



Council of the European Union  
General Secretariat

---

---

**Interinstitutional files:  
2025/0059 (COD)**

---

---

**Brussels, 10 July 2025**

**WK 9425/2025 INIT**

**LIMITE**

**JAI  
MIGR  
VISA  
RELEX  
ASILE  
FRONT  
COMIX  
CODEC**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

## **WORKING DOCUMENT**

---

From:	General Secretariat of the Council
To:	Working Party on Integration, Migration and Expulsion (IMEX Expulsion)
N° prev. doc.:	CM 3373/25; CM 3156/25; 6917/1/25 REV 1 + ADD 1-2
N° Cion doc.:	COM (2025) 101 FV2
Subject:	Regulation on establishing a common system for the return of third-country nationals staying illegally in the EU - Compilation of drafting proposals and comments on Articles 20 to 22

---

Delegations will find attached the compilation of Member States' drafting proposals and comments on Articles 20 to 22 of the draft Regulation on establishing a common system for the return of third-country nationals staying illegally in the EU, which was discussed at the Working Party on Intergration, Migration and Expulsion (IMEX Expulsion) meeting on 23 June 2025.

**Guidelines to be followed**

Please kindly provide your contributions in the table below.

**Drafting suggestions:** you may use 'track changes'\* or formatting (for example bold-underline for additions and ~~strike-through~~ for deletions, where necessary, in a different colour). \*Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted**.

New provisions may only be added in any of the '**existing cells**'.

**Name of document:** please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on ... .docx**

Thank you for your cooperation!

Commission proposal	Drafting Suggestions and Comments
General Comments	SE (Comments): SE retains a scrutiny reservation on the proposal as a whole.
2025/0059 (COD)	
Proposal for a	

<b>Commission proposal</b>	<b>Drafting Suggestions and Comments</b>
<b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>	
<b>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</b>	

Commission proposal	Drafting Suggestions and Comments
<p style="text-align: center;"><i>Article 20</i> <b><i>Return of unaccompanied minors</i></b></p>	<p>FR <b>(Comments):</b> Pas de commentaire.</p> <p>IT <b>(Comments):</b> This article should have a clearer and less general content and, in particular, contain references to the procedures and te manner by which the return of the minor is to be carried out (e.g., whether accompaniment by the representative or escort personnel is required, etc.), to the authority in charge of issuing the return decision, to whether a judicial review is necessary prior to the enforcement.</p> <p>SK <b>(Comments):</b> The Slovak Republic reserves the right to review.</p>
<p>1. Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be provided in accordance with the best interests of the child.</p>	<p>EL <b>(Comments):</b> Even though the term ‘appropriate bodies’ already exists under the Return Directive, we consider that, for clarity reasons, there is a need to specify it</p>

Commission proposal	Drafting Suggestions and Comments
	<p>further -in the context of the preamble- by providing for examples, i.e. ‘such as those related to child welfare, international protection and migration management.’</p> <p>ES  <b>(Drafting Suggestions):</b>  <del>Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be provided in accordance with the best interests of the child.</del></p> <p>ES  <b>(Comments):</b>                      This paragraph establishes very generic obligations (“provide assistance”) to unclear bodies (“appropriate bodies”) giving rise to legal uncertainty. The relevant obligations from the relevant authorities and institutions are laid down in the following paragraphs. Thus, we suggest the deletion of this paragraph.</p> <p>IT  <b>(Comments):</b>                      We consider the wording in paragraph 1 too general and unclear, giving rise to legal uncertainty. We would prefer a clearer wording, specifying what is</p>

Commission proposal	Drafting Suggestions and Comments
	<p>meant by “appropriate bodies” and clarifying what level of assistance can be considered in line with the best interests of the minor.</p>
<p>2. A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that the minor understands. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p>	<p>BE  <b>(Drafting Suggestions):</b>                      ... It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that the minor understands <b><u>or through support of a qualified interpreter.</u></b></p> <p>BE  <b>(Comments):</b>                      During the last IMEX, there was a majority of Member States stating that the obligation the representative should speak a language the minor understands is not feasible. Belgium agrees.</p> <p>BG  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-</p>

Commission proposal	Drafting Suggestions and Comments
	<p>appropriate communication and that they speak a language that the minor understands. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>BG (Comments):</p> <p>We have serious concerns about the high standards imposed by this provision regarding the skills of the UAMs' representative. According to the Bulgarian legislation the appointed representative is supported by interpretation services.</p> <p>DK (Drafting Suggestions):</p> <p>A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak <b>can communicate in</b> a language that the minor understands. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Directive. <b><u>Communication may be provided for with the use of an interpreter.</u></b></p> <p>EE (Drafting Suggestions):</p> <p>A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that the minor understands. That person shall be <b><u>An unaccompanied minor may be represented by</u></b> the person <b><u>who had been</u></b> designated to act as a representative under Directive (EU) 2024/1346 <del>where the person has been designated in accordance with Article 27 of that Directive.</del></p> <p>EE (Comments):</p> <p>According to Article 20(2), an appointed representative should speak a language that the minor understands. In our view, the obligation goes beyond to be considered as reasonable.</p> <p>Not all unaccompanied minors apply for international protection. Only in cases where a representative had been already appointed for an unaccompanied minor under Article 27 of the Directive (EU) 2024/1346 she/he may continue his/her tasks, unless there are justified reasons why a new representative must be</p>

appointed (e.g. unaccompanied minor subject to return is accommodated in other location).

EL

(Drafting Suggestions):

2. A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they ~~speak~~ **communicate in** a language that the minor understands, **with the support, where necessary, of interpretation services, including the use of automated translation and subtitling software for audio data through artificial intelligence tools.**

That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.

EL

(Comments):

Taking into account the geographical particularities of each Member State as well as the need to safeguard the best interest of the child, the communication between the representative or trained person and the unaccompanied minor

Commission proposal	Drafting Suggestions and Comments
	<p>should be possible to be conducted with the support of interpretation services, including the use of AI tools.</p> <p>ES (Drafting Suggestions):</p> <p>1. A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication. <b><u>If that person does not speak a language that the minors understands or is reasonably supposed to understand, translation or interpretation services shall be provided</u></b> and that they speak a language that the minor understands. That person shall <b><u>may</u></b> be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>ES (Comments):</p> <p>The representative should be duly trained to ensure that the best interest of the child is safeguarded. Speaking a language the minor understands or is</p>

Commission proposal	Drafting Suggestions and Comments
	<p>reasonably supposed to understand should not an absolute requirement to perform such duties, give the interpretation and translations possibilities. Despite the fact that, for efficiency purposes, the representative under the Reception Conditions Directive may be the most suitable person assisting the minor during the return process in general terms, it might not be the best option on a case by case basis.</p> <p>HR  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process  <b>and carries out preparations for the return of unaccompanied minors, which include obtaining a travel document, contacts with the competent foreign diplomatic mission, and obtaining written notification containing information about who will take care of the unaccompanied child in a third country.</b>                      It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication <del>and that they speak a language that the minor understands.</del></p>

Commission proposal	Drafting Suggestions and Comments
	<p>HR  <b>(Comments):</b>                      While the intention behind this measure is understandable, it is not a feasible solution in practice. Although in some Member States guardians with a migration background may speak the same language as the minor, this cannot be expected universally. In smaller Member States in particular, it is unrealistic to assume that guardians or social workers will be able to communicate in languages such as Pashto, Turkish, or Urdu.</p> <p>HU  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process  <b>and carries out preparations for the return of unaccompanied minors, which include obtaining a travel document, contacts with the competent foreign diplomatic mission, and obtaining written notification containing information about who will take care of the unaccompanied child in a third country.</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication <del>and that they speak a language that the minor understands.</del></p> <p>HU  <b>(Comments):</b>                      While the intention behind this measure is understandable, it is not a feasible solution in practice. Although in some Member States guardians with a migration background may speak the same language as the minor, this cannot be expected universally. In smaller Member States in particular, it is unrealistic to assume that guardians or social workers will be able to communicate in languages such as Pashto, Turkish, or Urdu.</p> <p>IE  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication <del>and that they speak a language that the minor understands</del> <b><u>where necessary, is accompanied by an appropriately trained translator.</u></b> That person shall be the person designated to act as a</p>

Commission proposal	Drafting Suggestions and Comments
	<p>representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>IE <b>(Comments):</b></p> <p>IE does not consider this provision to be practical, and foresees difficulties with implementing such a provision if it is not amended.</p> <p>IE considers it may be very difficult to identify persons who are appropriately trained and speak the language of the child, particularly where the language is relatively uncommon. IE proposes that 20(2) allow for a representative appointed to safeguard the best interests of the child be accompanied by an appropriately trained translator in circumstances where it is not possible to appoint a representative who speaks the language of the unaccompanied minor due to operational and resourcing requirements.</p> <p>In respect of 20(3), we are curious to understand under what circumstances would it be appropriate to return an unaccompanied minor to a place other than their country of origin?</p>

Commission proposal	Drafting Suggestions and Comments
	<p>IE note that a key challenge in returning unaccompanied minors is often the cooperation of their family members in the country of origin.</p> <p>IT  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication <del>and that they speak a language that the minor understands.</del> <b><u>If that person does not speak a language that the minors understands, translation or interpretation services shall be provided</u></b></p> <p>That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive</p> <p>IT  <b>(Comments):</b>                      The representative should be duly trained to ensure that the best interest of the child is safeguarded, but we consider it useful to allow the use of</p>

Commission proposal	Drafting Suggestions and Comments
	<p>interpreters to streamline the procedure and not make it mandatory for the representative to speak a language the minor understands.</p> <p>LT (Drafting Suggestions):</p> <p>A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that the minor understands. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>LT (Comments):</p> <p>We do not support the requirement that the representative should speak a language that the minor understands - this is not realistic, especially in small Member States. We believe that an interpreter could be used in such cases.</p> <p>LU (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>The current wording does not allow the possibility of the representative to use an interpreter to communicate with the unaccompanied minor.</p> <p>LV (Drafting Suggestions):</p> <p>2. A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that <b><u>they are capable of communicating with the minor, including by utilising technological means for interpretation</u></b><del>they speak a language that the minor understands</del>. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>LV (Comments):</p> <p>Latvia has a serious concern regarding the obligation contained in Article 20(2) for Member States to ensure that the representative appointed to the unaccompanied minor is both - educated in matters of the rights of the child and speaks a language that the minor understands.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Although there is no doubt that the appointment of such a person is adequate in respect to the rights of the child and should therefore be encouraged, it would be extremely difficult, from a practical point of view, to find a guardian (representative) in Latvia who is educated in matters of the rights of the child and freely speaks the language of the child. Latvia's suggestion would therefore be that, taking into account technological developments (e.g. applications on mobile phones) and the possibility of attracting an interpreter, the provision contained in Article 20(2) could focus on the ability of the representative appointed to communicate with the child (including through the use of technological means).</p> <p>MT  <b>(Drafting Suggestions):</b>                      A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication. <del>and that they</del> <b>Where the representative does not speak a language that the minor understands-, communication shall be ensured through the means of interpretation services.</b> That person shall be the person designated to act as a representative under Directive (EU)</p>

Commission proposal	Drafting Suggestions and Comments
	<p>2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>MT (Comments): Malta views the language requirement to not take into account the practical realities of finding representatives able to speak any given language the child may speak. This would pose an especially disproportional burden on smaller Member States.</p> <p>NL (Drafting Suggestions): A representative or a person trained to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication, <u>where necessary by means of an interpreter, and that they speak a language that the minor understands</u>. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>NL (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>NL is of the view that it is impractical to arrange that the representative speaks the language of the unaccompanied minor. Instead it should be made clear that an interpreter can be used.</p> <p>SE  <b>(Drafting Suggestions):</b></p> <p>2. A representative <del>or a person trained to safeguard the best interest of the child</del> shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication and that they speak <b><u>communication can take place in</u></b> a language that the minor understands.</p> <p>That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>SE  <b>(Comments):</b></p> <p>We do not see the added value with the addition “or a person trained to safeguard the best interest of the child” . The difference between the two actors is unclear. Both are acting as representatives. And the qualifications</p>

