

Polish Highly Effective Return Policy: AT WHOSE COST?

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Return Directive

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

Implementation date: 24 December 2010 (2011)

Return Directive Goals

The establishment of an effective removal and repatriation policy, based on common standards, for persons to be returned in a humane manner and with **full respect for their fundamental rights and dignity.**

Return Directive Procedural Safeguards

Article 12

- Return decisions shall be issued in writing and give reasons in fact and in law as well as information about available legal remedies.
- Member States shall provide, upon request, a written or oral translation of the main elements of decisions related to return, including information on the available legal remedies.

Return Directive Procedural Safeguards

Article 13 - **Legal Remedies**

- an effective remedy to appeal against decisions related to return, before a competent judicial or administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence.
- temporarily suspending the enforcement of returns decisions

Return Directive Procedural Safeguards

Article 15 - Detention as a measure of last resort

- Unless other sufficient but less coercive measures can be applied effectively.
- Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.
- speedy judicial review of the lawfulness of detention

Return Directive Procedural Safeguards

Article 13 - Legal Remedies

- the possibility to obtain legal advice / represent. and, where necessary, linguistic assistance.
- MS shall ensure that the necessary legal assistance / representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid.

Return Effectiveness in 2017 - EU

516,115 non-EU citizens were ordered to leave the EU MS

188,905 non-EU citizens were effectively returned

The EU average - 36.6% effective returns

Return Effectiveness in 2017 - Poland

24 882 non-EU citizens were ordered to leave Poland (Ukraine – 75 %, Russia – 9%, Bielarus 5%, Moldova 5%)

23 364 (94 %) TCN's were effectively returned
22085 – returned through land border crossings
16 550 – TCN's illegal stay was discovered at the border

1279 – returned by air

Source: Polish Office for Foreigners, Polish Border Guard Statistics

Eurostat Data on returns 2017 - Poland

Total returns: 22 210

Voluntary returns: 21 305

Enforced returns: 905

Source: EuroStat, Third-country nationals who have left the territory by type of return and citizenship[migr_eirt_vol]

Some reasons for the effectiveness of Polish return policy

- **Return decisions enforced against TCN's returning to the neighboring countries**
- **Readmission**
- **Many illegal stays are being detected at the moment of the attempt to leave Polish territory (overstayers)**

CONCERNS

1. **Since 2008 no system of state-funded legal aid /representation in place (2017 draft)**
2. **Enforcing decisions during the time-frame when the TCN can still ask for judicial review of the administrative decision**
3. **Lack of translation support (the evidence in national language of the TCN's not accepted)**
4. **Detention is not a measure of last resort**
5. **No legal representation in detention cases**

Other CONCERNS

- *Push-backs of A/S- Terespol*
- *AMIF – no support for irregular migrants by Polish Government*

Effectiveness of enforcement of Return Decisions is one of the main goals of the European Commission.

An effective return policy MUST BE based on common standards, for persons to be returned in a humane manner and with full respect for their **fundamental rights and dignity.**



Plato – insists in the *Nomoi (Laws)*

“As to foreigners, one should regard agreements made with them as particularly sacrosanct. Practically all offenses committed as between or against foreigners are quicker to attract the vengeance of God than offenses as between fellow citizens. The foreigner is not surrounded by friends and companions, and stirs the compassion of gods and men that much more... The most serious of offenses against foreigners or natives is always that affecting suppliants...” Laws 729 f.

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Thank you!

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