

CM2517

**MEIJERS COMMITTEE'S RECOMMENDED AMENDMENTS
TO THE PROPOSED RETURN REGULATION
(COM/2025/101/FINAL)**

NOVEMBER 2025

This document contains amendments to the Commission proposal of the Return regulation (COM/2025/101 final). These amendments complement our legal analysis of the proposed Regulation and recommendations to improve it ([CM2505 Meijers Committee Comment on the Proposal for a Return Regulation](#)).

The Meijers Committee took notice of the new compromise text as submitted by the Danish Presidency in which some fundamental rights safeguards have been deleted or watered down. We hope that the EU legislator, by considering our proposed amendments on the Commission proposal, ensures the protection of fundamental rights in accordance with international and EU legal standards.



Standing committee of experts on international
immigration, refugee and criminal law

Meijers Committee's recommended amendments to the proposed Return Regulation (COM/2025/101 final)

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Time limits

- EU-legislator should establish mandatory minimum deadlines for return-related procedures, including appeals and voluntary departure periods, to ensure fairness and legal certainty for third-country nationals (TCN). As to appeals, there should be a guarantee that individuals have at least five working days to lodge an appeal against return decisions, entry bans, and removal decisions— consistent with the minimum appeal period under the Asylum Procedure Regulation (APR, 2024/1348).

~~§ Article 13(2): The date referred to in paragraph 1 shall be determined with due regard to the specific circumstances of the individual case. The date by which the third country national shall leave shall not exceed 30 days from the date of notification of the return decision. A return decision shall provide for an appropriate period for voluntary departure of between seven and thirty days, without prejudice to the exceptions referred to in paragraph 3.~~

§ Article 27(1): (...) The period for lodging an appeal before a judicial authority of first instance shall be at least 5 days and shall not exceed 14 days.

Mutual recognition¹

- Conduct a proper assessment of the necessity, proportionality and fundamental rights impacts of the mutual recognition mechanism;

¹ NB: Given the concerns outlined in our comment, the Meijers Committee advises against adopting the mutual recognition mechanism and the ERO in their current form. However, should the legislators choose to proceed with their adoption, we recommend the following steps and subsequently amendments of the current proposal.

§ Article 9(2): By 1 July 2027, the Commission ~~shall~~ may adopt an implementing decision for the application of paragraph 3, pending the outcome of ~~based on~~ an assessment of whether the legal and technical arrangements put in place by the Member State to make available the European Return Order through the Schengen Information System referred to in Article 7(7) are effective. This should include an assessment of the compliance of the European Return Order with fundamental rights standards carried out by the Fundamental Rights Agency, as well as of the impact of this provision on fundamental rights more generally, including on the right to effective remedy. 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).²

- Include an obligation for the enforcing Member State to conduct an individualized, current and thorough reassessment of *non-refoulement* risks before executing a return decision, especially if the destination country differs from the original decision;

§ new Article 9(4)bis: The enforcing Member State shall not enforce a return decision of the issuing Member State where the enforcement is contrary to the fundamental rights obligations of the enforcing Member State, in particular the principle of non-refoulement. The competent authorities of the enforcing Member State shall assess compliance with the fundamental rights obligations before enforcement, in particular in accordance with the procedure referred to in Article 12(3).

- Include a right for individuals subject to a return decision to have access to effective remedies in the enforcing Member State;

§ Article 26(1): The third-country national concerned shall be afforded an effective remedy to challenge the decisions referred to in Article 7, Article 9(4)bis, Article 10 and Article 12(2) before a competent judicial authority.

Detention

- The EU-legislator should clearly define the conditions for detention and remove vague grounds to avoid arbitrary or prolonged detention.

§ Article 29(3): A third-country national may only be detained based on one or more of the following grounds for detention:

a. risk of absconding determined in accordance with Article 30;

~~b. the third country national avoids or hampers the preparation of the return or the removal process;~~

² Suggested amendment ECRE.

- ~~e. b. the third-country national poses security risks in accordance with Article 16;~~
- ~~d. to determine or verify his or her identity or nationality;~~
- e. c. non-compliance with the measures ordered pursuant to Article 31.

- The EU-legislator should reconsider the proposed extension to 24 months and the possibility of restarting detention periods after intra-EU movement, which increases the risk of indefinite detention.

§ Article 32:

3. The detention shall not exceed 6 ~~12~~ months ~~in a given Member State~~. Detention may be extended for a period not exceeding a further 12 months ~~in a given Member State~~ where the return procedure is likely to last longer owing to a lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries.

- The EU-legislator should include the requirement of mandatory consideration and documentation of alternatives to detention before detention is imposed, which aligns with the principle of detention as a last resort.

