

Brussels, 22 October 2025
(OR. en)

13991/25

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MIGR 347
RELEX 1334
COMIX 326
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NOTE

From:	Presidency
To:	Strategic Committee on Immigration, Frontiers and Asylum (SCIFA)
Subject:	Modalities Regarding Return Hubs - Discussion paper

Return hubs, where third-country nationals issued return decisions could be returned, e.g. in case they are not cooperating or/and their country of origin is not cooperating is an important tool for increasing the effectiveness of returns.

Return hubs would not only offer a way out for Member States where the country of origin or returnee, or both, are not cooperating, but should also incentivise voluntary returns, as those not cooperating would face the alternative of being returned to a return hub. Return hubs could also act as an important deterrent by discouraging people, with no asylum motive, from undertaking perilous journeys to reach the EU.

Many Member States already stressed the need for flexibility and indicated that the concrete details of return hubs should be decided in specific agreements and arrangements with third countries.

One open question is whether *return hubs could be established not only as a Member State initiative, but also as an EU initiative*. Such a request was made by an important number of Member States. The Commission explained already that, in its view, the proposal for the Return Regulation did not prevent the latter option.

Another open question is whether return hubs could be established both as a final destination and as agreements or arrangements that involve onward return of third country nationals to e.g. their countries of origin.

Where a return hub would function as a final destination, with no onward return, the following *elements* should be outlined *in an agreement or arrangement establishing a return hub*:

- a) the procedures applicable to the return of illegally staying third-country nationals from the territory of the Member States to the third country;
- b) the conditions for the stay of the third-country national in the third country;
- c) the obligations of the third country;
- d) the consequences to be drawn in case of violations of the agreement or arrangement.

Where a return hub would involve onward return from the third country to the country of origin, the following elements should, in addition, be outlined in an agreement or arrangement establishing a return hub:

- a) the consequences in case onward return is not possible;
- b) the obligations and responsibilities of the Member State or the EU and of the third country;
- c) the consequences in case of significant change adversely impacting the situation of the third country;
- d) an independent body or mechanism to monitor the effective application of the agreement or arrangement.

Also, conditions for detention in the third country may be outlined in the agreement or arrangement, in line with obligations under international law.

In addition, many Member States expressed that only unaccompanied minors should be exempted from being returned to a return hub. This reflects the view that the possibility of return should depend on assuring the conditions provided for under the agreement or arrangement with the third country, rather than on the categorical exemption of families with minors, as in the Commission's proposal. The Presidency therefore seeks confirmation of support for maintaining this *targeted exemption for unaccompanied minors* in the compromise proposal.

At the forthcoming meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA), delegations are invited to express their opinion on the above-outlined solutions regarding:

- 1. the possibility to establish the return hubs both as EU and Member State initiatives;*
- 2. a clear distinction with respect to the applicable modalities and safeguards depending on whether a return hub functions as a final destination or involves an onward return to the country of origin;*
- 3. Only UAMs being exempted from being returned to a return hub.*