

[REDACTED]

s 22(1)(a)(ii)

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Title: EU: New reforms to tackle Europe's 'existential' returns challenges
MRN: s 22(1)(a)(ii)
To: Canberra
Cc: RR : Africa Posts, Americas Posts, Europe Posts, Indo-Pacific Posts, Middle East Posts
From: Brussels
From File:
EDRMS
Files:
References: s 22(1)(a)(ii)

Response: Routine, Information Only

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On 11 March, Brunner unveiled an ambitious reform package—the [New Common Approach to Returns](#)—intended to “make it possible for member states to think about new, innovative ideas, including return hubs.”

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Europe's return challenges

4. Between 2014 and 2023, EU27+ countries (EU and Norway, Switzerland, Iceland and Liechtenstein) issued 4.5 million return orders, out of which only 1.3 million led to returns being given effect (including both voluntary and involuntary returns). s 33(a)(iii)

Wasn't the Migration Pact meant to fix this?

5. The Pact on Migration and Asylum, adopted in May 2024 (which comes into effect in 2026, s 22(1)(a)(ii)), included several measures designed to create a more coherent EU returns system, such as the creation of an EU Returns Coordinator. But political realities have shifted. Brunner has said publicly the Pact was "a great foundation" but was "not enough".

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So, what's in the new proposal?

6. The proposal allows for **returns to a third country with which there is an EU member state agreement or arrangement**. Return hubs are not the final destination for the returnee, but a holding place pending removal. s 33(a)(iii)

President von der Leyen laid the groundwork in a [letter](#) to European leaders in October 2024. Brunner's proposal states a third country returns hub arrangement can only be concluded where the receiving country upholds international human rights standards and principles in accordance with international law, including non-refoulement. Unaccompanied minors and families with minors are excluded. **Crucially, responsibility for negotiating a third country returns arrangement is set to reside with individual EU member states.**

7. Other key elements of the package include the establishment of an **obligation to cooperate** on the part of the returnee s 33(a)(iii)

including on establishing and verifying identity in view of obtaining a valid travel document. The consequences for not cooperating with authorities may include reduced social benefits in line with relevant EU member state laws; seizure of travel documents; and/or extended entry bans.

8. To tackle returnees moving from one EU member state to another, the proposal says administrative immigration detention can be imposed where there is a risk of an individual absconding, where they hamper or avoid return, pose a security risk, do not comply with alternatives to detention, or where detention is necessary to determine or verify identity or nationality. Detention should be for as short a period as possible and may not exceed 24 months. The proposal also introduces a new 'European Return Order' designed to

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complement existing member state return orders, to be made available on the Schengen Information System to improve information sharing processes.

9. A further security related measure in the proposal is that entry bans can be extended in cases where the individual poses an identified risk. While the maximum length of an entry ban is set at 10 years, it can be extended in certain circumstances. Under the plan, returnees classified as security risks face EU-wide entry bans, making future entry more difficult.

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text ends

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Title: EU: Tackling the asylum backlog
MRN: s 22(1)(a)(ii)
To: Canberra
Cc: RR : Africa Posts, Americas Posts, Europe Posts, Indo-Pacific Posts, Middle East Posts
From: Brussels
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Response: Routine, Information Only

Annotations: Consulted with Rome, Berlin, Paris, Home Affairs London
s 33(a)(iii)

On 16 April, the EU [proposed](#) a “safe country of origin list” for asylum processing purposes, which includes **Bangladesh, Colombia, Egypt, India, Kosovo, Morocco and Tunisia**. Also on the list are EU candidate countries (with the exception of **Ukraine**): **Albania, Bosnia, Georgia, Moldova, Montenegro, North Macedonia, Serbia and Türkiye**. Under the proposal, EU member states will be able to fast-track asylum processing of those from designated safe countries, on the basis claims are more likely to be unmeritorious. The proposal is not yet law. In 2015, a similar proposal faltered in the European Parliament due to lack of consensus on inclusion of Türkiye.

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The EU asylum backlog

3. The context for the announcement is the EU’s significant asylum backlog. The EUAA has estimated, as at the end of January 2025, outstanding cases in the EU numbered some 1.3 million. The EUAA has publicly conceded “decision making has not kept pace with the number of applications being lodged.” s 33(a)(iii), s 33(b)

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s 33(a)(iii), s 33(b)

EU Commissioner for Internal Affairs and Migration, Magnus Brunner, has described tackling the backlog as “essential” with efforts intended to work “hand in hand” with efforts to fix Europe’s returns system s 22(1)(a)(ii) .

