

## Return Directive debate: political groups hold different positions ahead of vote

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**MEPs debated the text on the Return directive as negotiated between the EP rapporteur Manfred WEBER (EPP-ED, DE) and the Council in Strasbourg. The groups in favour of the text stress the importance of moving forward with a European policy on migratory flows, while those opposing it underline that the rapporteur has given too much to the Council and the Parliament must amend the text. The vote on the legislative text takes place on Wednesday at 11.30 am.**

Most speakers supported the need for a directive, but while the EPP-ED, ALDE and UEN groups support the compromise text, the PES want some changes to boost immigrants' rights, and the Greens/EFA, GUE/NGL and IND/DEM will vote against the directive.

### **Council**

The debate was opened by Slovenian Interior Minister Dragutin **MATE**, speaking for the Council Presidency-in-Office, who highlighted the fact that the return directive was the first EP-Council legislative act on migration. One of the problematic areas in the negotiations in Council had been the maximum period of detention, but the six month period laid down in the directive would now apply in all Member States.

However, the biggest difficulty had been legal aid, particularly as the Member States had differing experiences, depending on whether they were near to or far from migratory flows. The minister also stressed that the directive protected vulnerable groups such as children. On all these points he argued that the compromise embodied in the directive "represents progress" and he urged the EP to approve the text.

### **Commission**

Commissioner Jacques **BARROT**, who is expected to take over the justice, freedom and security portfolio at the Commission this week, said the Commission advocated "an integrated approach to immigration". If nothing was done, there was a danger of a "vicious circle" in migration policy. He emphasised that "the directive is in line with the European Convention on Human Rights", it "gives priority to voluntary returns" and "it protects the rights of children and families". The Commission would monitor implementation of the legislation to ensure that the standards of the European Convention and the UN Declaration on Human Rights were observed.

Parliament's rapporteur, Manfred **WEBER** (EPP-ED, DE), stressed that this was "a complex topic" but that in the Civil Liberties Committee a large majority had come out in favour of the compromise. He stressed that the directive dealt not with asylum but with immigration and he challenged some of the legislation's critics, since he saw it as a way to ensure that "slavery in the EU comes to an end". The directive includes protection for "children and unaccompanied minors, access to health and education systems and the use of detention only when necessary". So "why the mud-slinging?", for example from NGOs. Moreover, all the Council of Europe's guidelines were included in the directive, so why was that body being critical? In conclusion, Mr Weber said that what he wanted to see was "a strong, humanitarian Europe".

### **Political group speakers**

On behalf of the EPP-ED group, Agustín de Mera **GARCIA CONSUEGRA** (ES) described the directive as "a firm and decisive step" towards regulating legal immigration. A key objective was to encourage voluntary returns. "Forced return will only be used as a last resort" and there would be "protection of fundamental rights, access to language services and a right of appeal". At present there were places in the EU where immigrants could be held in custody indefinitely but the directive would change that. He also stressed the clear distinction between immigration and asylum legislation and the fact that the Court of Justice would have jurisdiction.

Martine **ROURE** (PES, FR) said that her Group would not accept the compromise put forward, not because Socialists are against a returns policy, but because the compromise does not provide adequate protection of fundamental rights.

She said it was wrong to say that the directive would allow people to come out of an illegal situation or that it would give people the right to stay. The rights established in the directive are not binding, she said, and would not allow for an improvement in detention in EU.

She said that MEPs should apply all their powers through co-decision to improve the fate of detainees.

Jeanine **HENNIS-PLASSCHAERT** (ALDE, NL), argued that the compromise package made it clear that Member States should maintain more favourable standards if they already have them. Indeed, she said, the Council agreed to a political statement in the agreement on the directive stressing that the directive cannot be used to lower standards.

"Do we want a directive or not?" she asked. "Many Member States would be happy if this directive died through lack of agreement, so the irony is that if we don't agree this compromise package, we would be supporting those Member States" At present no EU legislation exists - with this package we would have infringement procedures, Commission report, European Parliament monitoring.

