

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

CHAPTER II

TERMINATION OF ILLEGAL STAY

Article 11

Entry ban

- 1 Return decisions shall be accompanied by an entry ban:
- a if no period for voluntary departure has been granted, or
 - b if the obligation to return has not been complied with.

In other cases return decisions may be accompanied by an entry ban.

2 The length of the entry ban shall be determined with due regard to all relevant circumstances of the individual case and shall not in principle exceed five years. It may however exceed five years if the third-country national represents a serious threat to public policy, public security or national security.

3 Member States shall consider withdrawing or suspending an entry ban where a third-country national who is the subject of an entry ban issued in accordance with paragraph 1, second subparagraph, can demonstrate that he or she has left the territory of a Member State in full compliance with a return decision.

Victims of trafficking in human beings who have been granted a residence permit pursuant to Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities⁽¹⁾ shall not be subject of an entry ban without prejudice to paragraph 1, first subparagraph, point (b), and provided that the third-country national concerned does not represent a threat to public policy, public security or national security.

Member States may refrain from issuing, withdraw or suspend an entry ban in individual cases for humanitarian reasons.

Member States may withdraw or suspend an entry ban in individual cases or certain categories of cases for other reasons.

4 Where a Member State is considering issuing a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an entry ban issued by another Member State, it shall first consult the Member State having issued the entry ban and shall take account of its interests in accordance with Article 25 of the Convention implementing the Schengen Agreement⁽²⁾.

5 Paragraphs 1 to 4 shall apply without prejudice to the right to international protection, as defined in Article 2(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum

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standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted⁽³⁾, in the Member States.

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- (1) OJ L 261, 6.8.2004, p. 19.
- (2) OJ L 239, 22.9.2000, p. 19.
- (3) OJ L 304, 30.9.2004, p. 12.