



**COUNCIL OF
THE EUROPEAN UNION**



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Return of illegally staying third-country nationals

The Permanent Representatives Committee (COREPER) today confirmed support for a draft overall compromise on the proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (the "Return Directive") arising from discussions which have taken place between the Presidency and the European Parliament.

The Presidency will inform the Parliament about the content of this compromise. The Council hopes that an agreement in first reading with the European Parliament will be possible on this basis.

Background

This Directive will establish a common set of rules applicable to third-country nationals staying illegally in the territory of Member States, irrespective of which Member State. The Directive will ensure a more harmonised and effective approach to return procedures on the part of Member States while respecting the rights of third-country nationals in an illegal situation.

P R E S S

This Directive follows from the need to have common rules on returns as a result of the development of Europe as an area without internal borders and with a common immigration policy.

The Directive will leave unaffected the procedural and substantive safeguards for asylum seekers, regulated in another Directive.

The Directive makes special provision for vulnerable persons including in particular unaccompanied minors.

Other important features of the Directive include the following:

The ending of the illegal stay of non-EU nationals will be carried out through a fair and transparent procedure which sets out the rights for illegally staying persons facing return.

The decisions which will be taken under this Directive will be adopted on a case-by-case basis and will be based on objective criteria.

The Directive provides for a return decision to be issued for any third-country national staying illegally in the territory of a Member State subject to certain exceptions (e.g. where an autonomous residence permit or other authorisation to stay is granted for compassionate, humanitarian or other reasons).

The return decision will impose an obligation on the third-country national staying illegally to leave the territory of the Member State concerned. Persons to whom a return decision have been issued will be allowed the opportunity to leave voluntarily unless there are specific grounds which preclude the granting of such a period such as a risk that the third-country national concerned will abscond.

Detention will only be permitted where other less coercive measures cannot be applied in the case and will require a decision in writing with reasons in fact and in law. Detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress. It shall be subject to reviews by a judicial authority at reasonable intervals.

The maximum period of detention will be limited to six months (with the possibility of extending it for a further twelve-month period in specified circumstances e.g. due to lack of co-operation by the third-country national). When it appears that a reasonable prospect of removal no longer exists detention will cease to be justified and the person concerned will be released.

Detention will be carried out as a rule in specialised detention facilities.