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From: To:	Presidency JHA Counsellors (Migration, Integration, Expulsion)
N° prev. doc.:	6917/1/25 REV1 + ADD 1-2
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC – Revised third Presidency compromise proposal (Art.7 and Art.9)

Delegations will find in the annex the revised third Presidency compromise proposal on the draft Regulation on establishing a common system for the return of third-country nationals staying illegally in the EU (Art 7. and Art.9) to be discussed at the JHA Counsellors (Expulsion) meeting on 20 November 2025.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC

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	CLEAN Commission Proposal	CLEAN Third PCY Compromise	VS.AUX2 REV 3rd PCY Compromise
Formula			
1	2025/0059 (COD)	2025/0059 (COD)	2025/0059 (COD)
Document Stage			
2	**Proposal for a**	**Proposal for a**	**Proposal for a**
Document Type			
3	**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**	**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**	**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**
Document Purpose			
4	**establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC**	**establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC**	**establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and of the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC**
Article 7			
114	**Article 7 Issuance of a return decision**	**Article 7 Return decision**	**Article 7 Return decision**
Article 7(7)			
121	7.Upon issuance of the return decision, its main elements shall be inserted into the form ('European Return Order') established pursuant to paragraph 8 and shall be made available	7.Upon issuance of the return decision, Member States may make use of the form ('European Return Order') established pursuant to paragraph 8. The form shall include the main elements of	7.Upon issuance of the return decision, Member States ~~may~~***shall*** make use of the form ('European Return Order') established pursuant to paragraph 8. The form shall include the main elements of

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	through the Schengen Information System in accordance with Regulation (EU) 2018/1860 or through information exchange pursuant to Article 38.	the return decision and shall be made available through the Schengen Information System in accordance with Regulation (EU) 2018/1860.	the return decision and shall be made available through the Schengen Information System in accordance with Regulation (EU) 2018/1860.
Article 7(8)			
122	8.The Commission shall adopt an implementing act to establish the form of the European Return Order referred to in paragraph 7. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 49(2).	8.The Commission shall adopt an implementing act to establish the form of the European Return Order referred to in paragraph 7. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 49(2).	8.The Commission shall adopt ***[at the latest six months after entry into force]*** an implementing act to establish the form of the European Return Order referred to in paragraph 7. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 49(2).
Article 9			
133	**Article 9** **Recognition and enforcement of return decisions issued by another Member State**	**Article 9** **Recognition and enforcement of return decisions issued by another Member State**	**Article 9** **Recognition and enforcement of return decisions issued by another Member State**
Article 9(1)			
134	1.The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise an enforceable return decision issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1), based on the European Return Order referred to in Article 7(7), and it shall on this basis order the removal pursuant to Article 12.	1.The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise and enforce a return decision, and where relevant a decision ordering the removal, issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1) and 12(2). The enforcement shall be based on the information available in the European Return Order referred to in Article 7(7) or in the Schengen Information System, or on the issuing Member State's return decision and where relevant the decision ordering the removal, and shall be carried out in accordance with national rules and procedures pursuant to Article 12.	1.The Member State where the third-country national is illegally staying ('enforcing Member State') may recognise and enforce ~~a~~ return ~~decision~~***decisions***, and where relevant ~~a decision~~ ***decisions*** ordering the removal, issued to that third-country national by another Member State ('issuing Member State') pursuant to Article 7(1) and 12(2). The enforcement shall be based on the information available in the European Return Order referred to in Article 7(7) or in the Schengen Information System, or on the issuing Member State's return decision and where relevant the decision ordering the removal, and shall be carried out in accordance with national rules and procedures pursuant to Article 12.
Article 9(2)			

