that issued the return decision** pursuant to bilateral agreements or arrangements **existing on the date of entry into force of this Regulation** ~~or based on cooperation between Member States in accordance with Article 44;~~ ES (Comments): Relevant content of Article 6 (3) of Directive 2008/115 is reintroduced The development of a truly common European system for returns should primarily strive to swiftly enforce the European Return Order and remove the person from the Schengen area. As stated above, subsequent and chain transfers within the Schengen area should be avoided in order to enhance the effectiveness and efficiency of a common European return policy EL (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	b. transferred to another Member State pursuant to **pre-existing** bilateral agreements or arrangements ~~or based on cooperation between Member States in accordance with Article 44~~; EL (Comments): -The purpose of this Regulation is to establish a common system for returns to third countries and therefore broadening the possibilities for transfers between Member States goes to a direction that would deprive the EU as a whole of focusing their available resources in accomplishing the principal aim (effective removal from the Schengen area). - For this reason, we consider that the standstill clause with regards to bilateral agreements or arrangements should remain. - Furthermore, in any case, there is no need to provide for another transfer possibility, which will be implemented under a cooperation framework that it is not clear in which cases and how it applies. Therefore, we are suggesting the deletion of the relevant wording here. Respectively, the point (f) of Article 44 should be deleted. CZ (Comments):

Commission proposal	Drafting Suggestions and Comments
	It is not clear to us what is the substance of the provision in the second part of point (b): "based on cooperation between Member States in accordance with Article 44". Article 44 does not specify such a transfer or cooperation; it only speaks in its point (f) of cooperation to facilitate the transfer referred to in Article 8(1), point (b). There is a cross-reference without any content. We therefore ask for clarification what cases of transfer/cooperation are meant. BG (Drafting Suggestions): transferred to another Member State pursuant to **existing** bilateral agreements or arrangements ~~or based on cooperation between Member States in accordance with Article 44".~~ BG (Comments): We propose that amendment in order to restore the current standstill clause under Article 6 (3) of Return Directive. Our understanding is that we should preserve the principle upon which the Return Directive is based, namely: direct return of illegally staying persons from the EU to third countries. In this regard we will not accept any new transfer procedures among Member States. BE

Commission proposal	Drafting Suggestions and Comments
	(Comments): We agree with COM proposal, this provides for more flexibility than in the current situation which is useful. AT (Drafting Suggestions): As is already the case in the currently applicable Return Directive, the new Return Regulation should also include a corresponding provision for a date-based deadline for old agreements (e.g. 13.1.2009). AT (Comments): Regarding bilateral agreements, Art. 6 para. 3 of the Return Directive contains a 'standstill clause'. This provision stipulates that Member States may refrain from issuing a return decision to a third-country national staying illegally on their territory if the third-country national concerned is taken back by another Member State under bilateral agreements or arrangements existing on the date of entry into force of this Directive. In such a case the Member State which has taken back the third-country national concerned shall apply paragraph 1. Agreements concluded after 13 January 2009 do not fall under the exception of Art. 6 para. 3 of the Return Directive.

Commission proposal	Drafting Suggestions and Comments
	Art 8 para 1 lit. b of the current proposal, which provides for exceptions to the obligation to issue a return decision and refers to bilateral agreements, does not contain such a standstill clause within the meaning of Art. 6 para. 3 of the Return Directive. Why was a standstill clause not included in the draft of the new Return Regulation and what other mechanisms were introduced to prevent renegotiations or the conclusion of new bilateral readmission agreements between Member States? Which Member State is obliged to issue a return decision if a bilateral readmission agreement applies? CY (Drafting Suggestions): pursuant to bilateral agreements or arrangements **existing on the date of entry into force of this Regulation** or based on cooperation between Member States in accordance with Article 44; CY (Comments): Subsequent and chain transfers should be avoided. We thus support the reintroduction of the wording of Article 6 (3) of Directive 2008/115
	NO

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): **c: transferred to another Member State in accordance with Dublin Regulation (EU 20213/604);**
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, and avoiding as much as possible to postpone the departure of the third-country national concerned.	SE (Drafting Suggestions): 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,~~ and avoiding as much as possible to postpone the departure of the third-country national concerned. SE (Comments): Sweden welcomes this proposal. NO (Comments): Par. 1c should become new par. 1d if the suggestion of new par. 1 c above is inserted.

Commission proposal	Drafting Suggestions and Comments
	NL (Drafting Suggestions): 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~~, and avoiding as much as possible to postpone the departure of the third-country national concerned. MT (Drafting Suggestions): 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, and avoiding as much as possible to postpone the departure of the third-country national concerned.~~ MT (Comments): Malta calls for Article 8(1)(c) to be shortened. HR

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): 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, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. HR (Comments): We would like to delete any redundant elements, particulary those that are already implemented as a core priniciple of the return procedure. ES (Drafting Suggestions): 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~~

Commission proposal	Drafting Suggestions and Comments
	~~defence, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. ES (Comments): The necessary safeguards are already laid down in the relevant procedural provisions. These additons could have a negative impact in the effectiveness of the procedure and the administrative burden to be carried by the competent authorities. EL (Drafting Suggestions): 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, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. EL (Comments):

Commission proposal	Drafting Suggestions and Comments
	- We propose keeping a simple text here, without providing for further requirements, which could create issues in terms of remedies. CZ (Drafting Suggestions): 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, and avoiding as much as possible to postpone the departure of the third-country national concerned**~~. CZ (Comments): It is not clear, how to assess the mentioned conditions if the departure is "only" recorded in the SIS. Some deleted parts may be translated to the recitals. CH (Drafting Suggestions): 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

Commission proposal	Drafting Suggestions and Comments
	(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,~~ and avoiding as much as possible to postpone the departure of the third-country national concerned. CH (Comments): The introduction of Art. 8(1)(c) providing fot the possibility not to issue return decisions against overstayers detected at exit checks is very much welcome and will reduce the burden od MS/SAC in relation to third-country nationals who are leaving the Schengen Area anyway. At the same time, the proposed requirements in relation to specific circumstances, proportionality and rights of defence create another layer of complexity that is not needed to justify that no return decisions are issued in these cases. BE (Drafting Suggestions): 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

Commission proposal	Drafting Suggestions and Comments
	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, and~~ avoiding as much as possible to postpone the departure of the third-country national concerned. FR (Drafting Suggestions): 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,~~ and avoiding as much as possible to postpone the departure of the third-country national concerned. FR (Comments): S'agissant de l'article 8, nous demandons la suppression, au point (c) du paragraphe 1, de la référence au principe de nécessité et de proportionnalité : dans la mesure où ces dispositions permettent précisément de ne pas édicter de décision de retour, il n'y a en effet pas lieu de réaliser un quelconque examen de nécessité ou de proportionnalité.

Commission proposal	Drafting Suggestions and Comments
	HR (Drafting Suggestions): **In the cases of points (a) and (b), a return decision shall be issued, where applicable, by the Member State to which the third-country national concerned has been transferred'.** HR (Comments): - Like many other MS, we also note that there is no reference to the obligation of issuing a return decision by the Member State that received the third-country national. This may leave open the window to 'chain transfers' among Member States, which would undermine the objective of this Regulation. ES (Drafting Suggestions): d. **a person whose definitive decision to return voluntarily is formally communicated to the competent authorities.** ES (Comments): Given that Article 8 is construed as a "may clause", Member States should be granted the possibility to refrain from issuing a return decision in cases of voluntary returns.

Commission proposal	Drafting Suggestions and Comments
	EL (Drafting Suggestions): **In the cases of points (a) and (b), a return decision shall be issued, where applicable, by the Member State to which the third-country national concerned has been transferred'.** EL (Comments): - There is no reference to the obligation of issuing a return decision by the Member State that received the third-country national. This may leave open the window to 'chain transfers' among Member States, which would undermine the objective of this Regulation. EE (Drafting Suggestions): e. is subject to a valid entry entry ban f. is volunarily complying the obligation to leave the territory of the Member States within the date set out in the return decision issued by the other Member State and there is no risk of absconding. EE (Comments): d - To speed up the return process, the issuance of a new return decision should not be required if the person subject to entry ban has re-entered the territory of

Commission proposal	Drafting Suggestions and Comments
	EU/Schengen states. In that case, the return of the person should happen on the basis of an administrative or judicial decision prohibiting the entry into and stay on the territory of the Member States for a specified period. e - In order to reduce administrative burden and speed up the returns, MS should have the possibility to refrain from issuing a new return decision to a third country national who is complying the obligation to leave the territory of the Member States within the period for voluntary return and there are no grounds to believe that he/she will abscond. CZ (Drafting Suggestions): **d. subject to a valid entry ban;** **e. voluntarily complying with the obligation to leave the territory of the Member States within the date set out in the return decision issued by the other Member State and there is no risk of absconding.** CZ (Comments): Art 8(1)d: To speed up the return process, the issuance of a new return decision should not be required if the third-country national subject to an entry ban has re-entered the territory of EU/Schengen states. In that case the

Commission proposal	Drafting Suggestions and Comments
	return of the person should happen on the basis of an administrative or judicial decision prohibiting the entry into and stay on the territory of the Member States for a specified period. Art 8(1)e: In order to reduce administrative burden and speed up the returns, Member States should have the possibility to refrain from issuing a new return decision to the third-country national who is complying the obligation to leave the territory of the Member States within the period for voluntary return and there are no grounds to believe that they would abscond.
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.	SE (Comments): Our preliminary comments for paragraph 2 and 3 is that Sweden believe that these provisions, concerning the possibility for transferring a third-country national to another MS where he or she has a valid residence permit, need to be further considered and clarified.. It is important to have a smooth handling of these cases. We would also be in favour of the possibility to carry out such transfers by force. NL (Comments): In connection with article 2 on the scope of the Regulation NL suggests to clarify the procedure on return of a third country national where he stays

Commission proposal	Drafting Suggestions and Comments
	illegally to the Member State that has issued legal stay. In these cases: 1. The Member State where the third country national is staying illegally verifies with the Member State that has issued the legal stay whether this must be withdrawn. 2. When there is no withdrawal of legal stay and the third country national must return to the Member State where legal stay was given, a clear procedure must me put down following the logic of the return procedure. 3. the 'requirement' to go to the other Member State must be issued. Member States must be able to facilitate the voluntary return to that Member State. 4. When the third country national does not comply, forced return to the other member state (including the use of detention), must be arranged. 5. Whereas the possibility to issue a return decision should be kept as a last resort, this possibility should not be used in practice (as this is signal to a third country showing a lack of cooperation among Member States). LT (Comments): The procedure for renewing a residence permit or long-stay visa can take a long time - what will be the status of the TCN during this period? The question also arises whether such information will be available in the SIS. If the information that a visa or permit procedure is ongoing in another MS

