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2024/0326 (NLE)

Proposal for a

**COUNCIL IMPLEMENTING DECISION**

**setting out recommendations addressing identified common areas for improvement  
resulting from the 2024 thematic Schengen evaluation ‘Bridging national gaps: towards  
an effective EU return system through common solutions and innovative practices’**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The process of returning third-country nationals with no legal right to stay in the Schengen area is complex, sensitive and involves a high number of actors, authorities and stakeholders. Significant efforts with concrete results have been made over the last years to build a well-functioning EU return system in line with the objectives set out in the Pact on Migration and Asylum<sup>1</sup>. The implementation of the EU Strategy on Voluntary Return and Reintegration<sup>2</sup>, the Operational Strategy for more effective returns of the Return Coordinator and the work of the High-Level Network on Returns supported and reinforced the coherence of Member States' efforts. Nevertheless, there is still a fragmented approach among EU Member States' return systems hampering the full extent of EU potential for more effective returns. An important bottleneck in the return process relates to the coordination and coherence of actors and procedures at both national and European levels.

On 17-18 October, the European Council stressed the importance of a comprehensive approach to migration, including implementing adopted EU legislation and application of existing legislation, in order to best address the current challenges. The European Council also called for determined action at all levels to facilitate, increase and speed up returns from the European Union, using all relevant EU policies, instruments and tools. A more effective implementation of the current legislation on return and further work towards a common approach to return support a faster and more efficient implementation of the Pact.

Furthermore, in the political guidelines for 2024-2029, President von der Leyen called for a new common approach on returns. This entails establishing a new legislative framework to speed up and simplify the return process, while ensuring that returns are conducted in a dignified manner. It also entails digitalising case management and moving towards mutual recognition of return decisions across the EU. The recommendations set out in this proposal for a Council implementing decision support the reflections and preparation of the upcoming proposals for a new legislative framework.

Council Regulation (EU) 2022/922 established an evaluation and monitoring mechanism to verify Member States' application of the Schengen *acquis*<sup>3</sup>. In accordance with Article 4(4) of the Regulation, the Commission may organise thematic evaluations, in particular to assess issues across policy areas or practices of Member States and Schengen Associated Countries (collectively referred to as Member States) facing similar challenges.

The Annual Evaluation Programme for 2024<sup>4</sup> to verify the application of the Schengen *acquis* in accordance with Council Regulation (EU) 2022/922 established that the Commission and

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<sup>1</sup> COM(2020) 609 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum.

<sup>2</sup> COM(2021) 120 final, Communication from the Commission to the European Parliament and the Council on the EU Strategy on Voluntary Return and Reintegration.

<sup>3</sup> Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing Regulation (EU) No 1053/2013. OJ L 160, 15.6.2022, p. 1–27.

<sup>4</sup> Commission Implementing Decision C(2023) 5300 of 18 December 2023 establishing the annual evaluation programme for 2024 in accordance with Article 13(1) of Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

Member States would carry out a thematic evaluation in 2024 entitled ‘Bridging national gaps: towards an effective EU return system through common solutions and innovative practices’. This evaluation has a twofold objective: on the one hand, to identify the key common obstacles limiting authorities’ ability to carry out the return of third-country nationals without a legal right to stay, and on the other hand, to build on common areas for improvement where common EU solutions and practices would bring added value.

In line with these objectives, the thematic evaluation analysed the main bottlenecks and possible solutions in the national return systems, focusing on the **key stages of the return process**:

- Initiation of the return process;
- Identification of third-country nationals;
- National and European interagency cooperation;
- Voluntary return and enforcement of returns.

Considering that the effective return of third-country nationals with no right to stay in the EU requires adequate and proactive planning, including for the development of short, medium and long-term capabilities, as well as efficient coordination, the thematic evaluation paid particular attention to strategic and horizontal processes. These relate to the coordination and coherence of actors and procedures at both national and European levels, which are essential processes for a well-functioning Schengen area. The results of the evaluation aim at providing a joint response to returns to foster further coordination and coherence, while upholding fundamental rights safeguards, with a view to maximising the potential of the existing tools and the European legal framework.