Commission proposal	Drafting Suggestions and Comments
	<p>for being appointed is the same as stated in the following sentence in the paragraph.</p> <p>The requirement that the appointed representative need to speak a language that the minor understands is too far-reaching and will be very difficult to apply in practice. The proposal appears to go further than the Asylum Procedure Regulation (APR) in this regard.</p> <p>CH  (Drafting Suggestions):</p> <p>2. A representative or <b>another</b> person <del>trained to safeguard the best interest of the child</del> shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process <b>to safeguard the best interest of the child</b>. It shall be ensured that the appointed <b>person is able to communicate with</b> <del>representative is appropriately trained in child-friendly and age-appropriate communication and that they speak a language that</del> <b>the minor in a language that the minor understands, at least with assistance of a translator</b>. That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p> <p>CH</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>The requirement that the representative speaks the language the child understands appears excessive. It is also is not provided in the asylum procedure under the APR in which protection from non-refoulement is examined in detail and would normally warrant such a requirement more than this regulation. Such a requirement would constitute a prohibition of using interpreters and may result in requirements to have Arab-speaking representatives for children from Maghreb countries. Even when French is the official language of these countries, many children do not understand French sufficiently well. Therefore, Arabic interpreters have to be present for interviews. It is much easier to contract an Arabic interpreter than to appoint a representative speaking Arabic. There is a substantial risk that in many rural areas there may not be any representatives that would be able to speak the language of the minors and that there would be too few even in international cities such as Geneva.</p> <p>Therefore, the requirement for the representative to speak in the language of the child should be replaced with the proposed wording, which would allow use of a translator.</p> <p>IS</p> <p><b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>This requirement is unrealistic in practice, as Iceland cannot guarantee that representatives will speak all the various languages of unaccompanied minors.</p> <p>Iceland has used professional interpretation services to meet communication needs, and countries should be allowed to rely on such solutions.</p> <p>NO  <b>(Drafting Suggestions):</b>                      A representative or a person <b>mandatet trained</b> to safeguard the best interest of the child shall be appointed to represent, assist and act, as applicable, on behalf of an unaccompanied minor in the return process. It shall be ensured that the appointed representative is appropriately trained in child-friendly and age-appropriate communication <b>and that they speak a language that the minor understands and that they can communicate with the minor, at least with the assistance of a translator.</b> That person shall be the person designated to act as a representative under Directive (EU) 2024/1346 where the person has been designated in accordance with Article 27 of that Directive.</p>
<p>3. The unaccompanied minor shall be heard, either directly or through the representative or trained person referred to in paragraph 2, including in the context of the determination of the best interests of the child. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will</p>	<p>BG  <b>(Drafting Suggestions):</b>                      The unaccompanied minor shall be heard, either directly or through the representative or trained person referred to in paragraph 2, including in the</p>

Commission proposal	Drafting Suggestions and Comments
<p>be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return.</p>	<p>context of the determination of the best interests of the child. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied <b><u>that the unaccompanied minor will be taken in charge by the authorities of the third country of return</u></b> <del>he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return.</del></p> <p>BG (Comments):</p> <p>We are aware that the requirement under the second sentence currently exists in the Return Directive, but we have encountered difficulties in implementing it. Therefore we deem it necessary to amend the requirement, while preserving the best interests of the child. The text that we propose is used in APR. The idea is that the authorities of the third country of return will take charge on the interests of the child according to their national legislation.</p> <p>ES (Drafting Suggestions):</p> <p>2. The unaccompanied minor shall be heard, either directly or through the representative or trained person referred to in paragraph 2, including in the context of the determination of the best interests of the child. Before removing an unaccompanied minor from the territory of a Member State, the</p>

Commission proposal	Drafting Suggestions and Comments
	<p>authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities <u>the reception or child protection services</u> in the country of return.</p> <p>ES (Comments): The terms “adequate reception facilities” are vague and questionable from the legal perspective. In this regard, mention should rather be made to the reception or child protection services in the country of return.</p> <p>NL (Drafting Suggestions): The unaccompanied minor shall be heard, either directly or through the representative or trained person referred to in paragraph 2, including in the context of the determination of the best interests of the child. <u>After issuing a return decision but B</u>efore removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return.</p> <p>NL</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>In order to ensure clarity that a return decision can <u>always</u> be issued, NL wants to add that after a return decision has been issued the Member States will be satisfied that the enforcement of the return decision will only take place when someone is returned to his or her family, nominated guardian or adequate reception facilities.</p> <p>RO</p> <p><b>(Drafting Suggestions):</b></p> <p>The unaccompanied minor shall be <del>heard</del>, <b>interviewed</b> either directly or through the representative or trained person referred to in paragraph 2, including in the context of the determination of the best interests of the child. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall <del>be satisfied</del> <b>ensure</b> that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return.</p> <p>RO</p> <p><b>(Comments):</b></p> <p>Romania proposes changing the word “heard” with “interviewed”, in order to avoid misinterpretation, especially at national level, when the Regulation</p>

<b>Commission proposal</b>	<b>Drafting Suggestions and Comments</b>
	<p>will be translated into all EU official languages, this term has a different meaning into Romanian.</p> <p>As for the second modification, Romania suggests a different term, which highlights better with the idea of the text.</p>

Commission proposal	Drafting Suggestions and Comments
<p style="text-align: center;"><b>Chapter III</b></p> <p style="text-align: center;"><b>OBLIGATIONS OF THE THIRD-COUNTRY NATIONAL</b></p>	<p>CH (Comments):</p> <p>As a general remark on Chapter III and Art. 24, the scope of application of the obligations and measures in terms of time needs to be clearly defined.</p> <p>The proposal does not clearly define the scope but refers to ‘all stages of the return and readmission procedures’ or the ‘return procedure’.</p> <p>However, the notion of the return procedure is not defined. Such a definition may not be necessary either.</p> <p>Furthermore, the return cases vary considerably. For example, an illegally staying third-country national coming to a migration authority to request a residency permit and who is represented by a lawyer may not even be interviewed before a return decision issued. Therefore, there is not one specific point in which all return cases start. This makes return different from asylum in which all procedures begin with an application.</p> <p>Therefore, CH recommends that the regulation should refrain from resorting to the ‘return procedure’ and instead make Art. 21-24 applicable to all illegally-staying third-country nationals, which corresponds to the scope of the regulation as defined in Art. 2(1).</p>

<p style="text-align: center;"><i>Article 21</i> <b><i>Obligation to cooperate</i></b></p>	<p>FR <b>(Comments):</b></p> <p>La France salue la création d'une obligation de coopération mise à la charge de l'étranger en situation irrégulière (ESI) faisant l'objet d'une décision de retour, laquelle permet de rappeler que c'est sur ce dernier que pèse en premier lieu la responsabilité de la bonne exécution de cette décision.</p> <p>Elle estime toutefois que ces dispositions pourraient aller beaucoup plus loin, notamment s'agissant des ESI faisant obstacle à leur identification. En effet en France, les autorités compétentes estiment que la première cause d'échec à l'éloignement est la difficulté à identifier le ressortissant : plus d'un éloignement sur trois échoue à cause de l'impossibilité de déterminer l'identité et la nationalité de l'étranger en situation irrégulière.</p> <p>La France propose donc un article 21bis, ayant spécifiquement pour objet d'habiliter les autorités compétentes des États membres à faire usage d'un certain nombre de prérogatives leur permettant d'identifier les étrangers en situation irrégulière qui refusent de coopérer.</p> <p>Ces pouvoirs consistent en la possibilité, dès lors que l'étranger en situation irrégulière refuse de coopérer et donc sans son consentement :</p> <ul style="list-style-type: none"><li>- de fouiller ses effets personnels, <b>incluant ses appareils électroniques</b> : en particulier leur téléphone portable. En effet, de nombreux étrangers en situation irrégulière dissimulent ou déchirent leurs documents d'identité et de voyage, mais en gardent une copie sur leur téléphone. L'objectif n'est donc pas tant de fouiller l'étranger en situation irrégulière lui-même, comme le prévoit l'actuel article 21, que ses appareils électroniques pour trouver des</li></ul>
--	--

Commission proposal	Drafting Suggestions and Comments
	<p>copies de ses documents officiels qui permettront son éloignement. Il s’agirait d’introduire des dispositions comparables à celles retenues au considérant 22 et l’article 9, paragraphe 5 du règlement APR ;</p> <ul style="list-style-type: none"> <li>- de visiter son domicile et son véhicule pour y rechercher des documents d’identité ou de voyage ;</li> <li>- de requérir auprès d’autres autorités nationales ou d’organismes la communication de toute information ou de tout document relatif à l’étranger en situation irrégulière ;</li> <li>- de procéder à la collecte forcée des données biométriques de l’étranger en situation irrégulière (empreintes, photo);</li> <li>- d’escorter l’étranger en situation irrégulière en vue de se présenter devant les autorités nationales ou consulaires compétentes pour établir sa nationalité ou pour obtenir un document de voyage.</li> </ul> <p>Dans tous les cas, les autorités compétentes ne pourront faire usage de ces prérogatives que dans le but de déterminer l’identité et la nationalité de l’étranger en situation irrégulière, et ne pourront donc collecter et exploiter que les données personnelles strictement nécessaires à son identification, dans le respect du cadre fixé par le droit européen des données personnelles.</p> <p>Le paragraphe 4, qui s’inspire du paragraphe 6 de l’article 21, précise enfin que les États membres devront prévoir, dans leur droit national, l’ensemble des garanties et des voies de recours offertes à l’étranger en situation irrégulière. Notre proposition d’écriture mentionne notamment la nécessité d’obtenir l’autorisation préalable de</p>

09/07/2025 00:02

Commission proposal	Drafting Suggestions and Comments
	<p>L'autorité judiciaire ou d'une autorité administrative indépendante, sauf en cas d'urgence dûment justifié.</p> <p>Sur le reste de l'article 21, la France a d'autres demandes importantes :</p> <ul style="list-style-type: none"> <li>➤ Au paragraphe 2, d'ajouter, à la suite du point (a), un point (a bis) habilitant les autorités compétentes à requérir, au titre de l'obligation de coopération, la <b>remise par l'étranger en situation irrégulière de l'ensemble de ses titres d'identité et de voyage</b>, en échange d'un récépissé valant justificatif d'identité et de situation administrative. Cette mesure ne saurait en effet constituer une alternative à la rétention (cf. art. 31, para 1, point (b) de la proposition de règlement) ni une sanction (article 22 point (3)) : quelles que soient les circonstances de l'espèce, et notamment le niveau du risque de fuite, <b>la remise des titres d'identité et de voyage est indispensable pour établir ou vérifier l'identité et la nationalité de l'étranger en situation irrégulière, préparer son retour et s'assurer de l'effectivité de celui-ci</b> ;</li> <li>➤ Au paragraphe 4, <b>de supprimer l'obligation pour les autorités compétentes de donner à l'étranger en situation irrégulière une copie des documents qu'il leur a remis</b> en application des points (a bis) et (b) du paragraphe 2 : cela ferait en effet peser sur ces autorités une charge administrative disproportionnée. De plus, il n'apparaît pas opportun de donner à l'étranger en situation irrégulière la copie de ses titres d'identité et de voyage. Un récépissé valant justificatif d'identité et de situation administrative lui sera en revanche délivré, en application du paragraphe (a bis), afin de lui permettre de circuler.</li> </ul> <p>En outre, elle souligne la nécessité :</p>

09/07/2025 00:02

Commission proposal	Drafting Suggestions and Comments
	<ul style="list-style-type: none"> <li>➤ Au premier alinéa du paragraphe 1<sup>er</sup>, d'étendre le champ de l'obligation de déclarer tout changement de situation à la communication aux autorités compétentes de toute information utile à la mise en œuvre de la procédure de retour (procédure de réadmission incluse), et non seulement de toute information utile à l'application de l'article 5 (droits fondamentaux).</li> <li>➤ Au point (b) du paragraphe 2, d'étendre le champ de l'obligation de communiquer toute information ou tout document aux autorités compétentes à <b>la communication de documents numériques et de copies</b>, dès lors que cette information ou ce document permet d'établir ou de vérifier l'identité ou la nationalité de l'étranger en situation irrégulière (et non seulement son identité) ;</li> <li>➤ Au point (c) du paragraphe 2, d'interdire expressément, d'une part, la destruction volontaire d'informations (et non seulement de documents) nécessaires à la détermination de l'identité ou de la nationalité de l'étranger en situation irrégulière, et d'autre part, la communication de documents falsifiés (et non seulement d'informations fausses) ;</li> <li>➤ Au point (k) du paragraphe 2, de permettre le recours à la vidéoconférence en toutes circonstances pour la présentation de l'étranger en situation irrégulière devant les autorités consulaires compétentes ;</li> <li>➤ Aux points (b) et (c) du paragraphe 3, de faire clairement apparaître que la détermination du pays de retour participe de l'objectif général de mise en œuvre de la procédure de retour (incluant la procédure de réadmission) ;</li> <li>➤ Au point (e) du paragraphe 3, d'ajouter à la liste des informations et documents que l'étranger en situation irrégulière doit communiquer aux autorités compétentes celles et ceux qui concernent, le cas échéant, l'interdiction d'entrée dont il fait l'objet,</li> </ul>