Commission proposal	Drafting Suggestions and Comments
	cannot be immediately verified and e.g. a consultation via the Sirene bureau is needed, it cannot be accepted that there are grounds for not adopting a return decision in such cases. In particular, the MS have different approaches to this waiting procedure (e.g. in the case of LT, the person has to leave and wait for the visa or residence permit in a third country). And if the person is illegally present in the MS carrying out the extension procedure, he/she would certainly not have the right to travel to other MS. Moreover, there would be a risk of abuse - the TCN would say that he/she is waiting for the extension procedure in another MS and abscond while the authorities check. We propose to clarify this provision as to which cases during the extension period would be grounds for the second MS not to take a return decision (e.g. for Blue Card holders, etc.). IE (Comments): How will a MS know whether a TCN has a long-stay visa, or is the subject of a pending procedure for renewal in another MS? Article 8(2) provides that a RD shall not be issued in those circumstances and so it could be potentially burdensome to obtain the required information from all MS. Is this information readily shared on existing systems? Further guidance needed on how this provision would work in practice i.e., where issuing a return decision (after

Commission proposal	Drafting Suggestions and Comments
	TCN does not comply), would CoR be the MS in question? What would be the procedure for obtaining travel documents in such circumstances? EL (Comments): -Scrutiny reservation for both paragraphs 2 and 3. We consider that it would be more appropriate to merge those paragraphs into one, as they concern the same exception. In this way, it will be more clear that this Article provides for 3 exceptions [one optional (para1) and two mandatory (para 2-3 and para 4)] EE (Drafting Suggestions): 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~~. EE (Comments): We agree that it would be disproportionate to issue a return decision to the person who is holding a valid residence permit, a long stay visa or authorisation

Commission proposal	Drafting Suggestions and Comments
	offering a right to stay. However, we do not agree that the third country nationals who have submitted the application for extension their right to stay are exempted from the obligation to issue a return decision. First, as a rule, the third country national has the obligation to prolong his/her long-term visa, residence permit or other authorisation for stay during the period of the validity of the visa/residence permit or other authorisation for stay. Whether the person is allowed to stay in the country during the extension procedure depends on the national law of the MS. Secondly, the application for extension of stay does not give the third country national the right to enter the territory of the other MS. The person is only allowed to stay in the country which is responsible for the proceeding concerning the extension of the residence permit or extension of the stay. Third country nationals' right to move within the Schengen area should not be regulated by the Return Regulation. In addition, the data on pending procedure for reviewing the authorisation for stay may not be available for other MS. Under regulation 2018/1860, the rules for consultation concern situations where MS considers extending a residence permit or long-stay visa. The consultation does not apply for other authorisations for stay. Although Article 44 of the proposal obliges MS to cooperate, it does not cover cooperation on pending procedure. As a consequence, third country nationals

Commission proposal	Drafting Suggestions and Comments
	could claim being a subject to pending procedure to avoid return and/or detention. We would propose to delete the last part of the Article 8 (2) and add a new paragraph (5) similar to Article 6(5) of the Return Directive. CZ (Drafting Suggestions): 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**~~. CZ (Comments): We agree that it would be disproportionate to issue a return decision to the third-country national who is holding a valid residence permit, a long stay visa or an authorisation offering a right to stay. However, we do not agree that the third-country nationals who have submitted the application for extension their right to stay are exempted from the obligation to be issued a return decision. Firstly, as a rule, the third-country national has the obligation to prolong his/her long-term visa, residence permit or other authorisation for

Commission proposal	Drafting Suggestions and Comments
	stay during the period of the validity of the visa/residence permit or other authorisation for stay. Whether the person is allowed to stay in the country during the extension procedure depends on the national law of the Member State. Secondly, the application for extension of stay does not give the third-country national the right to enter the territory of another Member State. The person is only allowed to stay in the country which is responsible for the proceeding concerning the extension of the residence permit or extension of the stay. Third country nationals' right to move within the Schengen area should not be regulated by the Return Regulation. In addition, the data on pending procedure for reviewing the authorisation for stay may not be available for other Member States. Under Regulation 2018/1860 the rules for consultation concern situations where the Member State considers extending a residence permit or a long-stay visa. The consultation does not apply for other authorisations for stay. Although Article 44 of the proposal obliges Member States to cooperate, it does not cover cooperation on pending procedure. As a consequence, third-country nationals could claim being a subject to pending procedure to avoid return and/or detention. CY (Comments):

Commission proposal	Drafting Suggestions and Comments
	The practical implementation of this measure will pose significant practical challenges, in particular the reference to "pending procedure for renewing"
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.	NO (Drafting Suggestions): 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~~ **When** the third-country national does not comply, **or there is a risk of absconding, a Member State may transfer the third-country national to the other Member State**. ~~or where~~ **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. NO (Comments): In art. 8.3 the wording "shall require" could be read as to entail some level of voluntariness of the TCN. In our view, as long as the TCN stay illegal in one MS it should not be optional to go back to the MS where he or she already has a right to legal stay as this could encourage secondary movement. Furthermore, if there is a risk of absconding before they go to the other MS, this should also be ground for issuance of a return decision.

Commission proposal	Drafting Suggestions and Comments
	And we also have a question to par.3, should this paragraph be understood that forced transfer can take place to another MS on the basis of cooperation with the other MSs? This needs to be clarified, also beyond the cases where a return decision is not an option due to non-refoulment, cf. C-673/19. LT (Comments): How can the MS require the TCN to leave immediately? Similar wording is in the Return Directive, but shouldn't it be clarified in what way (written or oral) this is required? There is also the question of how this will be verified in the databases. EL (Comments): -We are still scrutinising the relation of the 'Article 44 (g) cooperation framework' with the consultation procedure under Article 10 of the SIS Regulation (Returns). CZ (Comments): It is necessary to support mutual cooperation of Member States by introducing an obligation to react in a timely manner to the consultation request of a Member State. The other Member State should be obliged to

Commission proposal	Drafting Suggestions and Comments
	accept the third-country national on its territory if does not reply in a timely manner or insists on remaining validity of the residence permit the Member State issued. What steps should a Member State take in case of ongoing procedure in another Memeber State? Should it issue its own return decision, or wait until that other Member State decides and the period for legal remedy ends?
	CZ (Drafting Suggestions): **If a third-country national staying illegally on the territory of a Member State proves that they are the subject of a pending procedure for renewing their residence permit or other authorisation offering a right to stay, that Member State shall consider refraining from issuing a return decision, until the pending procedure is finished.**
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.	SE (Drafting Suggestions): **4a. A return decision shall not be issued in cases where the third-country national is taken back by the responsible Member State in application of Article 36(1)(b) of Regulation (EU) 2024/1351.** SE (Comments):

Commission proposal	Drafting Suggestions and Comments
	COM has explained that AMMR applies as *lex specialis*. We think it is important that this is explicitly stated in the Regulation. NO (Drafting Suggestions): A return decision ~~shall~~ **may** 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~~ **may** apply. NO (Comments): Regarding par. 4 we would like to change the word "shall" to "may", making it possible to issue a return decision in such situations if this would be more efficient, see also the comment below regarding Art. 9. MT (Comments): Malta calls for clarity on how Article 8(4) will apply, in particular during the period in which the mutual recognition of return decisions will be optional. LT (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	A return decision ~~shall~~ **may** 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. LT (Comments): Considering that various situations are possible (including situations where a return decision can be taken more quickly than a recognition of a decision taken by another Member State), and in order to make this provision coherent with Article 9, we propose to write a more flexible provision. IT (Drafting Suggestions): 4. A return decision ~~shall~~ **may** 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~~ **may** apply. FI (Comments): So the rules of Article 9 should be followed, although they are optional in the initial phase? How does the whole system work if a return decision may not be issued but the mechanism for recognition of the return decision is optional?

Commission proposal	Drafting Suggestions and Comments
	EL (Comments): Based on what we are suggesting with regards to Article 9, this paragraph 4 along with Article 9 (except for its first paragraph concerning the obligation of the Member States) would start applying after a specific date provided for in the final provision of this Regulation (i.e. one year after the entry into force of this Regulation). CH (Drafting Suggestions): 4. **A return decision shall not be issued in cases where the third-country national is taken back by the responsible Member State in application of Article 36(1)(b) of Regulation (EU) 2024/1351 as an applicant or a third-country national or a stateless person in relation to whom that Member State has been indicated as the Member State responsible under Article 16(1) of Regulation (EU) 2024/1358.** 5 ~~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 Member State decides to apply** the procedure described in Article 9 ~~shall apply~~.

Commission proposal	Drafting Suggestions and Comments
	CH (Comments): The obligation not to issue a return decision in Dublin cases taken back by another Dublin State needs to be mentioned before mutual recognition. At the same time the relationship with the Dublin procedure under AMMR needs to be further examined to ensure that the applicability of the Dublin is not compromised by the regulation. Since mutual recognition should be optional, the relevant paragraph is rephrased accordingly. BG (Comments): We prefer the „shall“ clause to remain in the text and Article 9 to be adapted to that provision accordingly. BE (Comments): It would be useful to further clarify “enforceable return decision”. AT (Drafting Suggestions): In this case, the procedure described in Article 9 ***may*** apply.

