











Procedure file


Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation 2016/0224B(COD)	Awaiting Council's 1st reading position
Establishing a return border procedure Repealing Directive 2013/32 2009/0165(COD) See also 2016/0224A(COD)	
Subject 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)	

Key players			
European Parliament	Committee responsible  Civil Liberties, Justice and Home Affairs	Rapporteur  KELLER Fabienne	Appointed 09/11/2020
		Shadow rapporteur  DÜPONT Lena  GUILLAUME Sylvie  MARQUARDT Erik  FEST Nicolaus  KANKO Assita  ERNST Cornelia	
	Committee for opinion on the legal basis  Legal Affairs	Rapporteur for opinion  LAGODINSKY Sergey	Appointed 01/01/2024
Council of the European Union European Commission	Commission DG Migration and Home Affairs	Commissioner AVRAMOPOULOS Dimitris	

Key events			
13/07/2016	Legislative proposal published	COM(2016)0467	

14/02/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.809 GEDA/A/(2024)000938	
14/02/2024	Vote in committee, 1st reading		
29/02/2024	Committee referral announced in Parliament, 1st reading		
04/04/2024	Committee report tabled for plenary, 1st reading	A9-0164/2024	
10/04/2024	Debate in Parliament		
10/04/2024	Decision by Parliament, 1st reading	T9-0180/2024	Summary

Technical information	
Procedure reference	2016/0224B(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Directive 2013/32 2009/0165(COD) See also 2016/0224A(COD)
Legal basis	Rules of Procedure EP 40
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	LIBE/9/14293

Documentation gateway					
Legislative proposal		COM(2016)0467	13/07/2016	EC	
Coreper letter confirming interinstitutional agreement		GEDA/A/(2024)000938	13/02/2024	CSL	
Text agreed during interinstitutional negotiations		PE759.809	13/03/2024	EP	
Specific opinion		PE759.943	26/03/2024	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0164/2024	04/04/2024	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0180/2024	10/04/2024	EP	Summary

Establishing a return border procedure

The European Parliament adopted by 329 votes to 253, with 40 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing a return border procedure and amending Regulation (EU) 2021/1148.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter and scope

The objective of this Regulation is to streamline, simplify and harmonise the procedural arrangements of the Member States by establishing a return border procedure. The Regulation applies to third-country nationals and stateless persons whose application has been rejected in the context of the asylum border procedure provided for in the [Regulation](#) establishing a common procedure for international protection in the Union.

Temporary measures adopted pursuant to this Regulation should meet the requirements of necessity and proportionality, be appropriate to achieving their stated objectives and ensuring the protection of the rights of the applicants and be consistent with the obligations of the Member States under the Charter and international law.

The best interests of the child should be a primary consideration for Member States when applying the provisions of this Regulation that possibly affect minors.

Return border procedure

The Regulation states that third-country nationals and stateless persons whose application has been rejected in the context of the asylum border procedure should not be authorised to enter the territory of the Member State concerned. These persons should reside for a period not exceeding 12 weeks in locations at or in proximity to the external border or transit zones. The 12-week period should start from the date on which the applicant, third-country national or stateless person no longer has a right to remain and is not allowed to remain.

Without prejudice to the possibility for them to return voluntarily at any time, persons concerned should be granted a period for voluntary departure unless there is a risk of absconding, or if their application in the context of the asylum border procedure has been rejected as manifestly unfounded, or if the person concerned is a risk to public policy, public security or the national security of the Member States. The period for voluntary departure should be granted only upon request and it should neither exceed 15 days nor confer a right to enter the territory of the Member State concerned.

Detention

Detention may be imposed only as a measure of last resort if it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.

Third-country nationals who were detained during the asylum border procedure, who no longer have a right to remain and who are not allowed to remain may continue to be detained for the purpose of preventing their entry into the territory of the Member State concerned, of preparing their return or of carrying out the removal process.

Third-country nationals who were not detained during the asylum border procedure, who no longer have a right to remain and who are not allowed to remain may be detained if there is a risk of absconding, if they avoid or hamper the preparation of return or the removal process or if they pose a risk to public policy, public security or national security.

Detention should be maintained for as short a period as possible, and for only as long as a reasonable prospect of removal exists, and while arrangements therefor are in progress and are executed with due diligence. The period of detention should not exceed 12 weeks.

Measures applicable to the return border procedure in a situation of crisis

The border return procedure should facilitate, in a crisis situation, the return of illegally staying third-country nationals or stateless persons whose application has been rejected in the context of the asylum procedure at the border, who have no right to remain and who are not allowed to remain, by providing the competent national authorities with the necessary tools and sufficient time to carry out the return procedures with due diligence.

In order to be able to respond effectively to crisis situations, it will be possible to apply the return procedure at the border in a crisis situation to applicants, third-country nationals and stateless persons subject to the asylum border procedure whose application has been rejected before the adoption of the Council Implementing Decision and who have no right to remain and who are not allowed to remain after the adoption of that Implementing Decision.

Contribution by the Union budget

It is provided to amend Regulation (EU) 2021/1148 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (BMVI), to guarantee a full contribution by the Union budget to the total eligible expenditure of solidarity actions, as well as to introduce specific reporting requirements in relation to those actions, as part of the existing reporting obligations on the implementation of the Funds. That Regulation should also be amended to allow the Member States to provide financial contributions to the BMVI in the form of external assigned revenues.

Monitoring and evaluation

By two years from the date of application of this Regulation and every five years thereafter, the Commission should report to the European Parliament and to the Council on the application of this Regulation in the Member States and should, where appropriate, propose any amendments.

Transparency				
DÜPONT Lena	Shadow rapporteur	LIBE	03/04/2024	Diakonie Deutschland EKD-Büro Brüssel / EKD-Office Brussels proasyl
DÜPONT Lena	Shadow rapporteur	LIBE	09/10/2023	Dutch Ministry on Migration and Asylum
DÜPONT Lena	Shadow rapporteur	LIBE	02/10/2023	UK Perm Rep
DÜPONT Lena	Shadow rapporteur	LIBE	27/09/2023	Deutsche Gesellschaft für Auswärtige Politik
DÜPONT	Shadow	LIBE	12/09/2023	Permanent Representation of Malta

Lena	rapporteur			
DÜPONT Lena	Shadow rapporteur	LIBE	04/07/2023	UNHCR