The thematic evaluation takes into account the important role of an **effective return system within European Integrated Border Management**, as defined in the European Border and Coast Guard Regulation<sup>5</sup>. Furthermore, following the entry into operation of the renewed Schengen Information System<sup>6</sup> and the new functionalities supporting return procedures, the thematic evaluation looks into the effective use of alerts on return and refusals of entry introduced in the **Schengen Information System**, as well as national capabilities to effectively exchange information and cooperate with other Member States, with a view to enforcing return decisions and preventing unauthorised secondary movements within the Schengen area.

In line with the specific nature of the thematic evaluation (i.e. long-term engagement throughout 2024, requiring specific expertise on several related areas), a dedicated evaluation team was established by the Commission in December 2023, composed of 15 Member State experts, two Commission experts, as well as observers from the European Union Agency for Fundamental Rights and the European Border and Coast Guard Agency (Frontex). The evaluation team developed a dedicated questionnaire, which was shared with all Member States, in order to identify common areas for improvement and good practical solutions at national and EU level within the above-mentioned key stages of return, which could contribute to a well-functioning Schengen area. The evaluation team also looked at the existing periodic Schengen evaluation reports in the field of return to identify any common challenges or best practices falling under the scope of the thematic evaluation. Similarly, the

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<sup>5</sup> Article 3(1)(i) of Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1–131.

<sup>6</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals.

evaluation team considered relevant European Migration Network queries. Furthermore, five focus group discussions took place between the evaluation team and Frontex in order to leverage the Agency's expertise and insights in view of further understanding where key challenges may lie and where best practices have been observed.

Based on the answers to the dedicated questionnaire that the evaluation team received at the end of June 2024, Italy, the Netherlands and Norway were identified for visits during September-October 2024. They were selected taking into account practices that due to their nature could not be effectively assessed remotely, as well as considering the need to avoid an additional burden on those Member States having been evaluated recently and those subject to periodic evaluations in 2024-2025, while ensuring a balanced and representative approach. Furthermore, videoconferences were carried out on specific topics to seek further information and clarifications with Austria and Denmark.

In accordance with Article 20(4) first sub-paragraph of Council Regulation (EU) 2022/922, the Commission adopted an evaluation report<sup>7</sup>, which sets out common areas for improvement and best practices identified during the thematic evaluation.

On this basis, this proposal contains recommendations to address common areas for improvement, which should be read alongside the best practices<sup>8</sup> outlined in the thematic evaluation report<sup>9</sup>.

In line with the conclusions of the European Council on 17-18 October 2024, it is crucial that all necessary measures are taken swiftly to enforce return decisions issued by the authorities of Member States. The proposed recommendations are to support these efforts and to offer valuable insights for the new common EU approach to returns, including the future EU legislative framework, and to ensure coherence with the work on return implementing the Pact on Migration and Asylum.

Within two months of the adoption by the Council of the Implementing Decision setting out the recommendations, each Member State will be invited to submit an action plan to the Commission for the review of its adequacy, as well as to the Council, in accordance with Articles 24 and 23(3) of Council Regulation (EU) 2022/922. These action plans shall contain remedial measures to implement all the recommendations, aimed at establishing effective operational procedures for more effective returns. In particular, Member States shall also explain how they intend to implement the identified best practices that they consider relevant and to clarify why the remaining practices cannot be taken into account considering national legal and operational specificities.

Member States should report to the Commission and the Council on the implementation of their action plans. Reporting synergies will be sought with the existing action plan related to return (if still open). The Commission will present a general overview on the overall progress of implementation of the action plans in the State of Schengen report in 2026, ensuring coherence with the ongoing efforts to further develop the common EU approach to returns,

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<sup>7</sup> C(2024) 8200.

<sup>8</sup> Recital 21 of Council Regulation (EU) 2022/922 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* defines best practices as '*new and innovative measures that significantly improve the implementation of the common rules and that could be put into practice by other Member States*'.

<sup>9</sup> These are practices considered by the evaluation team as improving the effectiveness of the EU return system. These have not undergone a compliance check with EU law, since Member States remain fully responsible for ensuring compliance with the applicable rules.

including as part of implementing the Pact on Migration and Asylum. Additionally, the Commission will continue supporting the implementation of best practices.