Commission proposal	Drafting Suggestions and Comments
	AT (Comments): AT also supports a coherence in the wording of para. 4 and Art. 9 (may clause at first) and therefore sees the need for an adjustment towards the optionality in the second sentence “shall to may”. FR (Drafting Suggestions): ~~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.~~ **OU (et à condition que le caractère facultatif de la reconnaissance mutuelle soit maintenu) :** 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,~~ **where** the Member State decides to apply the procedure described in Article 9 ~~shall apply~~. FR (Comments):

Commission proposal	Drafting Suggestions and Comments
	Par cohérence avec les amendements que nous proposons à l'article 9 visant à conserver le caractère facultatif de la reconnaissance mutuelle des décisions de retour, nous sollicitons la suppression du paragraphe 4, qui interdit à l'État membre sur le territoire duquel se trouve l'étranger de prendre à son encontre une décision de retour dès qu'une telle décision a déjà été édictée par un autre État membre. À titre subsidiaire, nous proposons de reformuler le paragraphe 4 afin de prévoir qu'il n'est pas nécessaire d'édicter une décision de retour lorsque l'État membre décide d'appliquer l'article 9 (à condition que le caractère facultatif de la reconnaissance mutuelle soit maintenu).
	EE (Drafting Suggestions): 1. **If a third-country national staying illegally on the territory of a Member State is the subject of a pending procedure for renewing his or her residence permit or other authorisation offering a right to stay, that Member State shall consider refraining from issuing a return decision, until the pending procedure is finished.** EE (Comments): See the previous comment.

Commission proposal	Drafting Suggestions and Comments
Article 9	NL (Comments): NL is still considering text suggestions to article 9. Whereas NL can follow the rationale of mutual recognition, the proposal by the Commission creates a complex procedure that would go against the goal of this regulation; accelerating return procedures. With the current wording, NL favours a voluntary mutual recognition system. When we would work towards mandatory mutual recognition a different procedure should be made available**.** In general NL questions what the actual gain is of the mutual recognition as the Commission has pointed out that it is still necessary to take a removal order in the enforcing Member State, against which a legal remedy is open. **NL will share text suggestions at a later time**, but they will at least include the following comments (see below): CY (Comments): Scrutiny reservation on the whole article. While we are positive about the core concept and the direction it proposes, we are still scrutinizing its feasibility and potential interdependencies.

Commission proposal	Drafting Suggestions and Comments
Recognition and enforcement of return decisions issued by another Member State	SK (Comments): • The Slovak Republic has long perceived mutual recognition and enforcement of return decisions as a step forward in the effort to comprehensively streamline returns. • Mutual recognition and enforcement of expulsion decisions is already incorporated into the current Act on the Residence of Foreigners. • The Slovak Republic is in favor of establishing in Art. 9, paragraph 1 the obligation of a MS to recognize an enforceable return decision of another MS in order to achieve uniformity in practice. (However, we perceive diametrically different opinions between MS) • We also consider it important to practically resolve which MS will bear the financial consequences for the enforcement of a return decision of another Member State, while we are of the opinion that Frontex should always be the first choice, as specified in Art. 9, paragraph 9. NO (Comments): In Norway we have several *fast track-procedures* for different types of cases. This might for example be if the asylum application is found to be manifestly unfounded, where there will be given no time for voluntary departure or no

Commission proposal	Drafting Suggestions and Comments
	right to suspensive effect upon the handling of the appeal. In such cases the third-country national will be returned as soon as possible and preferably within 48 hours. Furthermore, if a third-country national is found to be illegally in Norway and we see that he/she has a return alert in SIS, we will issue a return decision on our own and enforce this decision in a fast-track procedure rather than going through the process of mutual recognition of the other Member State`s return decision, since this will add both time and more administrative burden to the process. We believe that the suggestion of mutual recognitions, as suggested in the proposal, will be less efficient than the system Norway already has in place today. For us this will be a major setback. It should at least be *possible to derogate* from mutual recognitions where such derogation will be more efficient for the return in the case at hand. The new proposal is not opening for this option, and as such it is making our return system less effective, which is contrary to the objective of the Regulation as stated in Article 1(2). We want to see a change in the text opting to use the most efficient return-system in place, either at national level or Schengen-level. NL (Comments):

Commission proposal	Drafting Suggestions and Comments
	The term 'recognize' confuses whether this is a legal act in itself or not; therefore NL would suggest deleting this term alltogether. The procedure concerns: mutually enforcing return decisions. FI (Comments): What is the relationship between Article 9 and persons posing a threat to security, i.e. Article 16? Should Article 9 also apply to persons posing a threat to security? ES (Drafting Suggestions): **~~Recognition and~~ Enforcement of return decisions issued by another Member State** AT (Comments): With regard to the mutual recognition of return decisions, AT welcomes the possibility and, in this context, emphasizes the fundamental need for high-quality data to be fed into SIS Return. The envisaged form of a "European Return Order" can contribute to the necessary, faster receipt of information and spare some consultation procedures. The complete and reliable data entry of the MS in the SIS is the basic prerequisite. A final position regarding the

Commission proposal	Drafting Suggestions and Comments
	obligation of mutual recognition cannot yet be conclusively assessed due to the lack of precise provisions in the text of the regulation. AT supports an optional recognition, however mandatory application from 2027, including the procedure for the implementing decision, still needs to be examined. FR (Comments): La France rappelle sa ferme opposition à la reconnaissance obligatoire des décisions de retour. [*Rappel des raisons : D'abord, combinée à l'obligation faite aux États de procéder à l'éloignement forcé des étrangers dans les hypothèses énumérées à l'article 12, la reconnaissance mutuelle obligatoire les contraindrait à exécuter à leur charge des décisions prises par d'autres États, et ferait ainsi peser une contrainte supplémentaire sur leurs capacités de rétention et d'escorte. Cette obligation neutraliserait les effets positifs de l'assouplissement des conditions de placement en rétention prévues à l'article 29. À ce titre, il serait opérationnellement plus utile que l'ensemble des pays soit encouragé à se doter d'une feuille de route capacitaire en matière de rétention. L'article 43 du projet de règlement exige opportunément que les États garantissent une « capacité de rétention » adaptée à leurs besoins en matière de retour. Il serait dès lors utile de le compléter pour prévoir que les États doivent se doter d'une telle feuille de route capacitaire.*

Commission proposal	Drafting Suggestions and Comments
	En outre, la reconnaissance mutuelle obligatoire remet en cause la possibilité de remise aux frontières intérieures, dans le cadre des contrôles aux frontières intérieures pourtant permis par le code frontières Schengen, dès lors que ces contrôles ne pourront plus donner lieu à des demandes de remise d'étrangers en situation irrégulière qui font l'objet d'une décision de retour prise par un autre État. *Enfin, la reconnaissance mutuelle obligatoire risque de mettre en péril l'équilibre fragile entre responsabilité et solidarité entre États de première entrée et États de destination, risque que reconnaît implicitement le mécanisme de compensation financière aux contours indéfinis prévu par le paragraphe 9.* *Pour être d'une utilité réelle, la reconnaissance mutuelle des décisions de retour supposerait une forte convergence des droits au séjour nationaux et donc une harmonisation accrue du droit au séjour à l'échelle de l'Union. Or, la priorité européenne doit plutôt être d'améliorer l'efficacité des procédures de retour, en préservant et renforçant les dispositifs qui font leurs preuves sur le plan national.* *La responsabilisation des États membres dans la conduite de leurs politiques de retour et donc l'exécution des décisions de retour reste la clef pour une politique de retour effective, ambitieuse et efficace dans l'Union européenne*] **La France sollicite par conséquent la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**

Commission proposal	Drafting Suggestions and Comments
	La France demande en outre la disparition du formulaire européen de retour (*European Return Order*) et rappelle que le choix de la modalité d'exécution de la décision de retour appartient à l'Etat membre : il n'y a donc pas lieu d'imposer un retour forcé en cas de reconnaissance mutuelle.
	FI (Comments): The recognition of return decisions carries the risk that a person will avoid return by going to another MS just before return is enforced, after the readmission procedure with the third country has already started. In such a case, the MS to which the returnee has managed to go will have to start the readmission negotiations with the third country all over again. It is by no means certain that the third country would still agree to readmission if the other party to the negotiations changes in the meantime. This may create a new way of avoiding returns.
2. The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), 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.	SE (Comments): Sweden is positive about measures that facilitate mutual recognition and enforcement of return decisions. However we strongly believe that mutual recognition of return decisions should remain an optional mechanism, with

Commission proposal	Drafting Suggestions and Comments
	full flexibility for the Member States to decide when recognising a return decision instead of issuing a new decision offers added-value in terms of effective enforcement of return. RO (Drafting Suggestions): The Member State where the third-country national is illegally staying ('enforcing Member State') ~~may~~ **SHALL** recognise an enforceable return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), 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. RO (Comments): RO considers necessary to ensure uniform power of the provisions; the 'shall not' used in Art. 8 alin. 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*) has a different force than the 'may' clause used in Art. 9(1). MT (Comments):

Commission proposal	Drafting Suggestions and Comments
	Malta would like to receive further clarifications on how this provision will be applied. Specifically, when recognizing a return decision issued by another Member State, will the second Member State need to issue a removal order (administrative measure)? Furthermore, is our understanding correct that whereas there is no right of appeal in case of mutual recognition, there is still a right of appeal if the second Member State issues a removal order following recognition of a return decision issued by another Member State? LT (Comments): If a TCN with a return decision moves to another MS with authorisation (e.g. he/she wants to leave the Schengen area via the border of another MS), such a permit is referred to in point 12(1)(b) - it should be possible for the MS to recognise a voluntary return decision. It is not clear why this paragraph refers only to the expulsion procedure. Provision 9(3) should be adjusted accordingly as well. IT (Comments): Scrutiny reservation on the whole article. We prefer that the recognition and enforcement of return decisions issued by another Member State remain an option and do not become mandatory, as Member States should not be required to take on the responsibility and

Commission proposal	Drafting Suggestions and Comments
	additional administrative burden for return decisions issued by other Member States. Furthermore, critical situations may arise where immediate return of a dangerous illegally staying third-country naional could be carried out with a national decision/act, but this is not possible due to a pending return decision issued by another Member State, which is still subject to appeal. Moreover, difficulties could rise in determining, within a short timeframe, whether a decision issued by another Member State is final and enforceable. IE (Comments): Article 9(1) refers to the fact that a MS may recognise **an enforceable RD** issued to a TCN by another MS. IE feels it would be useful to define what is meant by an enforceable RD here so that it is absolutely clear to both competent authorities and TCNs. HR (Comments): We support the principle of mandatory recognition. Firstly, we see its added value from a practical perspective, notably in accelerating return procedures and making them more efficient by avoiding the repetition of procedures that have already been carried out by other Member States. Furthermore, it is important to send a clear message to all, particularly to illegally staying third-country nationals: once a return decision has been

Commission proposal	Drafting Suggestions and Comments
	issued and is enforceable, it will be implemented across the entire Schengen area. Such a system of mandatory recognition would discourage unauthorized movements, while also strengthening voluntary returns and the effective application of the return border procedure. ES (Drafting Suggestions): The Member State where the third-country national is illegally staying ('enforcing Member State') ~~may~~ **shall enforce a** ~~recognise~~ ~~an~~ ~~enforceable~~ return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), based on the European Return Order referred to in Article 7(7), and it shall on this basis **indicate a date by which the third country national shall leave the territory or** order the removal pursuant to Article 12 ES (Comments): Aiming at strengthening the effectiveness of returns, ES proposes to clarify that the European Return Order shall be enforced (and not recognised) in order to avoid any administrative act leading to such recognition. Recognition shall be automatic and thus administrative and judicial uncertainty and risks would be avoided.