§ Article 29:

1. Unless alternatives to detention pursuant to Article 31 can be applied, Member States may detain a third-country national pursuant to this Regulation on the basis of an individual assessment of each case and only in so far as detention is proportionate.

§ Article 32:

2. When it appears that the conditions laid down in Article 29 are no longer fulfilled, ~~detention shall cease to be justified and the third-country national shall be released. Such release shall not preclude the application of measures to prevent the risk of absconding in accordance with Article 31.~~

(...)

~~4. The expiry of the maximum detention period in accordance with paragraph 3 does not preclude the application of measures in accordance with Article 31.~~

- The EU-legislator should introduce a categorical prohibition on the detention of minors, including unaccompanied children, to ensure the protection of international child rights standards

§ Article 29:

7. Unaccompanied minors and families with minors shall not be detained.

~~§ Article 35:~~

~~1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time and taking into account the best interests of the child.~~

~~2. Families and unaccompanied minors detained in preparation for return shall be provided with separate accommodation guaranteeing adequate privacy. Personnel shall be adequately trained, and facilities adapted to take into account the needs of persons of their age and of their gender, including appropriate hygiene, food, health services and other infrastructure.~~

~~3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have access to education in the format most appropriate to the length of their detention.~~

Obligation to cooperate

- The EU-legislator should ensure that any adverse consequences for non-cooperation are paired with procedural protections, including access to effective judicial remedies.

~~§ Article 26(1): The third-country national concerned shall be afforded an effective remedy to challenge the decisions referred to in Article 7, Article 9(4)bis, Article 10, and Article 12(2) and Article 22 before a competent judicial authority.~~

Risk of Absconding

- The EU-legislator should reinforce the presumption of good faith by ensuring that the burden of proof remains with the state, not the individual, to establish risk of absconding.

~~§ Article 30(1): There is a risk of absconding in an individual case, unless proven otherwise. The existence of a risk of absconding shall be determined based on an individual assessment, and considering the following criteria: (...).~~

- The EU-legislator should eliminate the residual and overly general criteria to determine a risk of absconding.

~~§ Article 30(2): In cases not covered by paragraph 1, the risk of absconding shall be determined on the basis of an overall assessment of the specific circumstances of the individual case and where one of the following criteria regarding the third-country national concerned is met:~~

- ~~a. lack of residence, fixed abode or reliable address;~~
- ~~b. explicit expression of intent of non-compliance with return-related measures applied by virtue of this Regulation, or actions clearly demonstrating intention not to comply with such measures;~~
- ~~c. non-compliance with the obligations of a return decision until the date by which the third-country national is to leave the territory of the Member States as set out in Article 13;~~
- ~~d. non-compliance with the obligation to cooperate with the competent authorities of the Member States at all stages of the procedures pursuant to this Regulation, as referred to in Article 21(2), points (a) to (k);~~

~~e. when departure is imminent and there are serious reasons to believe third-country national intends to violate the obligation to cooperate as set out in Article 21(2), point (l);~~

~~f. using false or forged identity or travel documents, residence permits or visas, or documents justifying conditions of entry, destroying or otherwise disposing of such documents, using aliases with fraudulent intent, providing other false information in an oral or written form, or otherwise fraudulently opposing the return or readmission procedure;~~

~~g. opposing the return procedure violently;~~

~~h. re-entering the Union in violation of a valid entry ban.~~

Entry Bans

- The EU-legislator should remove provisions that make entry bans an automatic consequence of return, and instead require an individualized assessment of necessity and proportionality.
- The EU-legislator should limit the duration of entry bans to proportionate timeframes (e.g., 1–5 years), with longer bans only to be allowed in exceptional, justified cases.

§ Article 10:

~~1. Return decisions shall may be accompanied by an entry ban, when: a. the third-country national is subject to removal in accordance with Article 12;~~

~~b. the obligation to return has not been complied with within the time limits set in accordance with Article 13;~~

~~c. the third-country national poses a security risk in accordance with Article 16.~~

~~2. In cases other than those listed in paragraph 1, competent authorities shall determine whether or not a return decision shall be accompanied by an entry ban taking into account relevant circumstances, in particular the level of cooperation of the third-country national.~~

~~3. The entry ban shall be issued as part of the return decision or 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.~~

~~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.~~

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.

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~~ 5 years.

7. The duration of the entry ban pursuant to paragraph 6 may be extended by ~~successive periods of~~ a maximum period 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.

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.

Third-Country Cooperation and Return Hubs

- To uphold international law and EU values and to prevent fundamental rights violations and gaps in accountability, the EU legislator should not allow return cooperation with non-recognized third country entities.