09/07/2025 00:02

Commission proposal	Drafting Suggestions and Comments
	<p>➤ Au paragraphe 5, de supprimer l'obligation pour les États membres de définir dans leur droit national les modalités de communication avec l'étranger en situation irrégulière : ces dispositions ne respectent en effet pas les principes de subsidiarité et de proportionnalité posés par le TFUE.</p> <p>SE (Comments): Sweden welcomes that obligation for third-country nationals who have been issued with a return decision to cooperate with the authorities throughout the return procedure is being clarified.</p> <p>CH (Comments): CH considers the definition of an obligation to cooperate as one of the main positive aspects of the Commission's proposal.</p>
<p>1. Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p>	<p>AT (Drafting Suggestions):</p> <p>1. Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply <u>independently and as quickly as possible</u> with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with</p>

Commission proposal	Drafting Suggestions and Comments
	<p>information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>We also have the following new supplementary proposals to add in Para 1:</p> <p><u>The irregularly resident third-country national is obliged:</u></p> <ul style="list-style-type: none"> <li>a) <u>to comply immediately and independently with a legal or officially ordered obligation to leave the country,</u></li> <li>b) <u>to immediately and independently endeavor to obtain an emergency travel document if one is not available,</u></li> <li>c) <u>to make use of return counseling immediately and independently, if a corresponding offer exists and support is required for voluntary departure,</u></li> <li>d) <u>to provide the competent authority or the return counselling organization with all necessary information completely, truthfully and without delay upon request.</u></li> </ul> <p>AT  <b>(Comments):</b>                      AT considers this Article as an important new obligation, which should build the centerpiece of the Regulation.                      Nevertheless, one of our main concerns for the new regulation, namely the clear focus on the obligation to comply with the Third country national on</p>

Commission proposal	Drafting Suggestions and Comments
	<p>his/her own initiative, is not clearly reflected. The obligation to take active action is not formulated strongly enough.</p> <p>It should therefore be added to para. 1 that the person must comply with their obligation to leave the territory of the MS as quickly as possible and on their own initiative.</p> <p>Furthermore, Art. 21 - 23 do not define the point in time at which the obligation or the right to information begins. However, this point in time must be defined in the text of the regulation. Merely referring to all phases of the procedure is too vague. As already mentioned, and as a general concern, AT supports the division of the procedure into “before” and “after” the return decision has been issued.</p> <p>BG (Drafting Suggestions):</p> <p>1. Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return <del>and readmission</del> procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of <u>this Regulation</u> <del>Article 5</del>, without undue delay.</p> <p>BG</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p> <p>Our understanding is that the third country nationals should cooperate for the purposes of this Regulation.</p> <p>DK</p> <p><b>(Drafting Suggestions):</b></p> <p>Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>DK</p> <p><b>(Comments):</b></p> <p>It should be stated that the TCN has the obligation to cooperate. “Shall have” implies that the TCN must be issued a decision imposing the obligation. The</p>

Commission proposal	Drafting Suggestions and Comments
	<p>obligation should, however, apply at the moment they stay illegally in the territory.</p> <p>Also, the TCN shall provide all relevant information, not just relevant for Article 5.</p> <p>EE  <b>(Drafting Suggestions):</b>                      Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>EE  <b>(Comments):</b>                      We propose to delete the reference to Article 5. The returnee should inform the competent authority immediately if his/her individual circumstances change.</p> <p>EL  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>1. Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>EL  <b>(Comments):</b>                      There is an inconsistency throughout this Article with regard to the use of the terms ‘return and readmission procedures’ (i.e. in para 2, only the wording ‘return procedure’ is used).                      We propose using the term ‘return procedure’ throughout the text, because, as we have already commented, we consider readmission to be an integral part of the return procedure.</p> <p>ES  <b>(Drafting Suggestions):</b>                      1. Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the</p>

Commission proposal	Drafting Suggestions and Comments
	<p>territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of <del>Article 5</del> <b><u>the application of this Regulation</u></b>, without undue delay.</p> <p>ES (Comments): The obligation to provide information should there be any changes in the individual situation of the person subject to return should cover the application of the whole Regulation, not only for the purpose of Article 5, related to Fundamental Rights.</p> <p>FR (Drafting Suggestions): 1. Third-country nationals shall <del>have the obligation to</del> cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in <del>his or her</del> <b><u>their</u></b> individual situation relevant for the purpose of <del>Article 5</del> <b><u>carrying out the return and readmission procedures and applying Article 5</u></b>, without undue delay.</p> <p>IE</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p>Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, <del>without undue delay</del> <b><u>within 7 working days</u></b>.</p> <p>IE</p> <p><b>(Comments):</b></p> <p>On 20(1), what is meant by ‘undue delay’? IE consider it advisable to include a specific time period in this provision, for example, 7 working days.</p> <p>IT</p> <p><b>(Drafting Suggestions):</b></p> <p>Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures, <b><u>including when detained due to judicial proceedings</u></b>, and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities</p>

Commission proposal	Drafting Suggestions and Comments
	<p>with information on any relevant changes in his or her individual situation relevant for the purpose of <del>Article 5</del> <b>this Regulation</b>, without undue delay</p> <p>IT  <b>(Comments):</b></p> <p>It would be helpful to clarify that the obligation to cooperate is relevant even if the TCN is in detention due to a judicial proceeding.</p> <p>Regarding the obligation to provide information mentioned at the end of the paragraph, we believe that it should not be limited to the purposes of just Article 5.</p> <p>LT  <b>(Drafting Suggestions):</b></p> <p>Third-country nationals shall have the obligation to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of <del>Article 5</del>, without undue delay.</p> <p>LT  <b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>We believe that the purpose is much broader than what is provided for in Article 5.</p> <p>LV (Drafting Suggestions):</p> <p>1. Third-country nationals shall <del>have the obligation to</del> cooperate with the competent authorities of the Member States at all stages of the return and readmission procedures and comply with the obligation to leave the territory of the Member States. Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>LV (Comments):</p> <p>In Latvia’s view this would be a more precise and clear formulation of the obligation.</p> <p>NL (Drafting Suggestions):</p> <p>Third-country nationals <u>without a right to stay</u> shall <del>have comply with</del> the obligation <u>to leave the territory of the Member States and have the obligation to</u> cooperate with the competent authorities of the Member States at all stages of the return <del>and readmission procedures and comply with the obligation to</del></p>

Commission proposal	Drafting Suggestions and Comments
	<p><del>leave the territory of the Member States.</del> Third-country nationals shall provide competent authorities with information on any relevant changes in <del>his or her</del><u>their</u> individual situation <del>relevant for the purpose of Article 5,</del> without undue delay.</p> <p>NL  <b>(Comments):</b>                      NL is of the view that the obligation to leave should be the prior focus of this paragraph.</p> <p>CH  <b>(Drafting Suggestions):</b>                      1. Third-country nationals <b><u>without a right to stay</u></b> shall have <b><u>comply with</u></b> the obligation <b><u>to leave the territory of the Member States and have the obligation</u></b> to cooperate with the competent authorities of the Member States at all stages of the return and readmission procedure <del>and comply with the obligation to leave the territory of the Member States.</del> Third-country nationals shall provide competent authorities with information on any relevant changes in his or her individual situation relevant for the purpose of Article 5, without undue delay.</p> <p>CH</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>As indicated above, CH recommends that the regulation should refrain from resorting to the ‘return procedure’ and instead make Art. 21-24 applicable to all illegally-staying third-country nationals, which corresponds to the scope of the regulation as defined in Art. 2(1).</p> <p>The third-country national’s obligation to provide information on any relevant changes to his or her situation should be inserted in Paragraph 2, possibly under Let. h which refers to information about changes to the contact details, and without reference to Article 5.</p>
	<p>CH</p> <p><b>(Comments):</b></p> <p>It will be important to examine the the obligations under Art. 21(2-6) with great care.</p> <p>At the same time, there is a substantial risk that even the best possible drafting today may prevent Member States the possibility of introducing the necessary obligations for tomorrow when the need appears or technology becomes available. For example, before the pandemic it was inconceivable that the introduction of an obligation to undergo Covid-19 testing would</p>

Commission proposal	Drafting Suggestions and Comments
	<p>become a necessity to ensure returns of third-country nationals. Therefore, first and foremost Member States should be given the possibility to provide for further measures in national law.</p>
<p>2. Third-country nationals shall:</p>	<p>DK  <b>(Drafting Suggestions):</b>  <u>Without prejudice to other obligations set out in national law, the</u> <del>T</del>third-country nationals shall:</p> <p>DK  <b>(Comments):</b>                      It is important that the Member States are not limited in the obligations, that the TCN is imposed.</p> <p>EE  <b>(Drafting Suggestions):</b>  <u>Without prejudice to other obligations set out in national law, the</u> third-country nationals shall:</p> <p>EE  <b>(Comments):</b>                      MS should have the right to set additional obligations on third country nationals subject to return based on their national law. E.g. in Estonia a DNA</p>

Commission proposal	Drafting Suggestions and Comments
	<p>test may be required to prove biological parentage. In addition, the conditions for entry and stay may change (e.g 5 years ago Covid-tests were required).</p> <p>FR (Drafting Suggestions):</p> <p>2. Third-country nationals shall:</p> <p>HR (Drafting Suggestions):</p> <p>Third-country nationals shall are obliged:</p> <p>HU (Drafting Suggestions):</p> <p>Third-country nationals shall are obliged:</p> <p>IE (Comments):</p> <p>Are these clauses cumulative clauses? It should be made clear in the text whether a TCN is required to fulfill all the obligations outlined or just some.</p> <p>CH (Comments):</p> <p>Furthermore, the following obligations should be included:</p>

Commission proposal	Drafting Suggestions and Comments
	<ul style="list-style-type: none"> <li>- obligation to be reachable by any means of communication as defined by the Member State.</li> <li>- obligation to appear at appointments for purposes of identification and obtention of travel documents (e.g. consular interviews, identification missions, identification interviews by videoconference);</li> <li>- obligation to undergo testing for epidemics and pandemics (e.g. Covid-19);</li> </ul> <p>A number of obligations that relate to the provision of information such as the contact details Art. 21(2)(g) need to be rephrased to add “when asked” or “when requested”.</p>
<p>a. remain on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State;</p>	<p>AT (Drafting Suggestions): remain on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State <u>if an independent departure is not yet possible.</u></p> <p>EL (Drafting Suggestions): <u>1<sup>st</sup> option</u></p>