Commission proposal	Drafting Suggestions and Comments
	EL (Drafting Suggestions): Deletion EL (Comments): - We support the mandatory recognition, if possible from day one. The message to everyone and especially to the illegally staying third-country nationals should be clear. When a return decision has been issued and it is enforceable, then this will be implemented Schengen-wide. Mandatory recognition will disincentivize unauthorized movements and reinforce voluntary returns and the effective application of the return border procedure. - Until the start of the application of this Article, the relevant Council Directive for the mutual recognition would continue to be applicable. EE (Drafting Suggestions): The Member State where the third-country national is illegally staying ('enforcing Member State') may ~~recognise an enforceable~~ **enforce** return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), 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~~ **alert on return entered in SIS under**

Commission proposal	Drafting Suggestions and Comments
	Regulation 2018/1860, if/provided the conditions set out in Article 12 (1) for removal are met. EE (Comments): See our justification regarding Article 7 (7) and (8). CZ (Drafting Suggestions): The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable **or enforce** return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), based on **the return alert entered in SIS under Regulation 2018/1860 or** the European Return Order referred to in Article 7(7), and it shall on this basis order the removal pursuant to Article 12 **where applicable**. **The recognition does not need to be in the form of an administrative procedure.** CZ (Comments): The legislation on mutual recognition and enforcement of return decisions issued by another Memeber State based on voluntary basis is a crucial step

Commission proposal	Drafting Suggestions and Comments
	for strengthening the common European return framework. It should not, however, cause a bigger administrative burden. We suggest to explicitly mention that the recognition does not need to take the form of an administative procedure. CH (Drafting Suggestions): 1. The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), ~~based on the European Return Order referred to in Article 7(7),~~ and it **may remove the third-country national** ~~on this basis order the removal~~ pursuant to Article 12. **Subparagraph 1 shall not apply in cases where the third-country national is taken back by the responsible Member State in application of Article 36(1)(b) of Regulation (EU) 2024/1351 as an applicant or a third-country national or a stateless person in relation to whom that Member State has been indicated as the Member State responsible under Article 16(1) of Regulation (EU) 2024/1358.** CH (Comments):

Commission proposal	Drafting Suggestions and Comments
	Para. 1 should take into account that no separate removal order may be necessary. Dublin cases shall be excluded from mutual recognition. As indicated also with regard to Art. 8(4), the relationship with the Dublin procedure under AMMR needs to be further examined to ensure that the applicability of Dublin is not compromised by the regulation. BG (Drafting Suggestions): The Member State where the third-country national is illegally staying ('enforcing Member State') **shall** ~~may~~ **enforce** ~~recognise an enforceable~~ **a** return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), 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. BG (Comments): We prefer the mandatory recognition of return decisions from the date of entering into in force of the act. Any doubts on the mandatory nature of the recognition should be avoided. BE (Comments):

Commission proposal	Drafting Suggestions and Comments
	The text needs to clarify whether recognition is a separate decision or not, in (1) the wording "may recognize an enforceable return decision" and in (4) "may decide not to recognize or enforce a return decision" are used which leads to confusion. What is the meaning of "order the removal pursuant to Article 12"? AT (Comments): As pointed out in the IMEX by AT and other MS, it is essential that no further procedure is necessary once a return decision is recognized. The possibility of direct enforcement without an appeal procedure (against the recognition) is essential and needs to be guaranteed. The recognition needs to facilitate the procedure. Against the background of the already adopted Return Border Procedure Regulation, a distinction between different groups of persons would be desirable, i.e. persons whose asylum application has been rejected in the context of a border procedure and other aliens who are illegally staying. In exceptional cases, it would be important to still keep the option of voluntary return – sometimes this is the only type of return that works.

Commission proposal	Drafting Suggestions and Comments
	Therefore, we would be in favour of having an exception clause for specific cases. FR (Drafting Suggestions): 1. The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), ~~based on the European Return Order referred to in Article 7(7),~~ and it ~~shall~~ **may** on this basis order the removal pursuant to Article 12. FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.** **La France demande en outre la disparition du formulaire européen de retour (*European Return Order*) et rappelle que le choix de la modalité d'exécution de la décision de retour appartient à l'Etat membre : il n'y a donc pas lieu d'imposer un retour forcé en cas de reconnaissance mutuelle.**

Commission proposal	Drafting Suggestions and Comments
3. 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).	SE (Drafting Suggestions): ~~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).~~ NL (Comments): No date should be placed here, but a period after which the Regulation has come into force. Before this moment it should be clear that all legal and practical obstacles are resolved. Moreover it should be clear that the mutual enforcement of return decisions accelerates the return procedure. As this is a political matter, the Council should adopt an implementing decision instead of the Commission. MT (Comments):

Commission proposal	Drafting Suggestions and Comments
	On Article 9(2), Malta is of the view that the European Return Order would not need to be uploaded if the person is returned. IT (Drafting Suggestions): ~~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).~~ IT (Comments): As stated above, scrutiny resevation. IE (Drafting Suggestions): **Insert** 'or based on exchange of information between Member States pursuant to Article 38' after 'Schengen Information System'. IE (Comments):

Commission proposal	Drafting Suggestions and Comments
	IE would welcome clarification that the ERO may also be shared in accordance with information sharing under A38. ES (Drafting Suggestions): OPTION A ~~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).~~ OPTION B *Article 52* **Entry into force <u>and application</u>** This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Commission proposal	Drafting Suggestions and Comments
	This Regulation shall be binding in its entirety and directly applicable in all Member States. **Article 9 of this Regulation shall apply from [*one year after the entry into force*]** OPTION C 2. ~~By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether~~ **Member States shall put in place** the necessary legal and technical arrangements ~~put in place by the Member States~~ **in order** 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)~~. + *Article 52* **Entry into force and application** This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Commission proposal	Drafting Suggestions and Comments
	This Regulation shall be binding in its entirety and directly applicable in all Member States. **Article 9 of this Regulation shall apply from [*one year after the entry into force*]** ES (Comments): Although ES prefers an immediate application of Article 9, if a differed application is decided, a change on the period of application instead of the complex and burdensome system of an implementing decision is deemed a more suitable option. In addition, the obligation for Member States to put in place the necessary legal and technical requirements should be explicitly foreseen in order to ensure the effectiveness of the system. EL (Drafting Suggestions): 2. ~~By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether~~ **Member States shall put in place** the necessary legal and technical arrangements ~~put in place by the Member States~~ **in order** to make available the European

Commission proposal	Drafting Suggestions and Comments
	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)~~. EL (Comments): An explicit obligation for the Member States to put in place the arrangements needed is necessary, in order to move fast to a mandatory system of recognision and enforcement of return decisions. EE (Drafting Suggestions): ~~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).~~ **The Commission shall evaluate the application**

Commission proposal	Drafting Suggestions and Comments
	of this Regulation within two years of the date of the start of its application. Based on the evalutation , the Commission shall adopt an implementing decision determining the date on which Member States are obliged to enforce a return decision of the issuing Member State if the conditions set out in Article 12 (1) are met. EE (Comments): See our justification regarding Article 7 (7) and (8). DK (Drafting Suggestions): ~~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).~~ CH (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~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).~~ CH (Comments): Switzerland considers that mandatory mutual recognition of return decisions is problematic both in technical terms as well as in terms of responsibility. Therefore, Switzerland suggests that paragraphs 2 to 9 should be redrafted to make mutual recognition a more attractive option. The choice of the relevant instrument should be based on considerations of effectiveness and not based on a requirement that excludes other instruments such as issuance of a new return decision. Some of the aspects of concern are:

Commission proposal	Drafting Suggestions and Comments
	- the question on which MS/SAC is responsible in case the third-country national falls victim to a breach of non-refoulement following return; - the possibility to lodge parallel appeals - in the issuing MS/SAC against the return and in the executing MS/SAC against removal– that this proposal does not prevent; and - the possible requirement under the proposal for the executing MS/SAC to issue a separate removal order, which in itself would render mutual recognition less effective, in this regard o the impediments that 'two-step procedures' by the issuing MS/SAC, in which the removal order constitutes a separate decision from the return decision and would not yet have been issued, may constitute in terms of potentially requiring the executing MS/SAC to issue a removal order; o the potential advantage that a 'one-step procedure', in which the return decision of the issuing MS/SAC already contains a removal order, constitutes in not requiring a separate removal order by the executing MS/SAC;

Commission proposal	Drafting Suggestions and Comments
	○ the need for a feasible solution whose feasibility ideally does not depend on whether the issuing MS/SAC has a 'one-step procedure' or a 'two-step procedure'. In fact mutual recognition is probably one of a few aspects in which greater detail in the regulation would have been better. Therefore, Switzerland would welcome if all partners could resolve the legal and practical challenges and define a mutual recognition procedure in this regulation that will stand a good chance of being more effective than issuance of a new return decision in many cases and offer the necessary legal security to both MS/SAC. One key factor that would make mutual recognition attractive would be if no separate removal order would be necessary and the issuing MS/SAC would retain responsibility for the consequences of removal. It should also clarify that the return decision from another Member State is self-executory and does not require the issuance of a removal order or another decision by the executing Member State. BG (Drafting Suggestions): ~~By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether~~ **Member Statetes shall put in place** ~~put in place~~ the legal and technical arrangements

Commission proposal	Drafting Suggestions and Comments
	~~by the Member States~~ **in order** 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).~~ BG (Comments): Member States should be obliged to put in place the necessary adjustments to make available the European Return Order in SIS and the process should be as simple as possible. BE (Drafting Suggestions): By ~~1 July 2027~~ **(period) after the entry into force of the Regulation**, 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).