- **Consistency with existing policy provisions in the policy area**

The recommendations serve to implement correctly and effectively the existing provisions of the Schengen *acquis*.

- **Consistency with other Union policies**

The recommendations have links with other key Union policies concerning a well-functioning Schengen area of freedom, security and justice without internal frontiers, such as external and internal borders, visa, migration and asylum as well as internal security.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 23(2) and Article 24 of Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing Regulation (EU) No 1053/2013.

- **Subsidiarity (for non-exclusive competence)**

Article 23(1) of Regulation (EU) 2022/922 requests the Commission to submit a proposal to the Council to adopt recommendations for remedial actions to be taken by Member States in light of the findings identified in the evaluation report. Article 23(3) of Regulation (EU) 2022/922 requests that the evaluated Member States submit an action plan to the Commission and the Council in order to implement all the recommendations. Article 24 provides that Article 23(1), (2) and (3) apply to thematic evaluations.

Action at Union level is required to strengthen mutual trust between the Member States and to ensure better coordination at Union level in order to guarantee that all Schengen rules are applied correctly and effectively by the Member States.

- **Proportionality**

Article 23(2) in conjunction with Article 24 of Regulation (EU) 2022/922 mirrors the specific powers of the Council in the field of mutual evaluation of the implementation of Union policies within the area of freedom, security and justice.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

n.a.

- **Stakeholder consultations**

In line with Article 20(1) fourth subparagraph of Regulation 2022/922, the draft evaluation report was submitted to Member States for comments.

In accordance with Article 20(4) first sub-paragraph of Council Regulation (EU) 2022/922, the Commission adopted an evaluation report<sup>10</sup>, in accordance with the opinion of the Schengen Committee on 29 November 2024.

- **Collection and use of expertise**

n.a.

- **Impact assessment**

n.a.

- **Regulatory fitness and simplification**

n.a.

- **Fundamental rights**

The protection of fundamental rights when applying the Schengen *acquis* was taken into account during the evaluation process.

#### **4. BUDGETARY IMPLICATIONS**

n.a.

#### **5. OTHER ELEMENTS**

n.a.

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<sup>10</sup> C(2024) 8200.

Proposal for a

## COUNCIL IMPLEMENTING DECISION

**setting out recommendations addressing identified common areas for improvement resulting from the 2024 thematic Schengen evaluation ‘Bridging national gaps: towards an effective EU return system through common solutions and innovative practices’**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing Regulation (EU) No 1053/2013<sup>11</sup>, and in particular Article 23(2) and Article 24 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Council in its conclusion of 17 October 2024 called for determined action at all levels to facilitate, increase and speed up returns from the European Union, using all relevant EU policies, instruments and tools, including diplomacy, development, trade and visas.
- (2) A thematic evaluation of Member States’ practices and capabilities to ensure the effective return of third-country nationals with no right to stay in the territories of the Member States applying the Schengen *acquis* was carried out in 2024 by an evaluation team composed of experts from Member States, the Commission, as well as observers from the European Union Agency for Fundamental Rights and the European Border and Coast Guard Agency (Frontex). The thematic evaluation aimed at identifying key common obstacles limiting national authorities’ ability to carry out effective returns and identifying common Union solutions and practices that would bring an added value to a common EU system for return. The thematic evaluation also aimed at reinforcing the capacity of Member States in fulfilling their legal obligations to return third-country nationals without a legal right to stay, and to contribute to a uniform, harmonised and efficient implementation of the Schengen *acquis*, taking into account that return is key to ensure an effective and credible migration management, including to limit secondary movements, as well as to sustainably address some key threats for the internal security of the Schengen area.
- (3) Given that the return process is closely linked to the overall implementation of the Schengen *acquis*, resulting in a complex process where a high number of actors, authorities and stakeholders are involved, the thematic evaluation focused on three different policy topics: return, protection of the external borders, and management of IT systems. The main objective of this approach was to assess if Member States take all necessary measures to enforce return decisions, while ensuring the respect of the

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<sup>11</sup> OJ L 160, 15.6.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/922/oj>.

fundamental rights of the third-country nationals concerned, and to identify possible actions to be taken to improve in these areas.