Commission proposal	Drafting Suggestions and Comments
	<p>Deletion. Point (i) to be transferred here as point (a).</p> <p><b><u>2<sup>nd</sup> option</u></b></p> <p>Combined amendment of points (a) and (i)</p> <p>a. <b><u>remain available in accordance with Article 23 throughout the return procedure, including during the postponement of the removal, on the territory of the Member State enforcing the return decision, not abscond to another Member State and appear for the departure for the transportation for return;</u></b></p> <p>EL  <b>(Comments):</b></p> <p>Point (i) states the obligation to remain available to the competent authorities and we consider that this obligation should be the first one under this catalogue. To our understanding this cannot be achieved without remaining on the territory of the Member State enforcing the return decision and not absconding.</p> <p>Furthemore, we consider that this obligation should be maintained during the period that the return decision may have been postponed, and for reasons of legal clarity we propose to include relevant wording.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>ES (Drafting Suggestions):</p> <p><i>OPTION A</i></p> <p>a. remain on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State;</p> <p><b><u>remain available to the competent authorities and not abscond in accordance with Article 23 throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return</u></b></p> <p><i>OPTION B</i></p> <p>a. remain <b><u>available to the competent authorities in accordance with Article 23 throughout the return and readmission procedures</u></b> on the territory of the Member State competent for the return procedure of which the third-country national is the subject, <del>and not abscond to another Member State,</del> <b><u>and in particular appear for the departure for the transportation for return</u></b></p> <p>ES (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Points a) and i) seem to refer to the same obligation: remaining available to the competent authorities and not absconding in order to implement the return effectively.</p> <p>In this regard, two options are suggested: either keeping just one of the obligations which covers this obligation or combining an amended version of points a) and i)</p> <p>FR  <b>(Drafting Suggestions):</b>                      a. remain on the territory of the Member State competent for the return procedure of which <del>the third-country national is</del> <u>they are</u> the subject and not abscond to another Member State;  <u><b>a bis. surrender immediately, where requested by competent authorities, all identity and travel documents, and be provided in return with a document establishing their identity and administrative status;</b></u></p> <p>LU  <b>(Comments):</b>                      LU insists on maintaining this paragraph.</p> <p>LV  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>a. remain on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond to another Member State, <b>unless there are other compelling reasons preventing the return from being carried out from the territory of the Member State responsible for the return procedure</b></p> <p>LV  <b>(Comments):</b>                      Article 21(2)(a) requires the third-country national to remain on the territory of the Member State competent for the return procedure. In our view, this subparagraph must be clarified in order to distinguish it from the obligation of a third-country national to leave a Member State in a situation where there is no real possibility of enforcing a return decision without crossing the territory of another Member State.</p> <p>NL  <b>(Drafting Suggestions):</b>                      remain on the territory of the Member State competent for the return procedure of which the third-country national is the subject and not abscond, <u>including</u> to another Member State</p> <p>NL</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>It must be clear that third country nationals should never abscond, even in the MS where they are supposed to be.</p> <p>CH</p> <p><b>(Comments):</b></p> <p>CH welcomes that the obligation to remain on the territory of the Member State is included in the definition. This obligation should be restricted to “before return”.</p> <p>Furthermore, the third-country national should have the possibility to transit other Member States to return during the time period provided in the return decision, but Art. 21 may not be the appropriate location for providing for this possibility.</p>
<p>b. provide, where requested by competent authorities and without undue delay, all information and physical documentation necessary for establishing or verifying identity or otherwise relevant within the return and readmission procedure that they possess;</p>	<p>AT</p> <p><b>(Drafting Suggestions):</b></p> <p>provide, where requested by competent authorities and without undue delay, all information and physical documentation necessary for establishing or verifying identity or otherwise relevant within the return and readmission</p>

Commission proposal	Drafting Suggestions and Comments
	<p>procedure that they possess; <u>If a travel document is physically provided to the authority, it may also remain with the authority.</u></p> <p>AT (Comments): If a travel document is physically (voluntarily) provided to the authority in accordance with Article 21(2)(b), it may also remain with the authority. This should be explicitly stated in the legal text.</p> <p>BG (Drafting Suggestions): b. provide, where requested by competent authorities and without undue delay, all information and physical documentation necessary for establishing or verifying identity or otherwise relevant within the return <del>and readmission</del> procedure that they possess;</p> <p>BG (Comments): We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p> <p>FR (Drafting Suggestions):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>b. provide, where requested by competent authorities and without undue delay, all information and <del>physical</del> documentation <u>in their possession, whether originals or copies</u>, necessary for establishing or verifying <u>their</u> identity, <u>nationality</u> or otherwise relevant within the return and readmission procedures <del>that they possess</del></p> <p>NL  (Drafting Suggestions):  provide, where requested by competent authorities and without undue delay, all information and physical <u>or copies of</u> documentation necessary for establishing or verifying <u>their</u> identity <u>or nationality</u> or otherwise relevant within the return <del>and readmission</del> procedure that they possess</p> <p>CH  (Comments):  This provision should explicitly mention that when requested, identity and travel documents shall be surrendered.</p> <p>In addition, this provision should also include an obligation to surrender computers and mobile devices upon request. Since such devices often contain more information on the identity than third-country nationals want to reveal, it appears important that such an obligation is also included.</p>

Commission proposal	Drafting Suggestions and Comments
<p>c. not destroy or otherwise dispose of such documents, use aliases with fraudulent intent, provide other false information in an oral or written form, or otherwise fraudulently oppose the return or readmission procedure;</p>	<p>BG (Drafting Suggestions):</p> <p>c. not destroy or otherwise dispose of such documents, use aliases with fraudulent intent, provide other false information in an oral or written form, or otherwise fraudulently oppose the return <del>or readmission</del> procedure;</p> <p>BG (Comments):</p> <p>We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p> <p>FR (Drafting Suggestions):</p> <p>c. not destroy or otherwise dispose of such <b>information and</b> documents, use aliases with fraudulent intent, provide other false information in an oral or written form <b>or provide falsified documents</b>, or otherwise fraudulently oppose the return or readmission procedure;</p> <p>LT (Comments):</p> <p>There may be cases when the TCN will need to dispose of documents (for consular applications, etc.).</p>

Commission proposal	Drafting Suggestions and Comments
	NL (Drafting Suggestions): not destroy or otherwise dispose of such documents, use aliases with fraudulent intent, provide other false information in an oral or written form, or otherwise fraudulently <u>or violently</u> oppose the return or readmission procedure
d. provide an explanation in case they are not in possession of an identity or travel document;	
e. provide information on the third countries transited;	
f. provide biometric data as defined in Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council <sup>1</sup> ;	ES (Drafting Suggestions):

<sup>1</sup> Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of ‘Eurodac’ for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council (OJ L, 2024/1358, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1358/oj>).

Commission proposal	Drafting Suggestions and Comments
	<p>provide biometric data as defined <b><u>in national and Union legislation</u></b>. Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council</p> <p>IE  <b>(Drafting Suggestions):</b>                      provide biometric data as defined in Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council, <b><u>or where applicable, provide a national identity number;</u></b></p> <p>IE  <b>(Comments):</b>                      Here there is a reference to biometric data. IE think it should be possible to include a reference to a TCN providing a national identity number if they have one. IE has in practice noticed it is easier to contact Embassies and get confirmation if a TCN has ever held a travel document when this national identity number has been provided. IE would welcome the possibility of there being a legal obligation to provide these details.</p> <p>LT  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>provide biometric data as defined in Article 2(1), point (s), of Regulation (EU) 2024/1358 of the European Parliament and of the Council<sup>2</sup>;</p> <p>LT (Comments): We suggest going beyond Eurodac data.</p> <p>LV (Comments): It is Latvia’s view that it would be useful to complement the obligation of third-country national to provide biometric data with similar wording as in Article 13(3) of the Eurodac regulation regarding measures for ensuring compliance with the obligation to provide biometric data, including the possibility to use means of coercion as a last resort if the third-country national refuses to provide biometric data.</p> <p>NL (Drafting Suggestions): New provision fa</p>

<sup>2</sup> Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of ‘Eurodac’ for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council (OJ L, 2024/1358, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1358/oj>).

Commission proposal	Drafting Suggestions and Comments
	<p><u>provide cooperation to the travel requirements of carriers or third country authorities when such requirements are in general imposed on international travelers.</u></p> <p>NL  <b>(Comments):</b>                      NL would insert a new provision between sub f and g (renumbering the following sub paragraphs) to ensure that returns can also be carried out in unexpected circumstances, such as a pandemic.</p>
	<p>LV  <b>(Drafting Suggestions):</b>  <b>Administrative measures for the purpose of ensuring compliance with the obligation to provide biometric data set out in Article 21 (2) point (f) shall be laid down in national law. Those measures shall be effective, proportionate and dissuasive and may include the possibility to use means of coercion as a last resort.</b></p> <p>LV  <b>(Comments):</b>                      In view of the previous comment, we propose adding a third paragraph to the article.</p> <p>CH</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p><b><u>g. provide cooperation to the travel requirements of carriers or third country authorities when such requirements are in general imposed on international travelers;</u></b></p> <p>CH</p> <p><b>(Comments):</b></p> <p>During Covid-19, refusal to take mandatory Covid tests was frequently used effectively by TCN to avoid removal. Less than a handful of MS/SAC were able to provide for compulsory testing and enforcement. In order to avoid a repetition of this scenario, it is important to include such an obligation in this regulation.</p>
<p>g. provide precise contact details, including current place of residence, address, telephone number where they may be reached and, where available, an electronic mail address;</p>	<p>LU</p> <p><b>(Comments):</b></p> <p>LU proposes to place the ‘where available’ before “telephone number”.</p> <p>CH</p> <p><b>(Comments):</b></p> <p>See general comment on Art. 21(2)(g).</p>

Commission proposal	Drafting Suggestions and Comments
<p>h. provide, without undue delay, information on any changes to the contact details referred to in point (g);</p>	
	<p>LT (Drafting Suggestions): <b>to disclose his or her financial situation;</b></p> <p>LT (Comments): We suggest adding to this Article the obligation from Article 25(6) - the obligation for the TCN to disclose his/her financial situation (to declare his/her assets and income) - which is relevant not only for the decision on free legal aid but also for reimbursement of the costs of removal.</p>
<p>i. remain available in accordance with Article 23 throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return;</p>	<p>BG (Drafting Suggestions): i. remain available in accordance with Article 23 throughout the return <del>and readmission</del> procedures, and in particular appear for the departure for the transportation for return;</p> <p>BG (Comments): We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>EL (Comments): See comments under point (a) of this paragraph.</p> <p>ES (Drafting Suggestions): <del>remain available in accordance with Article 23 throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return;</del></p> <p>ES (Comments): Moved to point a) of this paragraph.</p> <p>LT (Drafting Suggestions): remain available in accordance with Article 23 throughout the return and readmission procedures, and, in particular, appear <b>at a place designated by the competent authority</b> for the departure for the transportation for return;</p> <p>LT (Comments): We suggest specifying that the place of departure is indicated by the institution.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>NL (Drafting Suggestions):</p> <p>remain available <del>in accordance with Article 23</del> throughout the return and readmission procedures, and in particular appear for the departure for the transportation for return;</p> <p>NL (Comments):</p> <p>NL finds that article 23 in relation to article 31 should be modified. It is not necessary to join this obligation to the steps in article 23; the third country national should remain available regardless of any measure taken.</p>
<p>j. provide all required information and statements in the context of requests lodged with the competent authorities of relevant third countries for the purpose of obtaining travel documents and cooperate with these authorities of third countries, as necessary;</p>	
<p>k. when necessary, appear in person or when difficult by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality;</p>	<p>ES (Drafting Suggestions):</p> <p><b><u>where required by competent authorities</u></b> <del>when necessary</del>, appear in person or <del>when difficult</del> by means of videoconference, before the competent</p>

Commission proposal	Drafting Suggestions and Comments
	<p>national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality</p> <p>ES (Comments):</p> <p>In consistency with point l), the appearance in person or by videoconference should be mandatory where requested by the competent authorities. In addition, possibilities to appear by videoconference should be expanded.</p> <p>FR (Drafting Suggestions):</p> <p>k. when necessary, appear in person or <del>when difficult</del> by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities <del>where necessary</del> to establish <del>his or her</del> <u>their</u> nationality;</p> <p>HR (Drafting Suggestions):</p> <p><del>when necessary</del>, <b>when requested by the competent authority</b> appear in person or when difficult by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality;</p> <p>HR (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>The current phrase "when necessary" may limit the application. HR suggests using the phrase "when requested by the competent authority".</p> <p>HU (Drafting Suggestions):</p> <p><del>when necessary</del>, <b>when requested by the competent authority</b> appear in person or when difficult by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality;</p> <p>HU (Comments):</p> <p>The current phrase "when necessary" may limit the application. HR suggests using the phrase "when requested by the competent authority".</p> <p>IE (Drafting Suggestions):</p> <p><del>when necessary</del>, appear in person <del>or when difficult</del> by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality <b><u>or verify a permission or right to reside in a third country</u></b>;</p> <p>IE</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>IE considers this provision needs to be as strong as possible, and therefore would like the phrases 'when necessary' and 'when difficult' deleted. In (k), IE suggest the possibility of including the verification of a permission/right to reside in a third country also.</p> <p>IT</p> <p><b>(Drafting Suggestions):</b></p> <p><del>when necessary</del>, appear in person or <del>when difficult</del> by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her nationality</p> <p>LT</p> <p><b>(Drafting Suggestions):</b></p> <p><del>when necessary</del>, appear in person or <del>when difficult</del> by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities where necessary to establish his or her <b>identity and(or)</b> nationality;</p> <p>LT</p> <p><b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>It is important that the provision also includes an element of identification.</p> <p>LU  <b>(Comments):</b>                      LU proposes to delete 'where necessary' as national authorities must decide on whether the appearance is done in person or by videoconference.</p> <p>CH  <b>(Drafting Suggestions):</b>  <del>when necessary</del>, appear in person or when difficult by means of videoconference, before the competent national and third-country authorities at the location indicated by such authorities <del>where necessary</del> to establish his or her nationality;</p> <p>CH  <b>(Comments):</b>                      Both additions of 'where necessary' should be deleted since the obligation should apply to all such situations and not be subject interpretation and challenges.</p> <p>NO  <b>(Drafting Suggestions):</b>  <del>when necessary</del>, Appear in person or when difficult by means of videoconference, before the competent national and third-country authorities</p>