Commission proposal	Drafting Suggestions and Comments
	BE (Comments): It is more common to make reference to a period after the entry into force. Eventually all depends on the progress of the negotiations, it is too early to judge whether the deadline for the proposed date is realistic to carry out the assesment and to have the implementing act. Furthermore, this provision seems written in a manner as if compulsory mutual recognition will come about anyway by a fixed date independently of the outcome of the Commission's evaluation. As far as we are concerned, this decision should at least depend on a positive outcome of the evaluation. FR (Drafting Suggestions): ~~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).~~

Commission proposal	Drafting Suggestions and Comments
	FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**
4. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.	SE (Drafting Suggestions): ~~As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ NO (Drafting Suggestions): As of the publication of the implementing decision taken in accordance with paragraph 2, Member States ~~shall~~ **may** recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) to third-country

Commission proposal	Drafting Suggestions and Comments
	nationals illegally present on their territory based on the European Return Order referred to in Article 7(7), and they ~~shall~~ **may** order their removal in accordance with Article 12. NO (Comments): It sould be a "may"-clause here, cf. the comments above regarding flexibility, and the possibility to use the most efficient return-system in place. LT (Comments): See comment on paragraph 1. IT (Drafting Suggestions): ~~3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ IT (Comments): Scrutiny resevation. ES

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): ~~As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ ES (Comments): This paragraph may no longer be necessary in conjunction with the changes proposed in paragraph 1 EL (Drafting Suggestions): 3. ~~As of the publication of the implementing decision taken in accordance with paragraph 2,~~ Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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. EL

Commission proposal	Drafting Suggestions and Comments
	(Comments): Mandatory recognision will start applying after a specific date provided for in the final provision of this Regulation (i.e. One year after the entry into force), taking into account the time needed in order to complete the arrangements for the uploading of the European Return Order into SIS. EE (Drafting Suggestions): ~~As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ EE (Comments): See our justification regarding Article 7 (7) and (8). DK (Drafting Suggestions): ~~3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions~~

Commission proposal	Drafting Suggestions and Comments
	~~issued by other Member States pursuant to Article 7(1) 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.~~ DK (Comments): Mutual recognition should be an additional tool for the Member States to make use of when returning an illegally-staying third-country national. It should not limit other tools of the Member State. We would therefore like to keep mutual recognition as a voluntary mechanism that Member States may use as one of many tools in their toolbox. The important thing is that returns are carried out swiftly, and mutual recognition may hinder a speedy return if the Member State is forced to recognize instead of issuing their own decision. If issuing a new return decision is faster than recognising another Member State's return decision, there is no argument to be made for mutual recognition. CH (Drafting Suggestions): ~~3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions~~

Commission proposal	Drafting Suggestions and Comments
	~~issued by other Member States pursuant to Article 7(1) 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.~~ BG (Drafting Suggestions): ~~As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ AT (Comments): From the wording of the para 1 and 3, it appears questionable how to proceed if a third-country national who is the subject of an enforceable return decision in Member State A travels to Member State B and files an (possibly further) application for international protection there. In this case, the stay of the third-country national in MS B would be lawful - at least for the duration of the asylum procedure. Based on the wording of the regulation text, it

Commission proposal	Drafting Suggestions and Comments
	appears unclear whether the return decision can continue to be recognized in this case after the (negative) asylum procedure has been completed or whether the Member State concerned must issue a new return decision. FR (Drafting Suggestions): ~~3. As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) 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.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**
5. 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	SE (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
the enforcing Member State, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.	~~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, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.~~ SE (Comments): As stated above. Sweden is of the opinion that it should be voluntary for Member States to recognize other Member States return decisions. However, if the proposal will not allow for that, we think that also security reasons should be added as a possible derogation from the obligation to recognise other Member States return decisions. NL (Comments): Other derogations should be possible, e.g. the situation that the mutual enforcement would jeoparideze the speediness of the return procedure. LT (Drafting Suggestions): 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

Commission proposal	Drafting Suggestions and Comments
	enforcement is manifestly contrary to public policy in the enforcing Member State, **or where there is a threat to public security or to national security,** or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State. LT (Comments): Derogation is also required in cases where the enforcement of a decision could threaten national security. IE (Comments): A9(4) provides that a MS may decide not to recognise or enforce the RD of the issuing MS where TCN is to be removed to a different third country than indicated in RD. Unsure what circumstances would have to arise for a TCN to be returned to a country other than that outlined in the RD of the issuing MS? IE is concerned that there may be a risk of secondary movement particularly in a situation where issuing MS is utilising return hubs and the enforcing MS is not. This may give rise to secondary movement to countries not availing of RHs. ES (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	For the purposes of applying paragraph ~~3~~ **1**, 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, **public security or national security** in the enforcing Member State, **or where the enforcing Member State has granted or decides to grant an authorisation offering a right to stay to the third-country national concerned** or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State. EE (Drafting Suggestions): ~~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 **and issue a new return decision** where the enforcement is manifestly contrary to public policy, ~~in the enforcing Member State, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.~~ **public security or national security**. EE (Comments): National security remains the sole responsibility of MS. We propose to amend the Article 9 (4) and allow MS to issue a new return decision if it is required for reasons of public policy, public security or national security. The amendment would also streamline the wording used in other provisions of the text, e.g art 8 (3) etc.

Commission proposal	Drafting Suggestions and Comments
	DK (Drafting Suggestions): ~~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, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State~~ CH (Drafting Suggestions): ~~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, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.~~ BE (Comments):

Commission proposal	Drafting Suggestions and Comments
	During the last IMEX meeting some delegations referred to the fact that the relation between this Regulation and AMMR is not clear, in particular regarding the Dublin cases. We think this relation should in any case be further explored. We have no concrete text proposal, but it might be a good suggestion to enable Member States not to recognize a return decision taken by other Member States in the context of Dublin procedures. FR (Drafting Suggestions): ~~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, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.** CY (Comments):

Commission proposal	Drafting Suggestions and Comments
	We wish to receive some clarification in terms of practical examples on the application of this provision.
6. Where a Member State does not recognise or enforce a return decision pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7.	LT (Drafting Suggestions): Where a Member State does not recognise or enforce a return decision pursuant to paragraph 1 or ~~3~~**4**, that Member State shall issue a return decision in accordance with Article 7. LT (Comments): The reference to paragraph 3 is not accurate, as there is no alternative for MS in this paragraph. FI (Comments): Should there be a reference only to paragraph 1, which states that a return decision may be recognised? Why does this also refer to paragraph 3? CH (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~5. Where a Member State does not recognise or enforce a return decision pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7.~~ FR (Drafting Suggestions): ~~5. Where a Member State does not recognise or enforce a return decision pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**
7. The enforcing Member State shall suspend the enforcement of return where the effects of the return decision in the issuing Member State are suspended.	NL (Comments): NL does not see how this accelerates the return procedure. This paragraph should be deleted. An alternative is to mutual enforce return decisions against whom all legal remedies have been exhausted.

Commission proposal	Drafting Suggestions and Comments
	FI (Comments): This contradicts the fact that the article was intended to apply only to enforceable return decisions. It should be possible to issue a new return decision in cases where it is not an enforceable return decision issued by another MS. CH (Drafting Suggestions): ~~6. The enforcing Member State shall suspend the enforcement of return where the effects of the return decision in the issuing Member State are suspended.~~ FR (Drafting Suggestions): ~~6. The enforcing Member State shall suspend the enforcement of return where the effects of the return decision in the issuing Member State are suspended.~~ FR (Comments):

Commission proposal	Drafting Suggestions and Comments
	La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.
8. Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.	SE (Drafting Suggestions): Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the ~~enforcing Member State shall issue a return decision subject to the conditions of Article 7.~~**third country national concerned shall be required to return to the issuing Member State.** SE (Comments): In this case there is no longer any enforcing Member State. Only the issuing State can determine if annulment or withdrawal of the return decision means that the stay becomes lawful. NL (Comments):

Commission proposal	Drafting Suggestions and Comments
	See the comment in para 6. NL does not see any room to ensure the availability of the third country national and prevent absconding (indeed, detention is not possible without a return decision). This must be resolved. LT (Comments): We do not consider that in cases where a person can be immediately returned following a national decision, the MS should still have to wait for the other MS or a judicial authority to take appropriate action to annul its decision. DK (Drafting Suggestions): ~~7. Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.~~ CH (Drafting Suggestions): ~~7. Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.~~ AT (Comments):

Commission proposal	Drafting Suggestions and Comments
	An annulment can also be carried out by other authorities, not just judicial authorities. FR (Drafting Suggestions): ~~7. Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**
9. 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, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.	NL (Comments): NL wonders what information -in addition to the European Removal Order- is still necessary to provide and how this information can be made available in real-time. When this information is not available, this would jeoparidize the speediness of the return procedure.

Commission proposal	Drafting Suggestions and Comments
	IE (Comments): On sharing the ERO outside of SIS, how would IE be notified of other MS ERO, and how do we notify other MS? DK (Drafting Suggestions): ~~8. 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, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.~~ DK (Comments): This is an administrative burden that needs to be removed. CH (Drafting Suggestions): ~~8. 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, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.~~ FR

Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): ~~8. 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, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**
10. 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).	RO (Drafting Suggestions): 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

Commission proposal	Drafting Suggestions and Comments
	Member State. The Commission shall adopt an implementing decision to determine the appropriate ~~criteria~~ **mechanism** 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). RO (Comments): RO considers that the term 'criteria' should be replaced by '**mechanism'** to include the procedure for submitting requests, deadlines and contact details of the competent authorities. LT (Drafting Suggestions): 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~~

Commission proposal	Drafting Suggestions and Comments
	~~arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).~~ LT (Comments): A compensation mechanism could make mutual recognition more difficult to apply and increase the administrative burden on Member States. We would consider it more appropriate to further strengthen the role of Frontex in the area of return. IT (Comments): Scrutiny reservation. IE (Comments): How is Article 7(9) [ability to grant autonomous residence permit at any moment] to interact with Article 9 more generally? IE is thinking in particular about circumstances where for instance the parents of a child who is entitled to Irish citizenship are the subjects of an enforceable return order in another MS. HR (Comments):

Commission proposal	Drafting Suggestions and Comments
	We support arguments made by Member States that, following the establishment of the Home Affairs Funds and the expansion of Frontex's mandate, the issue of reimbursement between Member States has become obsolete. Therefore, we prefer to emphasize the reference to Frontex support and also to include an explicit provision stating that it should be possible to mobilise the resources of the Home Affairs Funds to support Member States in the implementation of this Regulation. Introducing a right to compensation would complicate the application of mutual recognition overall and significantly increase the administrative burden for Member States. ES (Drafting Suggestions): 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. **In addition, financial support may be provided through Union funds to the enforcing Member States, in accordance with the legal acts governing such funds.** ~~When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing~~

Commission proposal	Drafting Suggestions and Comments
	~~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).~~ ES (Comments): Bilateral financial compensation schemes are not compatible with the rationale underlying the development of a common European return system. Besides Frontex support, EU funds have been established to cover return activities by Member States. In this regard, the additional wording is inspired by the one agreed under Article 16 APR or Article 21 AMMR EL (Drafting Suggestions): 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~~

Commission proposal	Drafting Suggestions and Comments
	~~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).~~ EL (Comments): - After the establishment of the Home Affair Funds and the expansion of Frontex's mandate, the matter of reimbursement between the Member States has become obsolete. - Providing for a right for compensation will rather complicate the application of the mutual recognition in general and increase significantly the administrative burden for the Member States. We should also keep in mind that no compensation right is provided for in the field of judicial cooperation with regards to the mutual recognition and enforcement of decisions issued by the competent judicial or administrative national authorities. - The way forward is to reinforce further the role of Frontex in the field of return and readmission.