- (4) Following the thematic evaluation, the Commission adopted a report<sup>12</sup> containing the assessment of common areas for improvement and listing best practices identified during the thematic evaluation<sup>13</sup>.
- (5) All States applying the Schengen *acquis* in full have been evaluated as part of this thematic evaluation in accordance with the methodology provided for in the Schengen evaluation guide set out in Commission Recommendation C(2023) 6790<sup>14</sup>.
- (6) The evaluation team operated under the coordination of lead experts from the Commission and the Member States (Sweden). It was further composed of a second expert from the Commission and national experts from Austria, Belgium, Czechia, Denmark, Estonia, Finland, Italy, Latvia, Liechtenstein, Lithuania, Norway, Poland, Portugal, Slovenia, Spain and Switzerland. Observers designated by Frontex and the European Union Agency for Fundamental Rights supported the work of the evaluation team.
- (7) The evaluation team developed a dedicated questionnaire and analysed the results of past Schengen evaluation reports to identify common challenges and best practices relevant for the thematic evaluation.
- (8) The recommendations set out in this Decision and the best practices collected and described in the report have been structured around three building blocks: (1) a well-functioning Schengen system requires effective return, (2) ensuring effectiveness at key stages of the return process between national authorities, and (3) maximising national efficiency through stronger European cooperation. These building blocks need effective horizontal planning, including for adequate capabilities, streamlined procedures, and effective coordination both at national and Union level, including through the use of technology.
- (9) The thematic evaluation underscores the importance of return as a key part of the national strategies for European Integrated Border Management. Effective interagency cooperation at national level is a key pre-requisite for a well-functioning national return system and consequently for a common European one. Achieving such a system requires enhanced information exchange for more efficient and effective decision-making, through the best use of information available to authorities at national level and within Union large-scale information systems, mainly the Schengen Information System.
- (10) Ensuring the swift initiation of the return process following the procedures connected to the end of legal stay is key to comply with the obligation to issue return decisions without delay to illegally staying third-country nationals. At the same time, all relevant fundamental rights safeguards need to be in place to ensure that third-country nationals are subject to an individual assessment that takes into account their situation and needs, as well as access to an effective remedy. The Schengen *acquis* on return gives

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<sup>12</sup> C(2024) 8200.

<sup>13</sup> These are practices considered by the evaluation team as improving the effectiveness of the EU return system. These have not undergone a compliance check with EU law, since Member States applying the Schengen *acquis* remain fully responsible for ensuring compliance with the applicable rules.

<sup>14</sup> Commission Recommendation C(2023) 6790 of 16 October 2023 on the establishment of a Schengen evaluation guide to be used for the implementation of the Schengen evaluation and monitoring mechanism.



Member States a margin for establishing effective operational procedures and modalities that respect fundamental rights.

- (11) The identification of illegally staying third-country nationals is a necessary step for the effective implementation of the return procedure, including through the effective use of all available tools and information at national and Union level.
- (12) An effective return system requires the possibility for dignified and sustainable return on a voluntary basis, which is preferred over forced return. The use of return counselling and of available reintegration assistance are key tools to encourage voluntary return. For the voluntary return system to be reliable, and to prevent absconding and secondary movements, the effective monitoring of third-country nationals ordered to leave is also necessary to ensure that they comply with their return obligations. This is facilitated by the functionalities of the Schengen Information System, which should be complemented with effective measures at national level to achieve the desired effect.
- (13) To avoid potential security implications, it is vital to have effective procedures and cooperation mechanisms between authorities at national and Union level to identify as early as possible third-country nationals without a legal right to stay who pose a security threat, and to prioritise their return. For the same reason, effective cooperation between relevant authorities is needed to return third-country nationals without a legal right to stay who are serving a prison sentence.
- (14) The upgraded Schengen Information System, which includes alerts on return, reinforces the return procedures when effectively utilised, including through the sharing of biometric data and the reporting of hits, as well as the exchange of supplementary information between Member States.
- (15) An effective implementation of the Schengen *acquis* and of existing European tools are valuable resources for further enhancing the effectiveness of returns. However, additional measures and enhanced practices should be followed by Member States applying the Schengen *acquis* to maximise their impact.
- (16) The report identified common areas for improvement faced by Member States when preparing or carrying out procedures to return third-country nationals without a legal right to stay, which form the basis for the recommendations set out in this Decision. The report also contains numerous best practices to support Member States in addressing existing challenges.
- (17) Pursuant to Article 23(3) of Regulation (EU) 2022/922, Member States are to submit to the Commission and the Council an action plan to implement the recommendations. This should be done within two months after this Decision enters into force. The action plan should provide for adequate remedial measures to address the areas for improvement. Building on the vast range of best practices collected and described in the report, Member States should consider their added value towards a more effective Union return system and the feasibility to implement them, in consultation, where relevant, with the Member States who have already implemented them. Member States are encouraged to identify in the individual action plans those best practices that they intend to implement and to explain why the other best practices cannot be taken into account considering national legal and operational specificities.
- (18) Pursuant to Article 23(3), second subparagraph, of Regulation (EU) 2022/922, the Commission, after consultation with the evaluation team, is to review the adequacy of the action plans within one month of its submission. Pursuant to Article 23(3), third