Commission proposal	Drafting Suggestions and Comments
	at the location indicated by such authorities where necessary to establish his or her nationality;
<p>1. where required by competent authorities, participate in return and reintegration counselling.</p>	<p>AT (Drafting Suggestions): where required by competent authorities, participate in <u>additional</u> return and reintegration counselling.</p> <p>AT (Comments): In lit I. it is important to state that additional advisory services can be ordered if necessary.</p> <p>ES (Comments): This obligation does not lead to any consequence in the following article in case of non-compliance.</p> <p>RO (Drafting Suggestions): <del>where required by competent authorities,</del> participate in return and reintegration counselling</p>
	AT

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p><u>NEW: provide, where necessary for the purpose of establishing identity, nationality, travel route, or means of transportation, relevant data stored on personal electronic communication devices.</u></p> <p><u>NEW: provide, upon request, information concerning their current financial situation and valuable assets. This includes, but is not limited to, the submission of recent bank account statements and tax documents.</u></p> <p><u>NEW: provide health related information if relevant for the organization of the return, including submission of medical findings, medical treatment plans and medication.</u></p> <p><u>NEW: provide information concerning their family circumstances, including details regarding custody of children, where such information is relevant to the return process.</u></p> <p><u>NEW: permit and fully cooperate with medical examinations or interventions that are necessary for the departure process.</u></p> <p><u>NEW: accept, where necessary to ensure effective communication or to facilitate location tracking pursuant to Article 23, the installation of authorized software applications on their personal electronic devices. Such software shall be used solely for official purposes and only until the execution of departure.</u></p> <p>AT</p> <p><b>(Comments):</b></p> <p><u>AT suggests to add the following in the text: see drafting suggestion</u></p>

Commission proposal	Drafting Suggestions and Comments
	<p>LT (Drafting Suggestions):</p> <p><b>m. comply with any other reasonable obligations established by the competent authorities that are necessary for the purpose of carrying out the return procedure.</b></p> <p>LT (Comments):</p> <p>We would prefer the list of responsibilities to be non-exhaustive (the specific wording of the new point may be different).</p>
<p>3. The information and physical documentation or, where not available, copies thereof, referred to in paragraph 2, point (b), shall include in particular the third-country nationals' statements and any documentation in their possession regarding:</p>	<p>FR (Drafting Suggestions):</p> <p>3. The information and <del>physical</del> documentation <del>or, where not available, copies thereof</del>, referred to in paragraph 2, point (b), shall include in particular the third-country nationals' statements and any documentation in their possession regarding:</p>
<p>a. their name, date and place of birth, gender and nationality or nationalities or the fact that the third-country national is stateless;</p>	<p>FR (Drafting Suggestions):</p> <p>a. their name, date and place of birth, <u>sex or</u> gender and nationality or nationalities or the fact that <del>the third-country national is</del> <u>they are</u> stateless;</p> <p>IE</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b>                      their name, date and place of birth, gender and nationality or nationalities or the fact that the third-country national is stateless <b>has been declared stateless</b>;</p> <p>IE  <b>(Comments):</b>                      On 21(3)(a), this provision needs to be refined – it should refer to persons 'declared stateless' so that MS are not required to carry out the assessment of same.</p>
<p>b. their family members and other personal details of the third-country national if relevant for carrying out the return or readmission procedure or for the determination of the country of return;</p>	<p>BG  <b>(Drafting Suggestions):</b>                      b. their family members and other personal details of the third-country national if relevant for carrying out the return <del>or readmission</del> procedure or for the determination of the country of return;</p> <p>BG  <b>(Comments):</b>                      We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>FR                      (Drafting Suggestions):                      b. their family members and other personal details <del>of the third-country national</del> if relevant for carrying out the return or readmission procedure, <del>or</del> <b>and in particular</b> for the determination of the country of return;</p>
<p>c. the type, number, period of validity and issuing country of any identity or travel document of the third-country nationals and other documents provided by them which the competent authority deems relevant for the purposes of identifying them, for carrying out the return or readmission procedure and for the determination of the country of return;</p>	<p>BG                      (Drafting Suggestions):                      c. the type, number, period of validity and issuing country of any identity or travel document of the third-country nationals and other documents provided by them which the competent authority deems relevant for the purposes of identifying them, for carrying out the return <del>or readmission</del> procedure and for the determination of the country of return;</p> <p>BG                      (Comments):                      We propose this deletion taking into account our general position on the idea of incorporating readmission as an integral part of the return process.</p> <p>FR                      (Drafting Suggestions):                      c. the type, number, period of validity and issuing country of any identity or travel document <del>of the third-country nationals and or</del> other documents provided by them</p>

Commission proposal	Drafting Suggestions and Comments
	which the competent authority deems relevant for the purposes of <del>identifying them,</del> <del>for</del> carrying out the return or readmission procedure, and <u>in particular for their</u> <u>identification for and</u> the determination of the country of return;
d. any residence permits or other authorisation offering the third-country nationals a right to stay issued by another Member State or by a third country;	FR (Drafting Suggestions): d. any residence permits or other authorisation offering <del>the third-country nationals</del> <u>them</u> a right to stay issued by another Member State or by a third country;
e. any return decision issued by another Member State;	FR (Drafting Suggestions): e. any return decision <u>or entry ban</u> issued by another Member State;  NL (Drafting Suggestions): any return decision, <u>removal order or entry ban</u> issued by another Member State;
f. country or countries and place or places of previous residence, travel routes and travel documentation.	

Commission proposal	Drafting Suggestions and Comments
<p>4. Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or, at the person’s choice, electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p>	<p>DK (Drafting Suggestions): Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or, <del>at the person’s choice,</del> electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p> <p>EE (Drafting Suggestions): Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives <b><u>either</u></b> photocopies <del>or, at the person’s choice,</del> electronic records of the originals <b><u>or a certificate of receipt of a document.</u></b></p> <p>EE (Comments): In Estonia, in case of the deposit of the travel document of a foreign country and an identity document of a person the institution receiving the document</p>

Commission proposal	Drafting Suggestions and Comments
	<p>for deposit shall issue a certificate about receipt of documents for deposit.</p> <p>We propose to amend the Art 21 (4) so that competent authorities may also issue a certificate of receipt of a document. The competent authority should decide whether a photocopy, electronic record of the original or a certificate is issued, regardless of the person’s own wishes.</p> <p>ES (Drafting Suggestions):</p> <p>Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or, <del>at the person’s choice,</del> electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p> <p>ES (Comments):</p> <p>In coherence with paragraph 5, whereby the person subject to return is obliged to accept any communication by any means, the person should also accept either a photocopy or an electronic record at the choice of the authority.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>FR (Drafting Suggestions):</p> <p>4. Where the competent authorities decide to retain any document <b>necessary for the purpose of preparing return as</b> referred to in paragraph 2, point <b>(a bis) and</b> (b), they shall <b>ensure that the third-country national immediately receives photocopies or, at the person's choice, electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall</b> either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p> <p>IT (Comments):</p> <p>It is unclear whether the confiscation of documents provided for in paragraph 4 is the same measure as in Article 31.2.b (obligation to surrender identity or travel documents to the competent authorities) with the consequent application of Article 31.3 as well (the decision to apply the alternative measures referred to in paragraph 2 shall state the relevant reasons in fact and in law). Otherwise, the differences between the two measures would need to be clarified.</p> <p>LT (Drafting Suggestions):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or, <del>at the person's choice,</del> electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p> <p>LT (Comments): It is for the competent authorities, and not the TCNs, to decide on how the copies of the documents should be provided.</p> <p>LU (Comments): Electronic records should not have to be handed out immediately.</p> <p>NL (Drafting Suggestions): Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national <del>immediately</del> receives <u>as soon as possible</u> photocopies or, <del>at the person's choice,</del> electronic records of the originals. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national</p>

Commission proposal	Drafting Suggestions and Comments
	<p><u>or the third country authorities</u> at the time of departure or upon arrival in the third country. <u>In accordance with national law, Member States may decide to not hand back documents that are forged.</u></p> <p>RO  <b>(Drafting Suggestions):</b>                      Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they shall ensure that the third-country national immediately receives photocopies or, at the person’s choice, electronic records of the originals and <b><u>proof of the document’s retention</u></b>. In the context of return pursuant to Article 13, the competent authorities shall either hand back such documents to the third-country national at the time of departure or upon arrival in the third country.</p> <p>RO  <b>(Comments):</b>                      Romania consider that in addition to the photocopies, the nationals concerned should also be given proof that the documents have been retained.</p> <p>SK  <b>(Drafting Suggestions):</b>                      Where the competent authorities decide to retain any document necessary for the purpose of preparing return as referred to in paragraph 2, point (b), they</p>

Commission proposal	Drafting Suggestions and Comments
	<p>shall ensure that the third-country national immediately receives <del>photocopies</del> or, at the person's choice, <del>electronic records of the originals.</del> photocopies of the document, electronic records of the originals or a confirmation on retaining a document.</p> <p>CH (Comments):</p> <p>The obligation by the Member States to provide copies or electronic records of retained document does not fit into this article on obligations of the third-country national and should be deleted. Furthermore, the MS/SAC should not be obliged to make copies, which may be also be misused by the third-country national. If the handling of documents of the third-country national should be regulated at all, this would have to be done in another chapter.</p>
<p>5. The third-country national shall accept any communication from the competent authorities, be it by telephone, electronic mail or mail, using the most recent contact details indicated by himself or herself to the competent authorities in accordance with paragraph 2, points (g) and (h). Member States shall either establish in national law the method of communication and the point in time at which the communication is considered received by and notified to the third-country national or make use of digital systems developed and/or supported by the Union for the purpose of such communication.</p>	<p>FR (Drafting Suggestions):</p> <p>5. The third-country national shall accept any communication from the competent authorities, be it by telephone, electronic mail or mail, using the most recent contact details indicated by himself or herself to the competent these authorities in accordance with paragraph 2, points (g) and (h). Member States shall either establish in national law the method of communication and</p>