Jean **LAMBERT** (Greens/EFA, GB) said that her group could not accept the negotiated text. The text simply does not meet the standards that were set out at the beginning, she said. On the length of detention, Ms Lambert was concerned about what long periods of detention can do to the mental health of the people detained. Family life is put at risk. Ms Lambert stated that her group was concerned about where would be returned to citing concerns about handshakes between Prime Minister Berlusconi and Colonel Gadhafi.

Andrzej Tomasz **ZAPĄŁOWSKI** (UEN, PL), argued that, before we speak about legal protection for families from outside the EU, we should be hearing something about saving our own culture on families, which has been a model for the rest of the world..

Giusto **CATANIA** (GUE/NGL, IT) said that "the directive is a disgrace, an insult which aims at ruling out thousands of years of

welcoming people, of openness in Europe. It seeks to limit free circulation. We are talking about 18 months not 6 months detention without having committed any crime. Detained in degrading and humiliating conditions as the Committee has seen in various detention centres. This directive is being forced upon us by Governments. We are being dictated to by the Council "Accept it or go away" It is not co-decision. What are people outside the Parliament saying about this directive? Amnesty International, Council of Europe .. all saying do not approve it. There is a need to consult wider. People are dying to get into the EU, 12,000 have died over recent years. The Mediterranean is becoming a cemetery. We should not approve this directive.

Hélène **GOUDIN** (IND/DEM, SE) said that "If all doors are closed people may well try getting in through the back door. The EU is becoming a Fortress Europe. We see every day pictures of people paying with their lives. Many human rights organisations have criticised this directive: Caritas and Amnesty International for example. There is no European Added Value in creating this inhuman and expensive situation. The result of this ban or return will lead to an increase in illegal immigration, more human trafficking and a hatred for the system we are setting up in our western world. Human rights organisations have warned us. We need an international effort for Human Rights."

Frank **VANHECKE** (NI, BE) said that it is clear there is currently a total lack of co-ordination in tackling this problem. That it is difficult to deal with is evidenced by the many different reactions to the directive. Directive offers choice between deportation or legalisation. I want a genuine directive to stem the tide but this directive does not move even one step in the right direction.

#### ***British speaker***

Baroness Sarah **LUDFORD** (ALDE, UK) described the directive as "imperfect but necessary to raise standards", stated there has been a lot of misinformation about it causing negative reactions and also said "an assessment of the value of the directive comes perversely from the very fact that the UK is not opting into it" as "it does not want to be constrained by the high standards in the directive, not least the time limits and the conditions on detention, such as the separation of immigration detainees from convicted criminals".

#### ***Responses of Council, Commission and EP rapporteur***

Replying to the debate **for the Council**, **Mr Mate** made or re-emphasised a number of points. He said the return directive dealt with immigration, not asylum (which is governed by a separate directive in force since 2003). It was wrong to say that the standard maximum period for detention is 18 months: the normal maximum is six months, to be extended to 18 only in special circumstances. No Member State will be allowed to adopt rules on detention that worsen the current situation. Children will have greater protection than at present (a point that had been difficult to negotiate with the Member States).

For many Member States the compromise was barely acceptable and they would prefer to deal with these matters at national level. If there was no first-reading agreement, some states would seek to introduce tougher measures at second reading. Overall the text was a compromise that avoided extremes and did not represent the position of any single country. Ultimately, he pointed out, "all of us are accountable to our electorates".

**For the Commission**, **Jacques Barrot** said the return directive would not exist in isolation but was part of a planned package on immigration and asylum. One benefit of the directive was that it created a Community-based legal framework, allowing scrutiny by the Court of Justice and the European Parliament. The EP had achieved progress, notably in the provisions protecting child immigrants. He pointed out that the EU had a fund of around €700 million to help with the costs of legal aid and health care. Lastly, he would ensure that in the implementation of the directive human rights were fully respected.

Winding up the debate, **EP rapporteur Manfred Weber** rejected the accusation that the EU was "guilty of mass graves in the Mediterranean". He saw the directive as the best available compromise, predicting that even the NGOs and MEPs who were critical of it "will use the provisions of this directive to go to the Court of Justice to gain benefits for immigrants". Concluding, he said "tomorrow's vote is not on whether this directive is ideal, but on whether it represents progress for the EU. The answer is Yes".