and fourth subparagraphs, of that Regulation, Member States are to report to the Commission and the Council on the implementation of their action plan every six months from the date of notice of receipt of the review of the action plan, until the Commission considers the action plan fully implemented.

#### RECOMMENDS:

that the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Croatia, the Czech Republic, the Kingdom of Denmark, the Republic of Finland, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Republic of Iceland, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Principality of Liechtenstein, the Republic of Malta, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Kingdom of Sweden and the Swiss Confederation,

### **I. A WELL-FUNCTIONING SCHENGEN SYSTEM REQUIRES EFFECTIVE RETURNS**

#### **Return as a key part of Schengen governance**

1. Ensure the effective implementation of return as an integral part of the relevant components of national strategies for European Integrated Border Management, promoting the effective cooperation between all involved stakeholders, as provided for in Articles 3 and 8(6) of Regulation (EU) 2019/1896<sup>15</sup> of the European Parliament and of the Council;
2. Establish and update on a regular basis the capability development and contingency plans for return, based on the outcome of a risk analysis, as provided for by Articles 9(3) and (4) and 29(7) of Regulation (EU) 2019/1896;

### **II. ENSURING EFFECTIVENESS AT KEY STAGES OF THE RETURN PROCESS BETWEEN NATIONAL AUTHORITIES**

#### **Effectively initiating and managing return procedures**

3. Ensure that a return decision is issued without delay to any third-country national staying illegally on the territory of a Member State in accordance with Article 6(1) of Directive 2008/115/EC of the European Parliament and of the Council<sup>16</sup>, and taking into account the possibilities provided for in Article 6(6) of that Directive;
4. Assess the national appeal system for return decisions (notably on number of instances, appeal deadlines, conditions for granting automatic suspensive effect, deadlines for judicial review) and take measures that results in prompt appeal procedures contributing to the overall effectiveness of return, in accordance with

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<sup>15</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).

<sup>16</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Article 8(1) of Directive 2008/115/EC, while ensuring full respect of the fundamental rights of the persons concerned, in accordance with Article 13 of that Directive;

5. Ensure the enforcement of return decisions in an effective and proportionate manner in accordance with Article 8(1) of Directive 2008/115/EC, by taking measures to deal in a swift manner with subsequent applications for international protection that do not contain new facts or circumstances, and which are lodged for the sole purpose of delaying or hampering removal;

**Digital Return Case Management System to ensure coordination between authorities (including large-scale IT systems)**

6. Develop and further improve the national return case management system in light of the reference model for national return case management systems (RECAMAS) established by Frontex, taking into account developments of digital solutions for migration and asylum procedures at EU level and making full use of the support available from the Agency pursuant to Article 48(1), point (c) of Regulation (EU) 2019/1896;

**Identification procedure, including through the use of large-scale IT systems supporting the application of the Schengen *acquis***

7. Maximise the use of all available tools (such as national and EU databases, support of the liaison officers' network) and incentives (such as offering adapted voluntary return and reintegration assistance, vocational training) to facilitate the identification of third-country nationals subject to return, in view of enforcing a return decision in accordance with Article 8(1) of Directive 2008/115/EC;