Commission proposal	Drafting Suggestions and Comments
	<p>the point in time at which the communication is considered received by and notified to the third-country national or make use of digital systems developed and/or supported by the Union for the purpose of such communication.</p> <p>CH (Comments): This provision fits better under Art. 21(2) and should be defined more open, e.g. that the third-country national shall “be reachable by any means of communication as defined by the Member State”. In any case, the impression of exhaustiveness in terms of means of communication should be avoided.</p>
<p>6. A third-country national may be searched or his or her personal belongings may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p>	<p>BE (Comments): Belgium belongs to the group of Member States that believes that the search of personal belongings should include the possibility to read out personal electronic devices such as cellphones, tablets and laptops belonging to the TCN targeted by this provision. We suggest that this text should contain a similar provision as integrated in recital 22 of the APR, since it deals with the same situation.</p> <p>BG</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p>6. A third-country national may be searched or his or her personal belongings may be searched, <del>where it is necessary and duly justified</del> for the purpose of the return <del>or readmission</del> procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity <del>and be subject to the safeguards and remedies provided for in national law.</del></p> <p>BG</p> <p><b>(Comments):</b></p> <p>We are aware that similar text exists in APR but the Return Regulation applies for illegally staying third country nationals, not for asylum seekers. The scope is different and this should be taken into account. We believe that Member States should keep their practices for guaranteeing the security and public order and have the prerogative to decide when to search illegally staying persons without further justifications. Searches will be part of police duties for security reasons, including regular searches before detention. Additionally, we believe this will lead to abuses of rights by TCNs and create opportunities to appeal the searches</p> <p>DK</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p>A third-country national <del>may be searched</del>, his or her personal belongings, <b><u>including electronic devices, and their place of residence,</u></b> may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p> <p>EE</p> <p><b>(Drafting Suggestions):</b></p> <p>A third-country national <del>may be searched</del> or his or her personal belongings, <b><u>including electronic devices,</u></b> may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons.</p> <p>EE</p> <p><b>(Comments):</b></p> <p>We propose to specify the text to be sure that also electronic devices of the returnee may be searched.</p> <p>EL</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p>6. A third-country national may be searched or his or her personal belongings, <b>including any electronic devices</b>, may be searched, <del>where it is necessary and duly justified</del> for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity <del>and be subject to the safeguards and remedies provided for in national law.</del></p> <p>EL</p> <p><b>(Comments):</b></p> <p>For reasons of legal clarity, we propose to include a reference to electronic devices in order to have it clear that the term ‘personal belongings’ cover as well any electronic devices held by the thrid-country national. In the preamble the term electronic devices can be further specified by using examples (laptops, mobile phones, etc).</p> <p>The last phrase of this paragraph should be deleted as unnecessary.</p> <p>ES</p> <p><b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><b><u>Without prejudice to any search carried out for security reasons</u></b>, a third-country national may be searched or his or her personal belongings may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure. <del>and without affecting any search carried out for security reasons.</del> Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p> <p>ES  <b>(Comments):</b>                      The rewording, consistent with Article 9 (5) APR, dispels any possible confusion regarding searches for security reasons, which may be performed at any time.</p> <p>FR  <b>(Drafting Suggestions):</b>                      6. <del>A third-country national may be searched or his or her personal belongings may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons.</del> <b><u>If third-country nationals are clearly opposing to their identification, their personal belongings, including electronic devices, may be searched without their consent, for the sole purpose of identifying them and</u></b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><b><u>determining the country of return, and without affecting any search carried out for security reasons.</u></b></p> <p>Any search of <del>the a</del> third-country national's <del>or of his belongings</del> under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical <del>and psychological</del> integrity, <b><u>as well as the rights to respect for private and family life and to protection of personal data,</u></b> and be subject to the safeguards and remedies provided for in national law, <b><u>including the prior authorization of a court or independent administrative body, except in duly justified cases of urgency.</u></b></p> <p><b><u>7. Where a third-country national refuses to provide biometric data referred to in paragraph 2, point (f), such data may be collected by the competent authorities without his or her consent.</u></b></p> <p><b><u>8. Member States may provide for other investigative measures in their national law to identify non-compliant third-country nationals.</u></b></p> <p>HR  <b>(Drafting Suggestions):</b>                      A third-country national may be searched or his or her personal belongings <b>and mobile devices</b> may be searched. <del>where it is necessary and duly justified</del></p>

Commission proposal	Drafting Suggestions and Comments
	<p><del>for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</del></p> <p>HR  <b>(Comments):</b>                      HR wants to include in paragraph 6 the search of mobile phones with mandatory cooperation from the third country national. Mobile devices contain an extremely large amount of important information that can confirm the route of travel, the identity of the person, the contacts of the smuggler, the truthfulness of the DTZ's claims, etc.</p> <p>HU  <b>(Drafting Suggestions):</b>                      A third-country national may be searched or his or her personal belongings <b>and mobile devices</b> may be searched. <del>where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons.</del> Any search of the third-country national under this Regulation shall respect fundamental rights, in particular</p>

Commission proposal	Drafting Suggestions and Comments
	<p>the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p> <p>HU (Comments):</p> <p>HR wants to include in paragraph 6 the search of mobile phones with mandatory cooperation from the third country national. Mobile devices contain an extremely large amount of important information that can confirm the route of travel, the identity of the person, the contacts of the smuggler, the truthfulness of the DTZ's claims, etc.</p> <p>IT (Drafting Suggestions):</p> <p>A third-country national may be searched or his or her personal belongings, <b><u>including any electronic devices</u></b>, may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law</p> <p>IT</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>We propose an addition to the text to clarify that the term “personal belongings” also includes electronic devices in the possession of the third-country national.</p> <p>LT</p> <p><b>(Drafting Suggestions):</b></p> <p>A third-country national may be searched or his or her personal belongings, <b>including electronic devices</b>, may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity <del>and be subject to the safeguards and remedies provided for in national law.</del></p> <p>LT</p> <p><b>(Comments):</b></p> <p>We understand that electronic devices may fall under personal belongings, but we would like to see a separate distinction for electronic devices.</p> <p>LV</p> <p><b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>6. A third-country national may be searched or his or her personal belongings, <b>including electronic devices</b>, may be searched, , where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p> <p>LV  <b>(Comments):</b>                      Latvia sees the added value of complementing this Paragraph with the specific reference to electronic devices of the third-country national, as it can provide useful information for the purpose of return procedure.</p> <p>NL  <b>(Drafting Suggestions):</b>                      A third-country national may <u>in accordance with national law</u> be searched or his or her personal belongings, <u>including electronic devices, such as mobile phones</u>, may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. <del>Any search of the third-country</del></p>

Commission proposal	Drafting Suggestions and Comments
	<p><del>national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law</del></p> <p>NL (Comments): NL can support other investigative measures in order to identify the third country national or carry out the return procedure.</p> <p>SE (Drafting Suggestions): 6. A third-country national may be searched or his or her personal belongings may be searched <b>and seized</b>, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law.</p> <p>SE (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>As regards the question of whether the possibility of searching a third-country national's belongings also includes a right for Member States to search the third-country national's electronic communication equipment, we understood the response from COM during the last Working Party that the Regulation does not exclude such a possibility in accordance with national law.</p> <p>We think that it should be clarified in the text that the belongings also may be subject to seizure, since this might be needed in order to search, for example, electronic communication equipment properly.</p> <p>SK  <b>(Drafting Suggestions):</b>                      The Slovak Republic suggests explicitly adding the option for competent authorities to search a mobile device of a third-country national for the purpose of the return or readmission procedure.</p> <p>CH  <b>(Comments):</b>                      This provision limits the search of the third-country national to the person and personal belongings. CH believes that where necessary and duly justified it should also be possible to search any location where the third-country</p>

Commission proposal	Drafting Suggestions and Comments
	<p>national or relevant documents may be, which would include third-party locations and objects.</p> <p>NO  <b>(Drafting Suggestions):</b>                      A third-country national may be searched or his or her personal belongings, <b><u>including any electronic devices,</u></b> may be searched, where it is necessary and duly justified for the purpose of the return or readmission procedure and without affecting any search carried out for security reasons. Any search of the third-country national under this Regulation shall respect fundamental rights, in particular the principles of human dignity and of physical and psychological integrity and be subject to the safeguards and remedies provided for in national law. <b><u>Member States may provide for other investigative measures in their national law to identify non-compliant third-country nationals.</u></b></p> <p>NO  <b>(Comments):</b>                      Art. 21(6) provides for a search of the third-country nationals and their personal belongings. Even though the Commission in the last IMEX expressed that search of electronic devices is included in the</p>

Commission proposal	Drafting Suggestions and Comments
	<p>term “personal belongings”, we would like the text to clearly specify this possibility, to avoid any uncertainty.</p> <p>Furthermore Art. 21(6) does not cover search of the third-country national`s or third parties' homes, and we would like to have this included in the regulation.</p> <p>If there is to be an obligation on the part of the TCN to cooperate on identity, it must be possible to search homes for ID-documents.</p> <p>It is important for us that our national police have these options available in their work to confirm the identity of a third-country national to ensure the return.</p>
	<p>ES (Drafting Suggestions):</p> <p style="text-align: center;"><b><u>NEW ARTICLE</u></b> <b><u>Article 21a</u></b> <b><u>Obligation to cooperate by transport operators in the return and readmission procedure</u></b></p> <p><b><u>1. Transport operators shall have the obligation to cooperate with the competent authorities at all stages of the return procedure foreseen in this Regulation.</u></b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><b><u>2. The obligation to cooperate in accordance with paragraph 1 shall include:</u></b></p> <p><b><u>a. Providing any relevant information for the implementation of the return and readmission procedure requested by the competent authorities.</u></b></p> <p><b><u>b. Retaining, at the request of the competent authorities, copies of the travel and identity documents presented by the third-country nationals upon checking-in and boarding on specific routes for a period of [xx hours/days] after arrival to the final destination.</u></b></p> <p><b><u>c. Granting access to the copies referred to in point (b) at the request of the competent authorities.</u></b></p> <p><b><u>d. Refusing to embark third-country nationals which present high-risk of irregular migration in specific routes at the request of the competent authorities.</u></b></p> <p><b><u>3. In case of non-compliance with the obligations set in this article, Member States shall provide for a possibility to impose sanctions, including financial penalties, in accordance with national law.</u></b></p> <p>ES (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>In order to enhance the effectiveness of returns, the cooperation of transport operators is deemed essential. Therefore, clear obligations to cooperate by for transport operators should be established.</p> <p>FR  <b>(Drafting Suggestions):</b>  <u>Article 21 bis – Identification of non-compliant third-country nationals</u></p> <p><b>1. Where third-country nationals clearly refuse to comply with the obligations set out in Article 21(2), points (a bis) to (c), or otherwise clearly oppose to their identification, the competent authorities of the Member State carrying out the return and readmission procedures may, without their consent, and for the sole purpose of identifying them and determining the country of return:</b></p> <p><b>a. search their personal belongings, including electronic devices, only to collect strictly necessary elements of proof of their identity and nationality, and without affecting any search carried out for security reasons; any personal data collected in this context shall be consulted, used or otherwise processed in accordance with Regulation (EU) 2016/679 or Directive (EU) 2016/680;</b></p> <p><b>b. visit their vehicles and places of residence, only to collect strictly necessary elements of proof of their identity and nationality; any personal data collected in this context shall be consulted, used or otherwise processed in accordance with Regulation (EU) 2016/679 or Directive (EU) 2016/680;</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>c. require other national authorities or bodies carrying out public interest missions or identified by national law to provide them with all information and documentation or with all personal data, processed in accordance with Regulation (EU) 2016/679 or Directive (EU) 2016/680, strictly necessary to establish or verify the third-country nationals' identity and nationality.</p> <p>2. Where third-country nationals refuse to provide biometric data referred to in Article 21(2), point (f), the competent authorities of the Member State carrying out the return and readmission procedures may, without their consent, collect such data.</p> <p>3. Where third-country nationals refuse to appear before the competent national or third-country authorities to either establish or verify their identity and nationality or to obtain travel documents, as set out in Article 21(2), points (j) and (k), the competent authorities of the Member State carrying out the return and readmission procedures may, without their consent, escort them to the location designated by these national or third-country authorities.</p> <p>4. Any measures taken pursuant to this Article shall respect fundamental rights, in particular the principles of human dignity and of physical integrity, as well as the rights to respect for private and family life and to protection of personal data, and be subject to the safeguards and remedies provided for in national law, including the prior authorization of a court or independent administrative body,</p>

Commission proposal	Drafting Suggestions and Comments
	<p>except in duly justified cases of urgency. The authorization of a court is always required prior to the visit of a third-country national's vehicles or places of residence.</p> <p>NL (Drafting Suggestions):</p> <p><u>7.Coercive measures taken to ensure cooperation, shall be necessary and proportionate and shall, in any case, not exceed the threshold of reasonable force. They shall be implemented in accordance with national law respecting fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned.</u></p> <p>NL (Comments):</p> <p>It is necessary to include the possibility of the use of coercive measures to ensure the cooperation; e.g. to force someone to step into a vehicle headed towards a presentation/interview at the third country's diplomatic representation.</p> <p>CH (Drafting Suggestions):</p> <p>7. Coercive measures taken to enforce cooperation in accordance with this article, shall be necessary and proportionate and shall, in any case, not exceed the threshold of reasonable force. They shall be implemented in</p>

Commission proposal	Drafting Suggestions and Comments
	<p>accordance with national law respecting fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned.</p> <p>CH (Comments): The obligation to cooperate should be enforced while respecting the usual safeguards.</p>