Commission proposal	Drafting Suggestions and Comments
	CH (Drafting Suggestions): ~~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).~~ BG (Drafting Suggestions): 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~~

Commission proposal	Drafting Suggestions and Comments
	~~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)~~ BG (Comments): We believe that when discussing a common European return system, it is unfair to maintain compensation system between Member States. We consider it justified to strengthen the role of Frontex in the common European return system and in the enforcement of the return decisions. To this end, Frontex should receive adequate funding in the new MFF. AT (Comments): AT is not in favor of a compensation through a MS. FR (Drafting Suggestions): ~~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~~

Commission proposal	Drafting Suggestions and Comments
	~~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).~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.** CY (Comments): EU funds should be used to cover return activities. We are not in favour of bilateral financial compensation schemes.
11. The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.	SE (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	~~The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.~~ NL (Comments): In line with the comment of paragraph 2, the 'Commission' should be replaced with the 'Council'. HR (Drafting Suggestions): Deleted ES (Drafting Suggestions): ~~The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.~~ EL (Drafting Suggestions): Deleted DK (Drafting Suggestions): ~~10. The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*~~.

Commission proposal	Drafting Suggestions and Comments
	CH (Drafting Suggestions): ~~10. The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.~~ BG (Drafting Suggestions): ~~The Commission decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*.~~ BG (Comments): Amendment related to the amendment in Para 2. FR (Drafting Suggestions): ~~10. The Commission decision referred to in paragraph 2 shall be published in the Official Journal of the European Union.~~ FR (Comments): **La France sollicite la suppression de l'ensemble des dispositions de l'article 9, à l'exception de celles du paragraphe 1er, qui pose le principe d'une reconnaissance mutuelle facultative de ces décisions.**

Commission proposal	Drafting Suggestions and Comments
SECTION 3 **ENTRY BAN**	
Article 10	IT (Comments): Scrutiny reservation related to the interaction of this provision with the previous Article 9, particularly in cases where the entry ban associated with the return decision issued by another Member State is subject to appeal, or where the executing Member State considers the third-country national deserving of a longer entry ban.
Issuance of an entry ban	NL (Comments):

Commission proposal	Drafting Suggestions and Comments
	NL has a question what a Member State should do concerning the mutual recognition of return decisions in the situation that it wants to issue an entry ban with a different length, then the issuing Member State has done. National jurisprudence tells that the Member States must consult each other. NL is curious to another method for this by the Commission. Another question revolves around the situation that a third country national has illegally entered the territory of the Member States despite an entry ban. Should the entry ban remain valid, or should a new entry ban be issued. Lastly, with reference to article 28, the suspensive effect of an entry ban is illogical as it only comes into effect when the third country national has departed the territory of the Member States. This will be mentioned again with article 28. IE (Comments): In Ireland under our current national law (The Immigration Act 2003), an entry ban of indefinite duration is inherent in all deportation orders. Before issuing a deportation order, a TCN is notified of a proposal to deport, which sets out three options for the recipient: to leave the State voluntarily; to consent to the making of a deportation order; or to make representations as to why he or she should be given 'leave to remain'. Once a deportation order is issued, the

Commission proposal	Drafting Suggestions and Comments
	requirement to leave the State, and remain thereafter outside it, is in place. A person may make an application for the revocation of the deportation order at any time but must be able to evidence a material change in their circumstances in order for this application to be successful. FR (Comments): L'article 10 doit faire l'objet de plusieurs ajustements.
1. Return decisions shall be accompanied by an entry ban when:	MT (Comments): While Malta agrees with the proposed wording on entry bans, Malta calls for the possibility to provide for an unlimited entry ban if the case merits such a ban.
a. the third-country national is subject to removal in accordance with Article 12;	AT (Comments): It should be taken into account that, in practice, there is in general insufficient time to issue an entry ban during a forced removal, and the legal framework does not currently provide a viable opportunity to issue such a

Commission proposal	Drafting Suggestions and Comments
	ban retrospectively. As a result, Article 10 (1) cannot be effectively applied, since the condition for issuing an entry ban—namely, that the person is 'subject to removal'—is typically determined by the competent authority at the moment of enforcement, leaving no time for the proper issuance of the ban. Furthermore, Article 10 (1) may also be relevant in cases where the competent authority only becomes aware during a border control that the departure deadline has not been observed. In such cases, it should likewise be possible to issue an entry ban retrospectively, even if the individual is still permitted to leave the Schengen Area. Otherwise, detention solely for the purpose of initiating entry ban proceedings would be required, which runs counter to the objective of ensuring prompt departure and compliance with the legal obligation to leave the country. Allowing for the issuance of an entry ban after the individual has left the territory would ensure operational flexibility and enhance the effectiveness of return procedures.
b. the obligation to return has not been complied with within the time limits set in accordance with Article 13;	NL (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	if no date for voluntary departure has been set or the obligation to return has not been complied with within the time limits set in accordance with Article 13; NL (Comments): As confirmed by the Commission this situation also sees to the possibility that no date for voluntary departure has been set. Therefore a suggestion to align with the current text in the Return Directive. BE (Drafting Suggestions): ~~b.the obligation to return has not been complied with within the time limits set in accordance with Article 13;~~ BE (Comments): We do not agree with the fact that this situation is a shall provision, since this is in our opinion an obstacle for or desincentivising voluntary return.
c. the third-country national poses a security risk in accordance with Article 16.	AT (Comments): In these cases and based on an indivisual assessment, AT would like to have the opportunity of an unlimited entry ban.

Commission proposal	Drafting Suggestions and Comments
2. In cases other than those listed in paragraph 1, competent authorities shall determine whether or not a return decision shall be accompanied by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national.	NL (Drafting Suggestions): In cases other than those listed in paragraph 1, competent authorities ~~shall determine whether or not a return decision shall be~~may accompany ~~ied~~ a return decision by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national. FI (Comments): It is challenging to assess the level of cooperation of the TCN when the entry ban is imposed in the same decision as the negative decision for residence permit application. The retrun procedure has not even started yet, as it starts once the negative decision has been taken (refusal of permit). EE (Drafting Suggestions): In cases other than those listed in paragraph 1, competent authorities shall determine whether or not a return decision shall be accompanied by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national. **When the entry ban is issued to the third country national subject to removal by another Member State, circumstances related to the decision on ending his or her legal stay may not be taken into account.**

Commission proposal	Drafting Suggestions and Comments
	EE (Comments): Article 10(2) obliges the Member States to take into account all relevant circumstances when issuing an entry ban. In this respect, circumstances related to the decision on ending third country national's legal stay or residence are also relevant. However, the enforcing MS cannot reassess the circumstances established by another MS. Otherwise, we would violate MS sovereignty to control entry, stay and return of third country nationals. In cases where the entry ban should be issued by enforcing MS, circumstances related to the decision on ending a legal stay should not be assessed. The enforcing Member State should only assess circumstances related to the removal of the person concerned. CZ (Drafting Suggestions): In cases other than those listed in paragraph 1, **return decisions may be accompanied by an entry ban**~~**competent authorities shall determine whether or not a return decision shall be accompanied by an entry ban**~~

Commission proposal	Drafting Suggestions and Comments
	~~**taking into account relevant circumstances, in particular the level of cooperation of the third-country national**~~. CZ (Comments): We prefer the wording of Art 11(1) of Return Directive. We would also appreciate if an entry ban could be issued conditionally, so that it is activated if the third-country national does not depart within the date set out in the return decision. AT (Comments): A reference to Article 21 would be useful. FR (Drafting Suggestions): 2. In cases other than those listed in paragraph 1, competent authorities ~~shall determine whether~~ ~~or not~~ **may accompany** a return decision ~~shall be accompanied~~ by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national. FR (Comments):

Commission proposal	Drafting Suggestions and Comments
	La France propose tout d'abord de simplifier la rédaction du paragraphe 2 afin de faire clairement apparaître que les États membres ont la possibilité d'assortir toute décision de retour d'une interdiction d'entrée.
3. The entry ban shall be issued as part of the return decision or 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.	NL (Drafting Suggestions): The entry ban shall be issued as part of the return decision or as part of the removal order referred to in Article 12 paragraph 2 or 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. IE (Comments): This Article provides that an entry ban must be in a language the TCN can reasonably be expected to understand, which will also incur an additional administrative burden, but in accordance with Article 7 the RD must only be translated on request of TCN. Is this difference in approach intentional? CH (Drafting Suggestions):

Commission proposal	Drafting Suggestions and Comments
	3. The entry ban shall be issued as part of the return decision or 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.~~ **Member States shall make available generalised information sheets or provide relevant information online explaining the main elements of the standard form in at least five of those languages which are most frequently used or understood by illegal migrants entering the Member State concerned.** CH (Comments): Since the grounds for entry bans are limited and exhaustive, a translation requirement for every single entry ban decision would be exessive and overburden authorities. Standard forms and relevant information online will be sufficient to explain the original entry ban decision and feasible in more languages than the minimum amount of languages proposed. BE (Comments): This provision should be better aligned on article 7 (5) in which a decision in other language is only notified at request of the TCN, which is not mentioned in this provision.