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135	2.By 1 July 2027, the Commission shall adopt an implementing decision for the application of paragraph 3, based on an assessment of whether the legal and technical arrangements put in place by the Member States to make available the European Return Order through the Schengen Information System referred to in Article 7(7) are effective. 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.By [three years after the application of the Pact on Migration and Asylum], the Council shall adopt an implementing decision for the application of paragraph 3. This implementing decision shall be based on an assessment by the Commission. The assessment shall include whether the enforcement of return decisions and decisions ordering the removal are effective, whether the relevant information available in the Schengen Information System is updated in compliance with Regulation 2018/1860, and whether the legal and technical arrangements put in place by the Member States to make available the European Return Order through the Schengen Information System referred to in Article 7(7) are in place. 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.~~By [~~Three years after the ~~application~~***adoption*** of the~~ Pact on Migration and Asylum], the Council shall adopt an implementing~~ decision ~~for the application of paragraph 3. This implementing decision shall be based on an assessment~~ by the Commission~~. The assessment~~ ***under article 7(8), the Commission*** shall ~~include whether the enforcement of return decisions and decisions ordering the removal are effective, whether the relevant information available in the Schengen Information System is updated in compliance with Regulation 2018/1860, and whether~~ ***assess the implementation of mutual recognition under paragraph 1 in light of*** the legal and technical arrangements put in place by the Member States to make available the European Return Order through the Schengen Information System referred to in Article 7(7) ~~are in place~~***, of the effectiveness of the voluntary enforcement of return decisions and decisions ordering the removal, and of the burden on judicial and administrative national systems resulting thereof***. ***Based on this assessment*** the Commission shall ~~inform the European Parliament and the Council of the results of its assessment~~ ***submit as appropriate proposals with a view to introduce a mandatory regime of mutual recognition of return decisions issued by another Member State***. ***Where the Commission does not submit a proposal, it*** ~~The implementing decision~~ shall ~~be adopted in accordance with the procedure referred to in Article 49(2)~~***explains the reason thereof***.
Article 9(2a)			

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135a		2a. Member States shall, at the request of the Commission, provide the necessary information for completing the assessment pursuant to paragraph 2 of this Article, in particular statistics on the number of third-country nationals removed or returned on the basis of recognised return decisions and, where relevant, decisions ordering the removal issued by another Member State within a specified period of time. The Commission shall, where possible, make use of the information made available under Regulation (EC) 862/2007 of the European Parliament and of the Council.	2a. Member States shall, at the request of the Commission, provide the necessary information for completing the assessment pursuant to paragraph 2 of this Article, in particular statistics on the number of third-country nationals removed or returned on the basis of recognised return decisions and, where relevant, decisions ordering the removal issued by another Member State within a specified period of time. The Commission shall, where possible, make use of the information made available under Regulation (EC) 862/2007 of the European Parliament and of the Council.
Article 9(3)			
136	3.As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise enforceable return decisions issued by other Member States pursuant to Article 7(1) to third-country nationals illegally present on their territory based on the European Return Order referred to in Article 7(7), and they shall order their removal in accordance with Article 12.	3.As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise and enforce a return decision issued by other Member States pursuant to Article 7(1) and, where relevant, a decision ordering the removal issued by another Member State pursuant to Article 12(2) to third-country nationals illegally present on their territory.	~~3.As of the publication of the implementing decision taken in accordance with paragraph 2, Member States shall recognise and enforce a return decision issued by other Member States pursuant to Article 7(1) and, where relevant, a decision ordering the removal issued by another Member State pursuant to Article 12(2) to third-country nationals illegally present on their territory.~~
Article 9(3a)			
136a		3a. Member States shall not recognise or enforce a return decision or a decision ordering the removal of the issuing Member State where the return decision or decision ordering the removal, issued by another Member State, has been suspended.	~~3a. Member States shall not recognise or enforce a return decision or a decision ordering the removal of the issuing Member State where the return decision or decision ordering the removal, issued by another Member State, has been suspended.~~
Article 9(3b)			
136b		3b. Member States shall not be required to take administrative decisions for the purpose of recognition.	3b. Member States shall not be required to take administrative decisions for the purpose of recognition.