<p style="text-align: center;"><i>Article 22</i></p> <p><i>Consequences in case of non-compliance with the obligation to cooperate</i></p>	<p>FR</p> <p><b>(Comments):</b></p> <p>S'agissant de l'article 22, la France demande d'abord à ce qu'à l'expression « dissuasive measures », qui figure au premier alinéa, soit accolé le mot « sanctions », afin que la nature des mesures prises sur le fondement de cet article visant à punir le comportement non-coopératif de l'étranger en situation irrégulière soit sans ambiguïté.</p> <p>La France demande ensuite la suppression du point (3) : dès lors que les autorités compétentes peuvent requérir la remise des titres d'identité et de voyage au titre de la coopération (cf. art. 21, para 2, point (a bis)), il n'est en effet plus nécessaire de prévoir, au titre des conséquences du défaut de coopération, la saisie de ces titres. Cette saisie n'a par nature aucun caractère répressif/punitif.</p> <p>Enfin, la France sollicite l'ajout d'un point (7) permettant aux États membres, lorsque la nature et la gravité du manquement à l'obligation de coopération le justifie, de <b>prévoir des sanctions pénales et, le cas échéant, des peines d'emprisonnement.</b></p> <p>Nous précisons à cet égard que des dispositions pénales réprimant le défaut de coopération et l'obstruction à l'exécution de la décision de retour, et prévoyant des peines d'emprisonnement (allant d'un an à trois ans selon les infractions), existent déjà en droit français : il s'agit donc là aussi pour nous de préserver le cadre juridique existant. Il serait en effet incompréhensible que le règlement prive les Etats de possibilités existantes respectueuses de la jurisprudence de la CJUE.</p> <p>SE</p>
--	--

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>In addition to the clarified obligation for third-country nationals to cooperate with the authorities, we think it is positive that also the consequences of failure to cooperate are clarified.</p> <p>CH</p> <p><b>(Comments):</b></p> <p>For CH the introduction of consequences in case of non-compliance with the obligation to cooperate constitutes a welcome development.</p>
<p>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:</p>	<p>AT</p> <p><b>(Drafting Suggestions):</b></p> <p><u>Third-country nationals must:</u></p> <p>a) <u>Independently fulfill their obligation to leave the country as their most important obligation;</u></p> <p>b) <u>cooperate proactively;</u></p> <p>c) <u>provide truthful information for rapid fulfillment of their departure obligation;</u></p> <p>d) <u>appear independently for mandatory return counseling.</u></p>

Commission proposal	Drafting Suggestions and Comments
	<p>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:</p> <p>AT  <b>(Comments):</b></p> <p>AT has <b>four key demands</b> regarding the structure of the regulation, which should be included at the beginning of the text:</p> <p>Third-country nationals must:</p> <ul style="list-style-type: none"> <li>a) Independently fulfill their obligation to leave the country as their most important obligation;</li> <li>b) cooperate proactively;</li> <li>c) provide truthful information for rapid fulfillment of their departure obligation;</li> <li>d) appear independently for mandatory return counseling</li> </ul> <p>BG  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>In case of non-compliance with the obligations set out in Article 21(2), points (a) to (k), Member States shall <del>provide for a possibility to</del> impose, following an individual assessment, effective, proportionate and dissuasive measures on the third-country national, out of the following:</p> <p>DK  <b>(Drafting Suggestions):</b></p> <p>In case of non-compliance with the obligations set out in Article 21(2), points (a) to <del>(k)</del><b>(l)</b>, 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:</p> <p>EE  <b>(Drafting Suggestions):</b></p> <p>In case of non-compliance with the obligations <del>set out in Article 21(2), points (a) to (k)</del> <b>to cooperate on return and readmission</b>, 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:</p> <p>EE  <b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>MS should have the possibility to impose effective and proportionate measures on a returnee who does not follow the obligations to cooperate set out in the Return Regulation or in the national law.</p> <p>EL  <b>(Drafting Suggestions):</b>                      In case of non-compliance with the obligations set out in Article 21 <b>(1) and (2)</b>, 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:</p> <p>EL  <b>(Comments):</b>                      We consider that the consequences should cover as well the cases of non-compliance with the overarching obligations provided for under paragraph 1 of Article 21.</p> <p>ES  <b>(Drafting Suggestions):</b>                      In case of non-compliance with the obligations set out in Article 21 <b>(1) and (2)</b>, <del>points (a) to (k)</del>, Member States shall provide for a possibility to impose, following an individual assessment, <b>one or several</b> effective, proportionate and dissuasive measures on the third-country national, out of the following:</p>

Commission proposal	Drafting Suggestions and Comments
	<p>ES  <b>(Comments):</b>                      The consequences of non-compliance should cover the whole set of obligations laid down in Article 21.</p> <p>Additionally, it should be clarified that this possible measures are cumulative.</p> <p>FR  <b>(Drafting Suggestions):</b>                      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 <b>and</b> proportionate <b>and dissuasive measures-or-sanctions</b> on the third-country national, out of the following :</p> <p>HR  <b>(Comments):</b>                      HR supports the above measures and sanctions for non-cooperation, but in practice some of them will not be so useful, such as financial penalties because TCNs generally do not have financial resources, or the seizure of</p>

Commission proposal	Drafting Suggestions and Comments
	<p>identity or travel documents since TCNs mostly destroy or discard them in transit countries.</p> <p>HU  <b>(Comments):</b>                      HR supports the above measures and sanctions for non-cooperation, but in practice some of them will not be so useful, such as financial penalties because TCNs generally do not have financial resources, or the seizure of identity or travel documents since TCNs mostly destroy or discard them in transit countries.</p> <p>IE  <b>(Comments):</b>                      At the moment in IE, it is a criminal offence to not cooperate with obligations – IE would welcome the possibility of a criminal sanction being imposed where a TCN does not comply with their obligations under the Regulation</p> <p>LT  <b>(Drafting Suggestions):</b>                      In case of non-compliance with the obligations set out in Article 21(2), points (a) to <del>(k)</del>(l), Member States shall provide for a possibility to impose,</p>

Commission proposal	Drafting Suggestions and Comments
	<p>following an individual assessment, effective, proportionate and dissuasive measures on the third-country national, out of the following:</p> <p>LT  <b>(Comments):</b>                      In our view, it is not reasonable to have an obligation for which there are no consequences for non-compliance, and we therefore propose to add point (l). We understand that only a specific consequence, such as the one foreseen in paragraph 2 of this Article, can be applied for non-compliance with this obligation, in which case it could be elaborated as such.</p> <p>LU  <b>(Comments):</b>                      LU has the following questions:</p> <ul style="list-style-type: none"> <li>- Does the text oblige the application of one of these measures in the event of non-cooperation?</li> <li>- Is it enough to establish only one of these measures?</li> <li>- Is it possible for Member State to provide for measures other than those listed?</li> </ul> <p>NL  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>In case of non-compliance with the obligations set out in Article 21(2), points (a) to (<del>km</del>), Member States shall provide <u>in their national law</u> for a possibility to impose, <del>following an individual assessment, effective, proportionate and</del> dissuasive measures <u>or sanctions</u> on the third-country national</p> <p>NL  <b>(Comments):</b>                      NL would like to ensure that consequences can be regulated at the national level. At the same time the examples listed in the article should move to the recitals to guide Member States on the various possibilities, including criminal sanctions. On the other hand the example under ‘3’ should be removed entirely. Member States should be able to seize documents in the first step during the procedure. NL has inserted the letter ‘m’ because of an extra insertion in article 21 paragraph 2.</p> <p>CH  <b>(Drafting Suggestions):</b>                      In case of non-compliance with the obligations set out in Article 21(2), points (a) to (<del>k</del>), 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:</p>

Commission proposal	Drafting Suggestions and Comments
	<p>CH  <b>(Comments):</b></p> <p>As it is not coherent to tread failure to participate in return and reintegration counselling (Art. 21(2)(1)) differently from the other specific obligations to cooperate by excluding them from consequences as provided in the Commission’s proposal, non-compliance with obligations set out in Art. 21(2)(1) should also be included.</p> <p>Furthermore it would be preferable for CH to have</p> <ul style="list-style-type: none"> <li>-a non-exhaustive list of sanctions or very similarly</li> <li>-a requirement for Member States to have at least certain specific consequences.</li> </ul> <p>In addition, CH considers that at least one consequence should be made <u>mandatory</u> in cases of non-compliance with obligation to cooperate.</p> <p>Furthermore, detention should be inserted explicitly as another possible consequence of non-compliance of the obligation to cooperate.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>NO (Comments):</p> <p>We are satisfied that the Regulation clearly states that there will be consequences in case of non-compliance with the obligation to cooperate.</p> <p>However, it seems that the list of sanctions in par. 1-6 are exhaustive. This deprives the Member States of any flexibility, as well as the possibility to maintain already regulated national measures. There are for example no facilitation of removal as a consequence for third-country nationals who refuse to cooperate or disclose their identity.</p> <p>We also suggest that the lack of cooperation should be a ground for detention, and that this should be explicit mentioned also in this Article. As it is now, the references between the Articles 29, 30 and their reference back to non-compliance with Article 21(2) points (a)-(k) regarding cooperation and grounds for detention, are a bit difficult to access.</p>
<p>(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;</p>	<p>AT (Drafting Suggestions):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>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 <u>essential</u> basic needs;</p> <p>AT  <b>(Comments):</b>                      Para 1 should be reduced to the most essential basic needs. This serves to clarify that, for example, no comprehensive health insurance is included, but only emergency medical care; no pocket money, only benefits in kind should be granted; it should also be excluded to provide private accommodation, but rather direct allocation to a return center in accordance with measures under Article 23.</p> <p>EE  <b>(Drafting Suggestions):</b>                      refusal or reduction of certain benefits and allowances, <del>granted under Member State law to the third-country nationals concerned</del> <b><u>if provided for by national law</u></b>, unless this would lead to the persons' inability to make provision of their basic needs;</p> <p>EE  <b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>Return Regulation can not create new rights for the returnees. Member State may refuse or reduce the benefits and allowances only if these have been granted to a third country national under national law.</p> <p>EL  <b>(Drafting Suggestions):</b></p> <p>(1) refusal or reduction of certain benefits and allowances <del>granted under Member State law to the third country nationals concerned</del> <b><u>, if provided for by national law,</u></b> unless this would lead to the persons' inability to make provision of their basic needs;</p> <p>EL  <b>(Comments):</b></p> <p>This provision should take into account the cases where a Member State has not provided for in the national law, benefits or allowances for illegally staying third country nationals</p> <p>ES  <b>(Drafting Suggestions):</b></p> <p>(1) refusal or reduction of certain benefits and allowances, <b><u>where provided for under national law,</u></b> <del>granted under Member State law to the third country nationals concerned</del> unless this would lead to the persons' inability to make provision of their basic needs;</p>

Commission proposal	Drafting Suggestions and Comments
	<p>ES (Comments): It should be clarified that the Regulation does not impose granting benefits and allowances, being these regulated under national law.</p> <p>FR (Drafting Suggestions): (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 ;</p> <p>IE (Comments): Is it the intention of the Commission to create a right to what is provided under this Article?</p> <p>IT (Comments): The content of this paragraph is rather general and raises a number of questions about whether the reduction of benefits could also: 1) refer to legal assistance, in conjunction with Art. 25.5; 2) affect any reception measures in the event that the irregular migrant makes a pretextual claim for asylum and applies for</p>

Commission proposal	Drafting Suggestions and Comments
	<p>access to reception measures; 3) extend to access to the health care system (e.g., to benefits for purchasing medicine, etc.)</p> <p>NL  <b>(Drafting Suggestions):</b>  <del>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;</del></p>
	<p>LT  <b>(Drafting Suggestions):</b></p> <ul style="list-style-type: none"> <li>• restriction of movement within the territory of the Member State;</li> <li>• limiting access to free legal aid to first-instance procedures, where proportionate and in accordance with the principle of effective remedy;</li> <li>• any other effective, proportionate and dissuasive measure established under national law, aimed at ensuring compliance with the obligations referred to in Article 21(2).</li> </ul> <p>LT  <b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>We would suggest that there should not be an exhaustive list of consequences. Moreover, the consequences should not focus so much on punishing TCNs as on making them cooperate on return. We would also suggest that more effective measures, such as restriction of freedom of movement, should be envisaged where other consequences are not effective. In addition, a consequence could be envisaged to reduce the number of appeal instances or shortening the deadline for lodging an appeal or prioritisation or accelerated processing of appeals (subjecting appeals lodged by non-cooperative third-country nationals to accelerated procedures with limited suspensive effect).</p>
<p>(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);</p>	<p>FR  <b>(Drafting Suggestions):</b>                      (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) ;</p> <p>NL  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><del>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);</del></p>
<p>(3) seizure of identity or travel documents provided that the third-country national receives a copy;</p>	<p>AT  <b>(Drafting Suggestions):</b>                      seizure of identity or travel documents provided that the third-country national receives a copy; <u>the seizure of documents in accordance with Article 22(3) is possible at any time, irrespective of non-compliance with the obligations to cooperate in accordance with Article 21(2) lit. a)-k) to secure the removal or the procedure.</u></p> <p>AT  <b>(Comments):</b>                      It must be possible to secure documents in accordance with Article 22(3) at any time, irrespective of non-compliance with the obligations to cooperate in accordance with Article 21(2) lit. a)-k) to secure the removal or the procedure. It is impracticable that persons to be removed - also due to Article 16 - are allowed to keep their documents if they cooperate. There is also a risk that the travel document will be destroyed shortly before removal or during the arrest. Furthermore, illegally staying third-country</p>

