



Council of the  
European Union

Brussels, 20 March 2025  
(OR. en)

7130/25

**LIMITE**

**JAI 329  
MIGR 95  
ASILE 23  
COMIX 86**

**NOTE**

---

From:	Presidency
To:	Integration, Migration and Expulsion (IMEX Expulsion) working party
Subject:	Presidency discussion paper on the challenges of the implementation of return border procedure

---

Delegations will find in annex a discussion paper on the above-mentioned topic for the Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 1 April 2025.

---

The solutions provided for in the Regulation (EU) 2024/1349 of the European Parliament and of the Council of 14 May 2024 establishing a return border procedure and amending Regulation (EU) 2021/1148<sup>1</sup> are a response to the growing problem of irregular migration, which has been one of the key challenges facing the Member States for many years. Migratory flows, especially at the EU's external borders, are constantly increasing, requiring Member States not only to take effective border protection measures, but also to establish coherent and fair procedures for returning those who have no right to remain in the EU.

The introduction of a return border procedure is intended to overcome some of the problems encountered by Member States through harmonising measures in order to accelerate and simplify the return process of third-country nationals and stateless persons who have crossed the border illegally and who are not eligible for international protection.

Without prejudice to the overriding principle of non-refoulement and the necessary safeguards for the rights of third-country nationals and stateless persons, the return border procedure is intended to ensure the swift and efficient management of migration at the border as well as to build up the security of the whole European Union by effectively counteracting illegal migration. This should also motivate third-country nationals to use legal means of reaching the Union.

The return border procedure applies to third-country nationals and stateless persons whose application has been rejected in the context of the asylum border procedure provided for in Articles 43 to 54 of Regulation (EU) 2024/1348. It applies to applicants for international protection who arrive in an irregular manner and come from countries with a recognition rate of 20% or less than 20% or pose a security risk.

---

<sup>1</sup> Further referred to as „Regulation establishing a return border procedure”

An analysis of the nationalities<sup>2</sup> eligible for border procedures shows that in 2024 nearly half of the applications were submitted by 37 nationalities with a low recognition rate<sup>3</sup> (i.e. those with a recognition rate of  $\leq 20\%$  in 2024). Among them, the highest number of applicants for international protection were citizens of Venezuela, Türkiye, Colombia, Bangladesh, Peru, Egypt, Morocco, Pakistan, Nigeria, Georgia, Tunisia, Senegal and Algeria.

To be eligible for the border procedure, migrants have to arrive in an irregular manner, therefore migrants arriving from visa-free countries should presumably be left out when considering the expected main nationalities for the border procedure, unless they pose a security risk in which case they can be in the border procedure too. Taking this into consideration, we could expect the main nationalities to be Turkish, Bangladeshis, Egyptians, Moroccans, Pakistanis, Nigerians, Tunisians, Senegalese and Algerians. Naturally, the changes in migration and asylum request trends might change this list. Nevertheless, on the basis of 2023 figures, the main nationalities falling within the border procedure would have been the same as in 2024 apart from lower numbers of Senegalese.

An important aspect of the return border procedure is that the third-country national and stateless person is not allowed to enter the territory of the processing Member State during the procedure. In the course of this procedure, third-country nationals and stateless persons are obliged to stay for a period not exceeding 12 weeks<sup>4</sup> in locations at or in proximity to the external border or transit zones or other locations within Member States's territory. To this end, it is necessary that the Member State makes use of appropriate administrative and organisational resources in order to effectively enforce this obligation imposed on third country national and stateless person.

---

<sup>2</sup> Based on EUAA Early warning and Preparedness System (EPS) data.

<sup>3</sup> Among those nationalities which were issued at least 1,000 first instance decisions in 2024.

<sup>4</sup> In a crisis situation as defined in Article 1(4) of Regulation (EU) 2024/1359, Member States may, by way of derogation, extend the maximum duration of stay of a person in a return procedure at a designated place for an additional period not exceeding six weeks.

Regardless of the infrastructure solutions applied by the Member State, the effectiveness of the return border procedure is also influenced by the provision of relevant information to the third country national or stateless person at the earliest stage of the procedure and the feasibility of return. These aspects can motivate third-country nationals to return voluntarily, which is recommended as the primary form of return, where possible and reasonable.

The possibility to depart voluntarily, with some exceptions, is not only foreseen in the Return Directive, but also in the context of the return border procedure. Article 4 of the Regulation establishing a return border procedure outlines that the period for voluntary departure shall be granted only upon request and it shall neither exceed 15 days nor confer a right to enter the territory of the Member State concerned.

Therefore, ensuring compliance with the obligation to stay at the designated locations in such cases might seem (even more?) challenging. The above-mentioned Regulation establishing a return border procedure already foresees that persons granted voluntary departure should surrender any valid travel document for as long as necessary to prevent absconding.

The use of the tool of refusal of entry is possible at the border according to the Regulation establishing a return border procedure while at the same time derogating from the Return Directive. However, it remains to be seen whether a maximum use of this instrument could be beneficial, or whether it will depend on the occurrence of certain circumstances and will be applied to a selected category of third-country nationals and stateless persons.

At the forthcoming Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 1 April 2025 the Presidency would like to host a discussion on the return border procedure in order to gain an insight into the challenges faced by Member States as well as the actions taken or planned to comply with the provisions on the implementation of the return border procedure and its follow-up. The Presidency invites delegations to reflect on the following issues:

1. *What are the advantages of using a refusal of entry to a third-country national whose application has been rejected in the context of the asylum border procedure? Do you expect to make use of this option in the Return Border Procedure Regulation?*
2. *In practical terms, how do you envisage implementation of the voluntary departure in the return border procedure, given that the period for voluntary departure shall not mean granting the third country national the right to enter the territory of a Member State?*
3. *What solutions (infrastructural, personnel, IT system and organisational) for the future implementation of the return border procedure have so far been adopted or are planned in your Member State in order to ensure the effectiveness and efficiency of the procedure?*
4. *As regards the main expected nationalities for the return border procedure, indicated in this paper, what practical challenges do you see in implementing the return border procedure for these nationalities?*
5. *What other challenges regarding the implementation of the return border procedure have been identified by your Member State so far? What possible solutions are being considered to tackle them?*