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		The recognition need not take the form of an administrative procedure.	The recognition need not take the form of an administrative procedure.
Article 9(4)			
137	4.For the purposes of applying paragraph 3, a Member State may decide not to recognise or enforce a return decision of the issuing Member State where the enforcement is manifestly contrary to public policy in the enforcing Member State, or where the third-country national is to be removed to a different third country than indicated in the return decision of the issuing Member State.	4.For the purposes of applying paragraph 3, the enforcing Member State may decide not to recognise or enforce a return decision or the decision ordering the removal of the issuing Member State where:	4.~~For the purposes of applying~~***Where a Member State avails itself of*** paragraph ~~3~~***1***, the enforcing Member State may decide ***in individual cases*** not to recognise and enforce a return decision or a ~~the~~ decision ordering the removal of the issuing Member State where:
Article 9(4), point (a)			
137a		(a) the enforcement is contrary to the fundamental and constitutional principles of law of the enforcing Member State or its public policy;	(a) the enforcement is contrary to ~~the fundamental and constitutional principles of law of the enforcing Member State or~~ its public policy;
Article 9(4), point (b)			
137b		(ab) the enforcement is contrary to the public policy of the enforcing Member State in particular in relation to the exercise of its prerogatives in the foreign relations with third countries;	~~(ab) the enforcement is contrary to the public policy of the enforcing Member State in particular in relation to the exercise of its prerogatives in the foreign relations with third countries;~~
Article 9(4), point (c)			
137c		(ab1) a large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of the detention facilities of the enforcing Member State or on its administrative or judicial staff, and as long as the exceptional situation persists;	~~(ab1) a large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of the detention facilities of the enforcing Member State or on its administrative or judicial staff, and as long as the exceptional situation persists;~~
Article 9(4), point (d)			

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137d		(ac) the enforcement is contrary to the public policy of the enforcing Member State in relation to the return of certain categories of third-country nationals, such as unaccompanied minors and victims of human trafficking, to which national law provides for a higher level of protection;	~~(ac) the enforcement is contrary to the public policy of the enforcing Member State in relation to the return of certain categories of third-country nationals, such as unaccompanied minors and victims of human trafficking, to which national law provides for a higher level of protection;~~
Article 9(4), point (f)			
137e		(b) issuing a return decision pursuant to Article 7(1) is faster, including in case of a return to a third country with which the enforcing Member State has in place cooperation modalities, which allow for faster and more effective return or removal, or where issuing a return decision requires less resources than applying paragraph 1 and 3;	~~(b)~~ issuing a return decision pursuant to Article 7(1) is faster~~, including in case of a return to a third country with which the enforcing Member State has in place cooperation modalities, which allow for faster and more effective return or removal, or where issuing a return decision requires less resources than applying paragraph 1 and 3~~;
Article 9(4), point (e)			
137f		(ba) the information available in the European Return Order or in the Schengen Information System is incomplete;	~~(ba) the information available in the European Return Order or in the Schengen Information System is incomplete;~~
Article 9(4), point (g)			
137g		(bb) the third-country national has lodged an appeal against the return decision in the issuing Member State. The appeal against the return decision can only be lodged in the issuing Member State;	(bb) the third-country national has lodged an appeal against the return decision in the issuing Member State. The appeal against the return decision can only be lodged in the issuing Member State;
Article 9(4), point (h)			
137h		(c) the third-country national is transferred to another Member State in accordance with the procedure provided for in Article 23a of Regulation (EU) 2016/399;	~~(c) the third-country national is transferred to another Member State in accordance with the procedure provided for in Article 23a of Regulation (EU) 2016/399;~~