Commission proposal	Drafting Suggestions and Comments
	<p>nationals need their original documents solely for the purpose of leaving the country and should make them available to the authorities themselves as part of their duty to cooperate. If this is not done, the travel documents should be seized consequently.</p> <p>EE  <b>(Drafting Suggestions):</b>  <del>(3) — seizure of identity or travel documents provided that the third-country national receives a copy;</del></p> <p>EE  <b>(Comments):</b>                      The aim of submitting documents is to ensure that the returnee is available for the return process. Therefore, it would be more appropriate to apply the measure under Article 23 not under Article 22.</p> <p>FR  <b>(Drafting Suggestions):</b>  <del>(3) seizure of identity or travel documents provided that the third-country national receives a copy;</del></p> <p>IT  <b>(Comments):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>It is unclear whether the seizure of identity or travel documents must be validated by a judicial authority, as well as for similar alternative measure to detention (Art.31.2).</p> <p>NL  <b>(Drafting Suggestions):</b>  <del>seizure of identity or travel documents provided that the third country national receives a copy;</del></p>
<p>(4) refusal or withdrawal of work permit, pursuant to national law;</p>	<p>EE  <b>(Drafting Suggestions):</b>            (4) refusal or withdrawal of work permit, <del>pursuant to national law</del> <b><u>if provided for by national law;</u></b></p> <p>EE  <b>(Comments):</b>            Return Regulation cannot create new rights for the returnees. MS may refuse or withdraw the work permit of a third country national if the right to work for illegally staying third country nationals is provided by national law.</p> <p>EL  <b>(Drafting Suggestions):</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>(4) refusal or withdrawal of work permit, <del>pursuant to national law</del> <b>if provided for by national law;</b></p> <p>EL (Comments): This provision should take into account the cases where a Member State has not provided for in the national law, a right to work for illegally staying third country nationals.</p> <p>ES (Drafting Suggestions): 4) refusal or withdrawal of work permit, <b>where provided for under national law</b> <del>pursuant to national law</del></p> <p>ES (Comments): It should be clarified that the Regulation does not impose granting a work permit, being this issue regulated under national law.</p> <p>FR (Drafting Suggestions): (4) refusal or withdrawal of work permit, pursuant to national law;</p> <p>IE (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Is it the intention of the Commission to create a right to what is provided under this Article?</p> <p>NL                      (Drafting Suggestions):  <del>refusal or withdrawal of work permit, pursuant to national law;</del></p>
<p>(5) extension of the duration of an entry ban in line with Article 10(7);</p>	<p>FR                      (Drafting Suggestions):                      (5) extension of the duration of an entry ban in line with Article 10(7);</p> <p>NL                      (Drafting Suggestions):  <del>extension of the duration of an entry ban in line with Article 10(7);</del></p> <p>CH                      (Drafting Suggestions):  <del>(5) extension of the duration of an entry ban in line with Article 10(7);</del></p> <p><b><u>(5) In case of a violation of the obligation to cooperate in accordance with Article 21(2)(b) and removal to the country of origin in accordance</u></b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><b><u>with Article 4(3)(a), waiver of the obligations of the Member State in accordance with Article 12(3).</u></b></p> <p>CH (Comments):</p> <p>[CH considers that a consequence on the duration of an entry ban may not be very effective as the third-country national is working against return and may not feel very much concerned by such a consequence.</p> <p>However there is a strong impact of the refusal to cooperate on the Member State, particularly when this concerns failure by the third-country national to disclose his or her identity as required under Article 21(2)(b). In such cases national courts have already established that the removal to the country of origin of a third-country national who fails to reveal his or her identity and therefore does not comply with his or her obligation to cooperate does not violate the principle of non-refoulement and no re-examination is necessary upon identification. Such a consequence makes sense as it will take away the burden from the Member States that would otherwise have to bend over backwards to assess the personal situation of a person who does not want to provide information.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>In case the third-country national would really be facing a real risk in his or her country of origin, he or she would have every interest in revealing his or her identity, in making such grounds known in the return procedure and in requesting asylum if this has not been done already.</p> <p>Therefore and as a replacement to Art. 21(5), CH suggests as an additional consequence in Article 22 that consists in the waving of the requirement for the Member State to carry out a subsequent an assessment of the principle of non-refoulement in relation to the country of origin in case of a violation of the obligation in Art. 21(2)(b)</p> <p>NO  <b>(Drafting Suggestions):</b></p> <p>(5) <b>issuance and</b> extension of the duration of an entry ban in line with Article 10(7);</p> <p>NO  <b>(Comments):</b></p> <p>Even though Art. 22(5) states that lack of cooperation may lead to a prolongment of the entry ban, the lack of cooperation is not in itself a reason to expel someone. This is unfortunate, especially in cases where the third-country nationals over time is working against his/her own return</p>

Commission proposal	Drafting Suggestions and Comments
<p>(6) financial penalties.</p>	<p>BG                      (Drafting Suggestions):</p> <p><i>Additional measures</i></p> <p><b><u>(7) detention in accordance with Article 29;</u></b></p> <p><b><u>(8) removal in accordance with Article 12;</u></b></p> <p><b><u>(9) any other measure established under national law.</u></b></p> <p>BG                      (Comments):</p> <p>We suggest three new measures to be added in order to provide for more possibilities for the MSs to ensure the return of the third country nationals.</p> <p>DK                      (Drafting Suggestions):</p> <p>[As a new number]</p> <p><b><u>(7) criminal sanctions in accordance with national law.</u></b></p> <p>DK</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>Member States must be able to impose criminal sanctions in accordance with national law. It is not sufficient that this possibility is stated in the recitals. It must be explicitly stated in the text.</p> <p>EE</p> <p><b>(Drafting Suggestions):</b></p> <p><del>financial penalties</del> <b><u>criminal sanctions, if provided for by national law.</u></b></p> <p>EE</p> <p><b>(Comments):</b></p> <p>MS should have the possibility to impose criminal sanctions on a third country national who refuses to cooperate on return and readmission.</p> <p>EL</p> <p><b>(Drafting Suggestions):</b></p> <p><i>Additional consequences:</i></p> <p><b><u>(7) detention in accordance with Article 29(3), point (b);</u></b></p> <p><b><u>(8) any other measure established under national law, including criminal sanctions, aimed at ensuring compliance with the obligation to leave the territory of the Member States.</u></b></p>

Commission proposal	Drafting Suggestions and Comments
	<p><i>New paragraph:</i></p> <p><b><u>2. In case of absconding to another Member State, the return decision issued to the third-country national concerned will be recognised and enforced in accordance with Article 9, while it may only be challenged before the competent authority of the issuing Member State.</u></b></p> <p>EL  <b>(Comments):</b></p> <p>-We would be interested in examining the possibility for an open list of consequences.</p> <p>-In case the approach of a closed list of consequences is retained in this Article, we suggest providing for additional consequences that reinforce the flexibility of the Member States in imposing the appropriate measures with the aim to ensuring effective returns, including voluntary returns.</p> <p>Furthermore, we are of the opinion that mutual recognition and enforcement of a return decision should be also seen as a certain consequence for the TCN who absconded to another MS. In this way and in conjunction with the recital 18, some further limitations would be placed to the scope of the possible remedies examined by the national judicial authorities.</p> <p>ES</p>

Commission proposal	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p><i>ADDITIONAL POINT</i></p> <p><b><u>(7) any other measure established under national law, aimed at ensuring compliance with the obligation to leave the territory of the Member States.</u></b></p> <p><i>ADDITIONAL PARAGRAPH</i></p> <p><b><u>2. In case of absconding to another Member State, the return decision issued to the third-country national concerned shall be enforced in accordance with Article 9. The return decision may only be challenged before the competent authority of the issuing Member State.</u></b></p> <p>ES</p> <p><b>(Comments):</b></p> <p>Sufficient flexibility should be granted for Member States to establish possible additional consequences for non-compliance in accordance with national legislation.</p> <p>This paragraph reinforces the deterrence effect of the European Return Order, which shall be enforced in case of absconding.</p>

Commission proposal	Drafting Suggestions and Comments
	<p>In order to give reassurances to the enforcing Member States, the text should explicitly state that the appeal may only be lodged in the issuing Member States.</p> <p>FR  <b>(Drafting Suggestions):</b>                      (6) financial penalties;    <b>(7) where applicable, criminal penalties, including imprisonment,</b> pursuant to national law.</p> <p>HR  <b>(Drafting Suggestions):</b>                      (7) restriction of freedom of movement, or detention in a closed-type center</p> <p>HR  <b>(Comments):</b>                      As a consequence, in the event of non-compliance with the obligation to cooperate, a new point should be added: restriction of freedom of movement, or detention in a closed-type center.</p> <p>HU  <b>(Drafting Suggestions):</b>                      (7) restriction of freedom of movement, or detention in a closed-type center</p>

Commission proposal	Drafting Suggestions and Comments
	<p>HU (Comments): As a consequence, in the event of non-compliance with the obligation to cooperate, a new point should be added: restriction of freedom of movement, or detention in a closed-type center.</p> <p>IE (Comments): Who has responsibility for enforcing the collection of such penalties?</p> <p>MT (Drafting Suggestions): <i>In addition:</i> <b>(7) detention in accordance with Article 29(3)</b>  <b><u>(8) any other measure established under national law, including criminal sanctions, aimed at ensuring compliance with the obligation to leave the territory of the Member States.</u></b></p> <p>MT (Comments):</p>

Commission proposal	Drafting Suggestions and Comments
	<p>Malta deems it important to emphasise the use of detention as a consequences in case of non-compliance with the obligation to cooperate. Detention remains an essential tool for Member States to prevent absconding.</p> <p>Malta notes the importance of ensuring flexibility for Member States to implement the appropriate measures to safe-guard the Returns System.</p> <p>NL  (Drafting Suggestions):  <del>financial penalties.</del></p> <p>RO  (Drafting Suggestions):  <b>7) not granting a period of voluntary departure</b>  <b>8) detention</b></p> <p>RO  (Comments):  In order to ensure coordination with Article 12(1) letter a), we consider that Article 22 should be supplemented with two further measures - <b>the non-granting of a voluntary departure period and detention.</b></p>

Commission proposal	Drafting Suggestions and Comments
	<p>CH  (Drafting Suggestions):  (6) financial penalties.</p> <p><b><u>(7) detention in accordance with Article 29(3).</u></b></p> <p>CH  (Comments):  The reference to the grounds of detention in accordance with Art. 29(3) is appropriate for purpose of coherence. In addition, the wording of Art. 29(3) needs to be re-examined for the same for the same purpose since violations of te obligation to cooperate may be deemed as risk of absconding determined in accordance with Art. 30 (Art. 29(3)(a)), avoidance or hampering the preparation of the return or the removal process (Art. 29(3)(b)), or obstruction by the third-country national of the determination of verification of his or her identity or nationality (Art. 29(3)(d)).</p> <p>NO  (Drafting Suggestions):  (6) financial penalties.</p>

Commission proposal	Drafting Suggestions and Comments
	<p><u>(7) where applicable, criminal penalties, including imprisonment.</u></p> <p>NO (Comments):</p> <p>Recital (28) of the preamble open the way to impose criminal sanctions on foreigners who fall within the scope of the regulation.</p> <p>Even though Art. 22 (6) allows for a financial penalty, Norway would also want the possibility of imprisonment as a permitted response in these cases.</p>