Commission proposal	Drafting Suggestions and Comments
	AT (Comments): Until now, only the main elements of the entry ban had to be translated, and only at the request of the third-country national. The proposal provides for a mandatory translation of the entry ban order in all cases. FR (Drafting Suggestions): 3. The entry ban shall be issued as part of the return decision or **as part of the removal order referred to in Article 12(2),** or 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.~~ **Member States shall make available generalised information sheets or relevant information online explaining the main elements of an entry ban in at least five languages most frequently used or understood by illegally staying third-country nationals.** FR (Comments): La France sollicite la modification du paragraphe 3 afin de permettre aux États membres :

Commission proposal	Drafting Suggestions and Comments
	- d'adjoindre l'interdiction d'entrée soit à la décision de retour elle-même, soit à la décision dite « ordre d'éloignement » (« removal order ») ; - de prévoir une notice d'information générale (papier ou numérique) traduite au minimum dans les cinq langues les plus couramment utilisées par les étrangers en situation irrégulière dans l'État membre, en remplacement de l'obligation de notifier l'interdiction d'entrée dans une langue que l'étranger comprend ou est présumé comprendre.
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, and avoiding as much as possible to postpone the departure of the third-country national concerned.	SE (Comments): SE welcomes the possibility of being able to issue an entry ban without having to issue a return decision in situations where illegal stay is detected in connection with exit at the external border. MT (Drafting Suggestions): 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~~

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	~~circumstances of the individual case and in compliance with the principle of proportionality and the rights of defence, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. MT (Comments): Malta calls for Article 10(4) to be simplified in line with the proposed change in Article 8(1)(c). IE (Drafting Suggestions): **Insert** 'or equivalent national checks' after 'Regulation (EU) 2016/399. IE (Comments): IE suggests drafting amendment to ensure consistency throughout the Regulation. HR (Drafting Suggestions): 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

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	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, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. ES (Drafting Suggestions): 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, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. ES (Comments): Vide comment under Article 8 (1) (c) EL (Drafting Suggestions):

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	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, and avoiding as much as possible to postpone the departure of the third-country national concerned~~. EL (Comments): See justification under Article 8(1)(c). CZ (Drafting Suggestions): Competent authorities may impose an entry ban without issuing a return **or any other** 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, and~~** avoiding as

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	much as possible to postpone the departure of the third-country national concerned. CZ (Comments): We suggest to leave out the words as it may cause a delay. Is it possible to impose an entry ban "only" by recording it into the SIS? AT (Comments): There is usually no time to issue an entry ban at the border control, which is why it must be possible to issue an entry ban retrospectively, even if the individual is still permitted to leave the Schengen Area. Otherwise, detention solely for the purpose of initiating entry ban proceedings would be required, which runs counter to the objective of ensuring prompt departure and compliance with the legal obligation to leave the country.
5. Competent authorities may refrain from issuing an entry ban in individual cases for humanitarian reasons or if the third-country national duly cooperates with the competent authorities, included by enrolling in a return and reintegration programme.	CZ (Comments): We apply the scrutiny reservation. AT (Comments):

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	This new provision provides for the possibility of waiving an entry ban if the illegally resident third-country national participates in a return and integration program. In application of para. 1 lit. b, however, this would not be possible if the person does not leave the country within the set period. LV (Drafting Suggestions): 5. Competent authorities may refrain from issuing an entry ban in individual cases for humanitarian reasons or if the third-country national duly cooperates with the competent authorities, included by enrolling in a return and reintegration programme. **Competent authorities shall not refrain from issuing an entry bans in cases where the third-country national in the last [x] years has already voluntarily returned and benefited from a return and reintegration programme.** LV (Comments): Latvia welcomes the provision in Article 10(5) concerning the possibility for the competent authorities of the Member States to refrain from issuing an entry ban if the third country national duly cooperates and enrolls in a voluntary return and reintegration programme, as it could serve as an incentivizing factors for third-country nationals to return.

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	However, in the current wording, the provision of Article 10(5) could facilitate the abuse of voluntary return and reintegration programmes, for example by third-country nationals taking part in the programme and afterwards returning to the EU because no entry ban was imposed. It is therefore necessary to limit the possibility provided for in Article 10(5), for example by providing that a third-country national may exercise that possibility only once within a certain period of time. For example, if a person has returned voluntarily or benefited from a reintegration support programme in the last 5 years and his or her illegal presence is detected on the territory of an EU Member State, the non-application of an entry ban should not be an option for such a person.
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.	SE (Comments): Paragraph 6-7: Sweden welcomes that the maximum period of an entry ban that may determined is extended to 10 years, instead of the current five years, and that there is a possibility to extend this period even further with successive periods of a maximum of five years. The Commission has

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	confirmed that there is no limit to the number of such extensions and this should be clarified in the text. In som cases (third country nationals subject to return due to criminal offences or third country nationals posing a security risk, i.e. those covered by Art. 16) it is important for Sweden to have the possibility to issue entry bans without any limitation of the validity period. Such an indefinite entry ban could be reviewed *upon request* of the person concerned and would therefore in our view not be disproportionate. NO (Drafting Suggestions): 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~~ **and shall in principle not exceed 10 years. It may however exceed 10 years if the third-country national represents a serious threat to public policy, public security or national security.** NO (Comments): We are satisfied that the maximum period is extended from 5 to 10 years. However, we miss the possibility to issue a permanent entry ban, and suggest

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	that this should be possible with the same wording as in the Return Directive art. 11.2. IE (Comments): IE welcomes the extension of the maximum possible entry ban to 10 years and that such a ban will be renewable for successive periods of 5 years. IE would be in favour of indefinite entry bans for serious criminals or persons considered a threat to public policy and security. FI (Drafting Suggestions): 6. The lenght of the entry ban shall be determined with due regard to all relevant circumstances of the individual case for a maximum of 10 years. **The entry ban may be imposed for indefinite period if the third-country national poses a threat to public policy, public security or national security.** DK (Drafting Suggestions): 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. **An entry ban may be imposed for an indefinite period if the third-country**

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	national poses a threat to public policy, public security and national security. DK (Comments): There needs to be a possibility to issue unlimited entry bans to persons posing a threat to national security, cf. Article 16. The European Court of Human Rights has allowed for unlimited entry bans on multiple occassions, as long as it is proportionate in the specific case. There are no valid arguments for not allowing unlimited entry bans to persons who have committed an act of terrorism or the like. CH (Comments): This provision should only remain as proposed by the Commission in case the general derogation proposed in Art. 3 is retained for third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of an extradition procedure (which would allow indefinite entry bans). The same applies for third-country nationals who pose a threat to public policy, to public security or to national security under the condition that the

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	derogation proposed in Art. 3 for this category of third-country nationals (which would allow indefinite entry bans) is retained and Art. 16(3)(a) retains the possibility for 20-year entry bans and is revised to include the possibility to impose entry bans for an indefinite period for this category of third-country nationalss. BE (Comments): Belgium supports extension of period in comparison with return directive. AT (Comments): As mentioned above under Art. 4 / Definitions, AT is in favour of retaining the possibility of imposing unlimited entry bans in individual cases, especially in the case of persons posing a risk. In any case, an extension of the maximum duration should be provided for both regular entry bans (a maximum of 10 years is provided for) and for persons posing a security risk or criminal offenders (a maximum of 20 years is provided for). We propose to extend the “regular entry ban” from max. 10 years to 20 years and in case of persons who pose a security risk from max. 20 years to 40 years.

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	LV (Drafting Suggestions): 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 **without a possibility of extension.** LV (Comments): Latvia considers that it would be more rational from the perspective of sparing procedural resources to lay down a maximum time limit for the entry ban without a possibility of extension. Latvia considers that a 10 year period without a possibility of extension is sufficient. This is of course without prejudice to the persons referred to in Article 16 (persons posing security risks) of this regulation proposal.
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.	NO (Drafting Suggestions): ~~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~~

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	~~necessary to further prevent the third-country national from entering the territory of the Member States.~~ NO (Comments): This solution to extend the entry ban by successive periods of 5 years will be unproportionate administrative burdensome for the MS, and should be deleted. If it is to be like this, we question how this extension is to be implemented? What will apply in terms of the right to appeal, notification of decisions, etc. We would also like to point out that one important aim of this regulation was to place more obligations on the foreigner. With this, the burden is instead turned over to the MS if we are to reassess this every fifth year. IT (Drafting Suggestions): 7. The duration of the entry ban pursuant to paragraph 6 may be extended by successive periods of a maximum of **10** ~~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. IT (Comments):

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	We call for the possibility of providing for entry ban extension periods longer than 5 years, in order to reduce the administrative burden that such a procedure will entail. IE (Comments): Although IE is pleased to see an increase in the maximum duration of the entry ban, the individualised assessment required, as well as the need to make new decisions to extend the entry ban every 5 years presents a significant administrative burden, particularly given that every such decision can be challenged by judicial review to the higher courts. As such, the process for issuing and extending entry bans will be significantly more burdensome under the proposal. IE would be largely in favour of the option to impose an entry ban with an option to renew it indefinitely after 5 years. It is the view of IE that this is proportionate, as a person the subject of an entry ban under A10 will still be able to request its withdrawl, suspension or shortening under A11. FI (Comments): It should be possible to impose the entry ban for indefinite period. It increases the administrative burden if the authorities have to review the case every 5 years. It should be borne in mind that the returnee has the possibility

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	to apply for the entry ban to be lifted, in which case the authorities will assess the case on the basis of the application. Unlimited entry ban doesn't mean a permanent ban, as it can be withdrawn. How does the article deal with the fact that the Return Regulation applies only to TCNs illegally staying in the territory of MS? Does it allow the entry ban to be extended if the person is staying in a third country? How could the person be contacted when he or she stays in a third country and how could TCN be persuaded to cooperate in extending the entry ban? DK (Drafting Suggestions): The duration of the entry ban pursuant to paragraph 6 may be **indefinitely** 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. DK (Comments):