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Article 9(4), point (i)			
137i		(d) the third-country national is transferred to another Member State pursuant to bilateral agreements or arrangements existing on the date of application of this Regulation or based on cooperation between Member States in accordance with Article 44;	~~(d) the third-country national is transferred to another Member State pursuant to bilateral agreements or arrangements existing on the date of application of this Regulation or based on cooperation between Member States in accordance with Article 44;~~
Article 9(4), point (j)			
137j		(e) the third-country national is to be removed to a different third country than stated in the return decision or decision ordering the removal of the issuing Member State, or there is no country of return stated in the return decision.	(e) the third-country national is to be removed to a different third country than stated in the return decision or decision ordering the removal of the issuing Member State, or there is no country of return stated in the return decision.
Article 9(5)			
138	5.Where a Member State does not recognise or enforce a return decision pursuant to paragraph 1 or 3, that Member State shall issue a return decision in accordance with Article 7.	5.Where a Member State does not recognise or enforce a return decision or decision ordering the removal pursuant to paragraph 1, 3 or 3a, that Member State shall issue a return decision subject to the conditions of Article 7 or decision ordering the removal pursuant to Article 12(2).	5.Where a Member State does not recognise or enforce a return decision or decision ordering the removal pursuant to paragraph 1~~, 3 or 3a~~, that Member State shall issue a return decision subject to the conditions of Article 7 or decision ordering the removal pursuant to Article 12(2).
Article 9(6)			
139	6.The enforcing Member State shall suspend the enforcement of return where the effects of the return decision in the issuing Member State are suspended.	6.The enforcing Member State shall suspend the removal where the effects of the return decision or decision ordering the removal in the issuing Member State are suspended and may issue a return decision subject to the conditions of Article 7.	6.~~The enforcing~~***Where a*** Member State ***decide to recognise or enforce a return decision or decision ordering the removal pursuant to paragraph 1, it*** shall suspend the removal where the effects of the return decision or decision ordering the removal in the issuing Member State are suspended and may issue a return decision subject to the conditions of Article 7.
Article 9(7)			
140	7.Where the issuing Member State withdraws the return decision or when the return decision is annulled by a judicial authority, the enforcing	7.Where the issuing Member State suspends or withdraws the return decision or when the return decision is annulled by an administrative or	7.Where the issuing Member State suspends or withdraws the return decision or when the return decision is annulled by an administrative or

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	Member State shall issue a return decision subject to the conditions of Article 7.	judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.	judicial authority, the enforcing Member State shall issue a return decision subject to the conditions of Article 7.
Article 9(8)			
141	8.The issuing Member State shall provide the enforcing Member State with all available data and documents necessary for the purpose of enforcing the return decision, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.	8.The issuing Member State shall upon request provide the enforcing Member State with all available data and documents necessary for the purpose of return or removal, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.	8.The issuing Member State shall upon request provide the enforcing Member State with all available data and documents necessary for the purpose of return or removal, in accordance with Regulation (EU) 2018/1860 or based on exchange of information between Member States pursuant to Article 38.
Article 9(9)			
142	9.The enforcing Member State may ask Frontex to support the enforcement of the return decision in accordance with Chapter II, Section 8, of Regulation (EU) 2019/1896. When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing Member State, the issuing Member State shall compensate the enforcing Member State with an amount that shall not exceed the actual costs incurred by the enforcing Member State. The Commission shall adopt an implementing decision to determine the appropriate criteria for determining the amount and practical arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).	9.The enforcing Member State may ask Frontex to support the enforcement of the return decision in accordance with Chapter II, Section 8, of Regulation (EU) 2019/1896. When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing Member State, the issuing Member State shall compensate the enforcing Member State with an amount that shall not exceed the actual costs incurred by the enforcing Member State. The Commission shall adopt an implementing decision to determine the appropriate criteria for determining the amount and practical arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).	~~9.The enforcing Member State may ask Frontex to support the enforcement of the return decision in accordance with Chapter II, Section 8, of Regulation (EU) 2019/1896. When the enforcement of the return decision is not supported by Frontex, and upon request of the enforcing Member State, the issuing Member State shall compensate the enforcing Member State with an amount that shall not exceed the actual costs incurred by the enforcing Member State. The Commission shall adopt an implementing decision to determine the appropriate criteria for determining the amount and practical arrangements for the compensation. That implementing act shall be adopted in accordance with the procedure referred to in Article 49(2).~~
Article 9(9a)			
142a			***9a. The application of article 9 is without prejudice to the use of the exceptions set out in Article 8.***
Article 9(9a)			

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142b		9a. Three years after the publication pursuant to paragraph 3, the Commission shall review the effectiveness of this Article and shall, where appropriate, propose any targeted amendments to ensure effective returns	~~*9a. Three years after the publication pursuant to paragraph 3, the Commission shall review the effectiveness of this Article and shall, where appropriate, propose any targeted amendments to ensure effective returns*~~
Article 9(10)			
143	10. The Commission decision referred to in paragraph 2 shall be published in the Official Journal of the European Union.	10. The Council decision referred to in paragraph 2 shall be published in the Official Journal of the European Union.	~~*10. The Council decision referred to in paragraph 2 shall be published in the Official Journal of the European Union.*~~

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