**Credible return systems: coherence between voluntary and forced returns**

8. Use all available tools to promote the possibilities for dignified return for third-country nationals subject to return, to give full effect to the preference for voluntary return in accordance with Article 7(1) and recital 10 of Directive 2008/115/EC, by providing for systematic return counselling and enhanced return assistance, including the assistance provided in line with Article 48(1), point (a), of the Regulation (EU) 2019/1896;
9. Establish appropriate mechanisms to monitor the compliance with an obligation to return, so as to enforce the return decision if no period for voluntary departure has been granted or if the obligation to return has not been complied with within the granted period for voluntary departure, in accordance with Article 8(1) of Directive 2008/115/EC;
10. Ensure that the exit of a third-country national subject to return is systematically and swiftly registered in the Schengen Information System, and enter an alert on refusal of entry as relevant, by effectively carrying out exit checks at the external borders in accordance with Article 8(3) points (g) and (h) of Regulation (EU) 2016/399 of the European Parliament and of the Council<sup>17</sup> and ensuring that supplementary

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<sup>17</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (OJ L 77, 23/03/2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/399/oj>).

information is shared via SIRENE in line with Article 5 of Regulation (EU) 2018/1860 of the European Parliament and of the Council<sup>18</sup>;

### **Prioritised return of criminals and those who pose a security threat**

11. Take all necessary measures to return as soon as possible third-country nationals subject to a return decision not granting a period for voluntary departure, as well as third-country nationals who are serving a prison sentence, without prejudice to national criminal law, in accordance with Article 8(1) of Directive 2008/115/EC;
12. Include systematically in the alerts on return contained in the Schengen Information System information about the threat posed by an illegally staying third-country national to public policy, public security or national security, in accordance with Article 4(1), point (o), of Regulation (EU) 2018/1860, as soon as that threat is established;
13. Ensure the full use of the possibilities provided for by Article 7(4) and Article 11(2) of Directive 2008/115/EC concerning the granting of a period for voluntary departure and the length of entry bans, in cases concerning illegally staying third-country nationals that pose a risk to public policy, public security or national security;

### **III. MAXIMISING NATIONAL EFFICIENCY THROUGH STRONGER EUROPEAN COOPERATION**

#### **Enhancing exchange of information for more efficient and effective decision-making**

14. Ensure that the national competent authorities involved in examining the conditions and taking decisions related to the entry, stay and return of third-country nationals, as well as those carrying out checks on third-country nationals who are illegally entering or staying on the territory of the Member States, have full access to data and the right to search such data in the Schengen Information System in accordance with Article 17 of Regulation (EU) 2018/1860, Article 34 of Regulation (EU) 2018/1861 of the European Parliament and of the Council<sup>19</sup> and Article 44 of Regulation (EU) 2018/1862 of the European Parliament and of the Council<sup>20</sup>;
15. Ensure that swift national procedures are in place to exchange information between relevant authorities so that alerts on return are entered in the Schengen Information System without delay following the issuance of a return decision, in accordance with Article 3(1) of Regulation (EU) 2018/1860;

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<sup>18</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1860/oj>).

<sup>19</sup> Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14, ELI: <http://data.europa.eu/eli/reg/2018/1861/oj>).

<sup>20</sup> Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56, ELI: <http://data.europa.eu/eli/reg/2018/1862/oj>).

16. Ensure that available biometric data referred to in Article 4(1), points (u) and (v), of Regulation (EU) 2018/1860 is included in alerts on return contained in the Schengen Information System, to improve identification;

**Operational support through Frontex**

17. Fully utilise the operational support available through Frontex provided for in Articles 48 and Article 50 of Regulation (EU) 2019/1896 to enhance the effectiveness of return activities; for this purpose, adapt national systems and processes to remove obstacles.
18. Use the operational support available through Frontex to deploy return teams provided for in Article 52 of Regulation (EU) 2019/1896, while ensuring full operational integration in accordance with Articles 54 and 82 of Regulation (EU) 2019/1896, to respond to the lack of human resources that hinder effective and speedy enforcement of returns, especially in cases where a large number of third-country nationals are subject to the return process at the same time.

Done at Brussels,

*For the Council  
The President*