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NOTE

From: To:	Presidency JHA Counsellors (Migration, Integration, Expulsion)
N° prev. doc.:	CM 5039/25
Subject:	Flash note from the Presidency - JHA Counsellors meeting (Migration, Integration, Expulsion)/Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein)

Delegations will find enclosed the Presidency flash for the JHA Counsellors meeting (Migration, Integration, Expulsion)/Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein) on 14 November 2025.

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FLASH

JHA Counsellors (IMEX Expulsion) 14 November 2025

Dear Colleagues,

We are pleased to invite you to the next JHA Counsellors (IMEX Expulsion) meeting under the Danish Presidency, scheduled for 14 November 2025.

The meeting is a half-day meeting which will start at 10:00 and finish at 14:30 at the latest. It will be held in the COMIX format. The agenda was published on the Delegates Portal on 11 November 2025 (doc CM 5039/25).

The only substantive point on the agenda is the examination of an updated version of Article 9 with relevant provisions of other Articles touching upon mutual recognition and recitals. This was published on Delegates Portal on 13 November 2025.

Take-aways from the JHA Counsellors meeting on 10 November

We have taken note of the discussions at the JHA Counsellors meeting on 10 November and the questions that were raised.

It seems apparent that there are varying understandings among the Member States of how mutual recognition would work in practice.

Several Member States also made the point that, in the context of applying Article 9, the recognition itself should not be an administrative procedure, decision or act, and the recognition itself should not be appealable.

Another clear message from a majority of Member States was that they need further clarity on the exact rules that will apply under Article 9 for TCNs who have moved from one Member State to another after having received a return decision, and what will and will not be different from the situation today.

It also seems that a clarification is needed on which cases would be covered by Regulation 2024/1351 and consequently not be subject to the Return Regulation, including Article 9 on mutual recognition.

Updated proposal

In the updated version of Article 9, we have maintained the overall structure of the Article. We still believe that it is possible to achieve both of our objectives: to send a clear message to discourage secondary movements and to create a swift and efficient return system.

However, we have made some adjustments to build in further flexibility and efficiency, to avoid that the enforcing Member State will find itself in situations where it is unable to act and implement the return, and to further clarify the intentions and practical implications of the proposed model:

a) In *paragraph 1,* we have specified that the enforcement of a return decision from another Member State shall be based on the information available in the European Return Order or in the SIS, or on the issuing Member State's return decision. We have also specified that the enforcement shall be carried out in accordance with national rules and procedures.
b) In a *new paragraph 3b* we have specified that the enforcing Member State shall not be required to take administrative decisions for the purpose of recognition. The recognition does not need to take the form of an administrative procedure.
c) In *paragraph 4* we have expanded the list of exceptions and have clarified some of the exceptions included in the previous version. For instance, it has been specified that the enforcing Member State may not recognise the issuing Member State's return decision where there is no country of return stated in the return decision of the issuing Member State. It has also been specified that an appeal against a return decision can only be lodged in the issuing Member State.

In addition to these adjustments, we have accommodated the call for further Council control of the transition that is envisaged in Article 9, paragraph 3. We have therefore changed paragraph 2 so that the implementing decision will be a Council decision instead of a Commission decision.

We have also further qualified what should be included in the Commission assessment mentioned in paragraph 2, and we have added a new paragraph 2b to enable the Commission to collect the information from Member States that is needed to make the assessment.

The JHA counsellors' meeting on 14 November

At the meeting on 14 November we plan to examine the updated proposal on Article 9 and relevant recitals and to facilitate some presentations to clarify various elements of mutual recognition.

As part of that and in order to further raise the level of common understanding of the practical functioning of mutual recognition, two Member States will make a short presentation on how they apply their system of mutual recognition today. If other Member States wish to present their experiences with mutual recognition that would also be highly appreciated.

Should you have any questions or AOB points to propose, please do not hesitate to contact us at the following e-mail address: IMEXExpulsion.WP.DK25@uim.dk

Best regards,

The Danish Presidency IMEX-team

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