Commission proposal	Drafting Suggestions and Comments
	How does the Commission foresee that an extended entry ban is served to the third-country national so as to avoid an attempt to re-enter the Member States after the initial entry ban has lapsed? CH (Drafting Suggestions): The duration of the entry ban pursuant to paragraph 6 may be **indefinitely** 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. CH (Comments): This paragraph should only remain as proposed by the Commission under the same conditions as those stated above for para. 6. The only proposed addition at this stage specifies the intention of the proposal to enable indefinite extensions. BE (Comments):

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	In our opinion, the proposed COM procedure through which Member States are able to extend the validity of entry bans is too heavy and implies too much administrative burden. Furthermore, it is unclear through which channels we will be able to inform the TCN of these extensions. Although this is primarily a concern in the context of article 16 and thus in the context of persons being a high security risk, this Regulation should provide for the possibility of an entry ban of an indefinite period, either in article 10 or in article 16. Such an entry ban is in such cases never valid for a lifetime, since article 11 gives enough guarantees for the TCN to submit the entry ban to judicial review and submit a request to withdraw the entry ban or ask to issue an entry ban for a specific period. Thus, this proposal would provide for enough guarantees, but the burden of proof would lie with the TCN. AT (Comments): Although the text allows entry bans to be extended beyond the maximum duration by further 5 years in each case, this is associated with individual checks and therefore administrative burden for the Member States. We also consider it necessary to extend the 5 year duration to 10 years. FR (Drafting Suggestions): 7. The duration of the entry ban pursuant to paragraph 6 may be **indefinitely** 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

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	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. FR (Comments): La France propose enfin, par souci de clarté, de faire apparaître le mot « indéfiniment » au paragraphe 7 : les interdictions d'entrée pourront ainsi être renouvelées par périodes successives de cinq ans, sans que ne soit limité ni le nombre de renouvellements, ni la durée totale de l'interdiction d'entrée, pour tenir compte du droit en vigueur dans plusieurs pays dont la France qui prévoit de telles interdictions à durée indéfinie bien que régulièrement réexaminées. LV (Drafting Suggestions): ~~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.~~ LV

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	(Comments): See comment for Article 10(6). CY (Comments): This provision ~~restricts the full exercise of the right to impose an indefinite entry ban. It also~~ raises concerns about effective duration~~, particularly if the periods imposed by the two MS differ~~.
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.	BE (Comments): Question. What happens in the situation a person with an entry ban never leaves the territory of the Member States and this persons files a new application in view of getting a residence permit? Is it permitted to refer to the entry ban, although the period of application of the entry ban never started?
Article 11	MT (Comments): Malta can accept the proposed wording in Article 11.

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Withdrawal, suspension or shortening of the duration of an entry ban	AT (Comments): The blanket right to apply for the withdrawal/ suspension / reduction of an existing entry ban is viewed critically by AT since this provision does not exclude certain groups of people, such as persons posing a security risk, which in our point of view is necessary. Also the necessity of an explicit application right in this context is questionable since a legal remedy is available anyway. Furthermore, we believe that a minimum period should need to pass by to be able to file a reasoned application. This should not be possible e.g. from day one, but perhaps after at least half of the duration of the entry ban.
1. An entry ban may be withdrawn, suspended or its duration shortened where the third-country national:	RO (Drafting Suggestions): An entry ban may be withdrawn, suspended or its duration shortened where the third-country national **falls under at least one of the following conditions**: RO (Comments):

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	It is necessary to explicitely provided whether all three conditions are meant to be **cumulatively** fulfilled or **at least one to be applicable**. NL (Drafting Suggestions): An entry ban may be withdrawn, suspended or its duration shortened by the Member State that has issued the entry ban -where the third-country national: LT (Comments): It is not clear what are the possible cases of suspension and until what circumstances occur can the entry ban be suspended? Can the entry ban be suspended indefinitely? CZ (Drafting Suggestions): **Based on the request of the third-country national a**~~**A**~~n entry ban may be withdrawn, suspended or its duration shortened where the third-country national: CZ (Comments):

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	We are of the opinion that withdrawal, suspension or shortening of the duration of an entry ban should be done only on the request of the third-country national. CH (Comments): This provision should clearly state whether the criteria in (a)-(c) are cumulative or (more likely) alternative. FR (Drafting Suggestions): 1 . An entry ban may be withdrawn, suspended or its duration shortened **by the Member State that has issued it** where the third-country national: (…) FR (Comments): La France demande : - qu'il soit précisé au paragraphe 1er que seul l'État membre ayant édicté l'interdiction d'entrée peut le retirer, le suspendre ou en réduire la durée ; -
a. demonstrates that he or she has returned voluntarily in compliance with a return decision;	

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b. has not already been the subject of a return decision or removal order in the past;	CZ (Drafting Suggestions): ~~**has not already been the subject of a return decision or removal order in the past;**~~ CZ (Comments): This may be subordinated to Art 11(2). LV (Drafting Suggestions): ~~b. has not already been the subject of a return decision or removal order in the past;~~ LV (Comments): Article 11(1b) lays down that one of the conditions for a possible withdrawal, suspension or shortening of an entry ban is a fact that the person in question has not already been the subject of a return decision or removal order in the past (let us call it "return history"). Given that the "return history" is already taken into account when imposing an entry ban (or a deadline for the entry ban), Latvia has concerns that a situation will arise, where the "good return history" will be taken into

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	account twice for a single return decision: firstly, when determining an entry ban; and secondly, when determining whether there is a reason for withdrawal, suspension or shortening of the duration of an entry ban.
c. has not entered the territory of a Member State while an entry ban was still in force.	LT (Drafting Suggestions): ~~has not entered the territory of a Member State while an entry ban was still in force.~~ LT (Comments): The purpose of the entry ban is to prevent entry, which should already have been taken into account when deciding on the entry ban. CZ (Drafting Suggestions): ~~**has not entered the territory of a Member State while an entry ban was still in force.**~~ CZ (Comments): This may be subordinated to Art 11(2). This point does not make sense. BG

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	(Comments): We took note of the explanations provided by the EC during the meeting. Nevertheless, we prefer the text to be redrafted for the sake of clarity. LV (Drafting Suggestions): ~~c. has not entered the territory of a Member State while an entry ban was still in force.~~ LV (Comments): Article 11(1c) lays down another condition for a possible withdrawal, suspension or shortening of an entry ban – the person has not entered the territory of a Member State while an entry ban was still in force. Here it is important to distinct, whether the provision in point (c) refers to another entry ban that was imposed previously (prior to that return procedure, in the context of which it is planned to withdraw, suspend or shorten the current entry ban). In such case that fact was already known and taken into account when the entry ban (in current return procedure of the person in question) was imposed. Therefore, that would again mean taking into account the “good return history” twice.

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	However, if the entry ban in Article 11(1c) and the beginning part of Article 11 are meant to be the same entry ban, the provision does not make sense as the entry ban will cease to apply and there will be nothing to withdraw, suspend or shorten. Therefore, Latvia proposes to reconsider the necessity and correctness of Article 11(c).
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.	CZ (Drafting Suggestions): 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.~~1. The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban.	NL (Drafting Suggestions): The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban, provided that the return decision he or she is subject to has been enforced. LT (Comments):

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	In practice, it has been observed that third-country nationals abuse this right by repeatedly submitting unreasoned requests, which in turn significantly increases the administrative burden. We would suggest considering the possibility of providing for certain restrictions or allowing the request to be repeated only if new circumstances appear. See also comment on paragraph 1 - it is not clear in which cases the entry ban can be suspended, what is the purpose of it, for how long can it be suspended, etc. IT (Drafting Suggestions): 3.-The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban **only after two-thirds of the ban's duration has passed, in the case of forced return, and provided that the individual has complied with the return decision**. IT (Comments): We believe it is necessary to integrate the text by specifying that the possibility for the third-country national to start the procedure referred to in paragraph 3 (request the withdrawal, suspension, or shortening of an entry ban) should be granted only after part of the ban's duration has elapsed in case of forced return, and only after complying with the return decision. We also believe that it is appropriate to integrate the text, mybe with a new para. or a new article, by clarifying that if the third-country national has

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	violated the entry ban, it is possible to proceed with expulsion without having to repeat the return procedure. IE (Drafting Suggestions): **Insert** 'where he or she can demonstrate that he or she has left the territory of a Member State in full compliance with a return decision.' After 'entry ban'. IE (Comments): IE has concerns that the ability for an individual to seek an amendment to request a withdrawal or suspension of a RD could frustrate the removal process. It would be preferable if such an application were only possible once a person has confirmed compliance with the RD and left the MS. IE would like the wording to better reflect that which is currently in A11(3) of the Returns Directive (2008/115/EC). ES (Drafting Suggestions): ~~The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban.~~ ES (Comments):

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	Third country nationals may always submit a request to the authorities within an administrative procedure. Including this obligation for the Member States involves additional administrative burden and hinders the effectiveness of the procedure CZ (Drafting Suggestions): ~~**The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban.**~~ CH (Drafting Suggestions): The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban **only after return**. CH (Comments): The request to withdraw the entry ban should only be possible after return. Otherwise, the withdrawal procedure may interfere with the return procedure and the requirement of entry bans under Article 10 be circumvented. FR

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	(Drafting Suggestions): 3. The third-country national shall be afforded the possibility to request such withdrawal, suspension or shortening of the duration of an entry ban, **provided that the return decision he or she is subject to has been enforced.** **Article 11 bis – Enforcement of an entry ban** **Third-country nationals staying illegally on the territory of a Member State in violation of a valid entry ban shall be subject to a return or readmission procedure carried out on the sole basis of this entry ban. They may in particular be subject to all measures set out in Articles 23, 29 and 31.** FR (Comments): La France demande : - qu'il soit précisé au paragraphe 3 que l'étranger ne peut valablement solliciter le retrait, la suspension ou la réduction de la durée de l'interdiction d'entrée dont il fait l'objet que s'il a effectivement été éloigné. La France demande l'introduction, au début de la section 4, d'un article 11 bis ayant pour objet de permettre, lorsqu'un étranger se trouve sur le territoire d'un État membre en violation d'une interdiction d'entrée exécutoire, la mise en œuvre d'une

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	procédure de retour et de réadmission sur le seul fondement de cette interdiction d'entrée, c'est-à-dire sans qu'il soit nécessaire pour l'État membre de prendre une nouvelle décision de retour. Cet étranger doit notamment pouvoir faire l'objet de toutes les mesures de contrainte prévues par le règlement. CY (Comments): We don't see the added value of this reference, as it might create additional and unnecessary administrative burden.