§ Article 37:

~~1. The competent authorities may communicate, as necessary, with non-recognised third country entities responsible for one or more of the steps of the readmission procedure.~~

~~2. Such communication shall be limited to what is necessary for carrying out the readmission procedure and shall not amount to diplomatic recognition of the entities concerned.~~

- Should the EU legislator persist in allowing cooperation with non-recognized third country entities, this provision should include the obligation of an *ex ante* fundamental rights assessment and include the consequences when the non-recognized third country entities cannot respect fundamental rights.

§ Article 37:

(...)

3. Member States shall perform an assessment of the possible fundamental rights risks involved and the safeguards to prevent fundamental rights violations by these third country entities. Communication may not be established when fundamental rights cannot be respected by the non-recognised third country entities.

- The EU-legislator should include robust safeguards on return hubs:

§ A procedure for establishing agreements, including parliamentary oversight and ex ante fundamental rights impact assessment, which ensures transparency and accountability; no deals should be established with a third country that cannot guarantee fundamental rights compliance.

- [Art 17\(3\): Prior to concluding an agreement or arrangement pursuant to paragraph 1, Member States shall perform an assessment of the possible fundamental rights risks involved and the safeguards to prevent fundamental rights violations in the third country. Member States shall inform the Commission, the European Parliament, and the other Member States about the outcome of the assessment. No agreement or arrangement may be established when international human rights standards and principles in accordance with international law, including the principle of non-refoulement, cannot be respected by the third country.](#)

§ Legally binding agreements as a clear and adequate legal basis, which ensures respect for fundamental rights and entails preventive, monitoring and accountability structures.

- [Article 17\(1\): Return within the meaning of Article 4, first paragraph, point \(3\)\(g\) of illegally staying third-country nationals requires a legally binding agreement or arrangement to be concluded with a third country. Such an agreement or arrangement may only be concluded with a third country where international human rights standards and principles in accordance with international law, including the principle of non-refoulement, are respected.](#)

§ Establishment of a complaints mechanism and effective remedies for those affected by deals.

- [Article 17\(2\)\(g\): the establishment of an independent and effective complaints mechanism to monitor and ensure respect for fundamental rights during the transfer procedure, the stay in the third country, and the onward return to another third country.](#)
- [Article 17\(2\)\(h\): the provision of effective remedies to third-country nationals affected by the agreement or arrangement referred to in this Article, in accordance with Article 26.](#)

Principle of Voluntary Departure

- The EU-legislator should prioritize voluntary departure over forced removal.

§ [Article 12\(1\): When the third-country national is not subject to voluntary return in accordance with Article 13, the third-country national subject to a return decision shall be removed when: \(...\)](#)

- The EU-legislator should establish a minimum timeframe (e.g., 7–30 days) for voluntary departure, with provisions for extension based on individual circumstances, to prevent an overly swift shift to forced return procedures.

~~§ Article 13(2): The date referred to in paragraph 1 shall be determined with due regard to the specific circumstances of the individual case. The date by which the third country national shall leave shall not exceed 30 days from the date of notification of the return decision. A return decision shall provide for an appropriate period for voluntary departure of between seven and thirty days, without prejudice to the exceptions referred to in paragraph 3.~~

- The EU-legislator should reaffirm in the Regulation that voluntary return is the preferred option, supported by procedural incentives and integration support, and avoid measures that *de facto* undermine voluntariness (e.g., entry bans tied to non-compliance with voluntary departure).

~~§ Article 10:~~

- ~~1. Return decisions shall may be accompanied by an entry ban, when: a. the third country national is subject to removal in accordance with Article 12;~~
- ~~b. the obligation to return has not been complied with within the time limits set in accordance with Article 13;~~
- ~~c. the third country national poses a security risk in accordance with Article 16.~~

~~§ Article 22: In case of non-compliance with the obligations set out in Article 21(2), points (a) to (k), Member States shall provide for a possibility to impose, following an individual assessment, effective, proportionate and dissuasive measures on the third country national, out of the following:~~

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

Safeguards and Remedies (other than those already mentioned)

- The EU-legislator should ensure that return enforcement is automatically suspended until a first-instance court decision is made, to uphold the right to an effective remedy.

§ Article 28: The enforcement of the decisions issued pursuant to Article 7, Article 9(4)bis, Article 10, ~~and Article 12(2)~~ and Article 22 shall be suspended ~~until the time limit within which they can exercise their right to~~ pending the outcome of an effective remedy before a judicial authority of first instance referred to in Article 27.

- The EU-legislator should clarify and provide narrow grounds for excluding legal aid; vague terms like “no tangible prospect of success or is abusive” should be removed.

§ Article 25(5):

(...)

~~b. it is considered that the appeal has no tangible prospect of success or is abusive;~~

(...)

About

The Meijers Committee is an independent group of experts that researches and advises on European criminal, migration, refugee, privacy, non-discrimination and constitutional law.



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