How it would work

4. The proposed safe country list would not give member states *carte blanche* to dismiss asylum applicants of certain nationalities. Applicants would still need to be examined individually on their merits: the list is primarily a case triaging tool. s 33(a)(iii), s 33(b)

5. The EU has said the safe country list is intended to be “dynamic”— with the EU suspending or removing countries if no longer deemed safe. Member states will be able to add additional countries but not remove from the list to ensure a baseline standard. s 33(a)(iii), s 33(b)

Frontloading the Pact on Migration and Asylum

6. On 16 April, the EU announced it would also look to bring forward implementation of two elements of the Pact on Migration and Asylum s 22(1)(a)(ii) as part of this same legislative proposal. The Pact will not come into full effect until June 2026. First, member states will be able to adopt streamlined processing for asylum seekers from countries where, on average, 20 per cent or fewer applicants were granted international protection in the EU. Cohorts with traditionally low refugee recognition rates (around 5 per cent or lower) in the EU include nationals of: **Albania, Bangladesh, Colombia, Georgia, Morocco, Pakistan, Tunisia and Venezuela.** s 33(a)(iii)

Second, member states will be able to designate safe countries with “exceptions”, meaning specific regions or specific vulnerable categories of individuals are able to be excluded s 33(a)(iii)

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Title: EU: Danish EU Presidency to prioritise migration reform
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Response: Routine, Information Only

Annotations: Developed with Copenhagen post.
s 33(a)(iii)

On 1 July, Denmark commenced its presidency of the Council of the EU, a role which rotates among the EU member states every six months s 22(1)(a)(ii) . Denmark is well known in Europe for its robust approach to border and migration management and Danish Prime Minister Frederiksen has said she will make migration a focus of the Danish presidency.

2. In [remarks](#) at the opening ceremony for the Danish EU presidency Frederiksen stated “building a strong Europe is also about migration...right now, cynical people smugglers have the power to decide who can enter Europe and who cannot.” If countries were not in control of their borders, “we see the consequences: crime; radicalisation; and terror.”

3. President von der Leyen appears to be firmly backing Denmark’s approach, recently [stating](#), “Under your [Danish] presidency, we will be able to make progress on repatriation, countries of origin, and safe third countries.”

4. Denmark’s approach to migration has also garnered praise by some EU leaders. German Chancellor Merz has said "What Denmark has achieved in recent years is truly exemplary. Together we are also moving towards new and stricter asylum rules in the EU."

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Denmark's approach

7. Denmark is unique in the EU as it maintains an 'opt-out' from otherwise binding EU asylum and migration rules. Denmark's migration opt-out followed an initial rejection by the Danish public at a referendum on joining the EU in 1992.

8. The opt-out enables Denmark to develop its own national legislation, such as its 2021 law permitting the transfer of asylum seekers to third countries outside the EU for processing.

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In 2022, Denmark signed a EUR200 million deal to send 300 convicted non-nationals (from 2027 onwards) to serve their sentences in a Kosovo prison before removal.

9. Denmark's strong focus on returns is a key element of its migration approach s 22(1)(a)(ii). A Return Agency was established in 2019 specifically to facilitate expeditious return of non-nationals without legal right to remain. Denmark also utilises return centres, including for those who are uncooperative or who are unable to be returned. Other migration policies of note in Denmark include its preference for granting temporary (rather than permanent) protection status and that it has amongst the strictest family reunification rules in Europe.

Criticism of the European Court of Human Rights

10. In May, on the initiative of **Denmark and Italy**, joined by **Austria, Belgium, Czechia, Estonia, Latvia, Lithuania, and Poland**, leaders called in an open letter for a "new and open-minded conversation" on how the European Court of Human Rights interpreted the European Convention on Human Rights on migration-related matters. Specifically, the letter called for greater national autonomy to: 1) remove criminal non-nationals; 2) monitor those unable to be removed; and 3) "effective steps to counter hostile states" engaged in instrumentalised migration s 22(1)(a)(ii). In response, Alain Berset, Secretary General of the Council of Europe, issued a statement acknowledging these were "complex issues" but while "debate was healthy, politicising the court was not" and that "institutions that protect fundamental rights couldn't bend to political cycles."

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EU MIGRATION POLICY

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2. In response, President von der Leyen is spearheading a **significant reform process**,^{s 33(a)(iii)}
The Pact on Migration and Asylum (a decade in negotiation) comes into full effect in June 2026. A major focus is reducing the burden faced by ‘frontline states’ such as Greece and Italy.
3. **A key focus is returns.** Currently only 20 per cent of those told to depart leave the EU. Measures include: use of visa policy as a foreign policy tool and actively linking tariff preferences to third countries’ cooperation on returning irregular migrants. There is consideration of establishing third country return hubs.
4. EU member states have an estimated 1.3 million outstanding asylum cases to process.
^{s 33(a)(iii)}
 The EU is looking to fast track asylum processing of claims of certain nationals (including those from Bangladesh and India) on the basis claims are more likely to be rejected. ^{s 33(a)(iii)}
5. The EU is looking to take stronger action on **regular migration issues**, recognising the need for a more comprehensive and unified European approach to tackling critical issues such as labour shortages in key fields, an ageing European population (now amongst the oldest globally) and flagging productivity. ^{s 33(a)(iii)}

