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Recommendations for humane return policies in Europe

Our organisations represent Churches throughout Europe – Anglican, Orthodox, Protestant and Catholic – as well as Christian agencies particularly concerned with migrants, refugees, and asylum seekers. As Christian organisations, we are deeply committed to the inviolable dignity of the human person created in the image of God, as well as to the concepts of the common good, of global solidarity and of the promotion of a society that welcomes strangers. We also share the conviction that the core values of the European Union (EU) must be reflected in daily EU politics, including its policies in the area of freedom, security and justice. It is against this background that we analyse the current situation and formulate recommendations for humane policies on returns in Europe.

Preliminary remarks

Policies for returning persons who have no right to reside in EU Member States are currently dominating public discourse. Certainly, return is one element of a comprehensive migration and asylum system; states have the right and obligation to set the rules for persons from other countries to enter and reside, and to return those who do not meet those conditions. States and the EU are, however, bound by their international obligations to grant protection to those in need and to not return persons into life-threatening situations. The principle of non-refoulement has to be respected in all procedures and actions regarding the removal of persons from the territory. However, the EU asylum and migration policies remain imbalanced: agreement by Member States on the admission of migrants and refugees appears still difficult to obtain, while on return many rules have been agreed, such as the mutual recognition of national expulsion orders.

In this paper we follow the definition of return provided by the EU Return Directive[1], namely, as the process of third-country nationals going back - whether in voluntary compliance with an obligation to return, or enforced - to:
- their country of origin, or
- a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or
- another third country, to which the third-country national concerned voluntarily decides to return and where he or she will be accepted;

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[1] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF.

Returns to third countries, following the application of the "Safe Third Country" or the "First Country of Asylum" concepts also fall under the scope of this paper.

Current developments and context

Increasing return rates at all costs

Since the increase of arrivals of asylum seekers to the EU in 2015, boosting removal rates has become a political priority for most EU decision makers, who increasingly claim that the credibility of the EU's asylum system depends on an effective return policy. Effective return is seen as a tool to reduce the incentive for irregular migration to the EU, in a context dominated by the securitisation of migration policies, at the detriment of measures aimed at integrating migrants and at opening up legal pathways of migration. Against this backdrop, the European Commission published in March 2017 a renewed action plan and recommendations to Member States on a more effective return policy[2], advising them on how to best implement the 2008 EU return directive[3] and use the flexibilities it offers to increase return rates. The mid-term review of the European Agenda on Migration of September 2017[4] called to upgrade the European Border and Coast Guard Agency capacity and called for using all incentives and leverages available at EU and national level to increase cooperation on readmission by countries of origin. Following this call, the European Commission published a proposal amending the Visa Code (EG/810/2009) on 14 March 2018 in order to "make sure our common visa policy can help improve our cooperation with non-EU countries when it comes to the return of irregular migrants", as EU Migration Commissioner Dimitris Avramopoulos outlined[5]. The proposal contains a new mechanism to trigger stricter conditions for processing visas when a partner country does not cooperate sufficiently on the readmission of irregular migrants.

Enhanced mandate of the European Border and Coast Guard (Frontex)

The European Border and Coast Guard Regulation[6] extended Frontex's return mandate considerably to reach new quantitative and qualitative dimensions. Frontex's role has evolved from a demand-driven approach to an active return management approach, in which the Agency becomes a driver for the Member States, with its own initiative role being expanded. The Return Support Unit has been upgraded into the European Centre for Returns, allowing for an increase in the number of coordinated return operations by 47% in 2017. The new regulation also provided for **more categories of return operations and related activities**:

- **New categories of operations** are collecting return operations, (national) return operations, and return interventions;
- **'Traditional' joint return operations,** i.e. forced-return operations in which several Member States are involved have decreased, while de-facto national return operations are increasingly coordinated and financed by Frontex; national operations make more use of the monitors provided by Frontex;
- Increased **cooperation with third countries of return**, involving third country officials and escorts in return operations;
- Establishment of a **pool of forced return monitors**; **pools of escorts** and other forced return experts;
- Coordination of **readmission operations** from Greece to Turkey;
- Increased engagement of Frontex in the acquisition of **travel documents** for returnees; and
- Assistance in **voluntary departures.**

The European Commission proposal for the Multiannual Financial Framework 2021-2027 aims to further boost the capacity of the European Border and Coast Guard, and to create a **standing corps of around 10,000 border guards** at the core of a fully integrated EU border management system.[7]

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[2] http://europa.eu/rapid/press-release_IP-17-350_en.htm.
[3] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF.
[4] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170927_communication_on_the_delivery_of_the_eam_en.pdf.
[5] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/201780314_proposal-regulation-establishing-community-code-visas_en.pdf.
[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1624&from=EN.
[7] https://ec.europa.eu/commission/sites/beta-political/files/communication-modern-budget-may_2018_en.pdf.

In the area of **fundamental rights and monitoring**, Frontex cooperates with the Fundamental Rights Agency of the EU and ICMPD to develop the monitoring of forced return operations more systematically, a requirement in the EU Return Directive and the Frontex **Code of Conduct** for Joint Return Operations. The latter currently covers all types of Frontex operations, including readmissions.

Recommendation towards a human rights-based return policy

The return of migrants is often a sensitive issue. Many migrants have to return because they cannot obtain or renew their permit to stay in the country where they reside. They have often made considerable sacrifices en route, in the migration process, and they might not have much to return to. Such sensitivities have to be understood, and any return policy has to guarantee the dignity and fundamental rights of the person. The fundamental principle must be to **return in safety and dignity**.

Safeguards and guarantees in the return procedures, including under forced return

EU Member States have ratified a number of human rights instruments and Conventions whose provisions must be respected in the implementation of return policies. These include among others the Geneva Refugee Convention, the EU Charter of Fundamental Rights and the European Convention on Human Rights. The EU Return Directive also refers to safeguards and human rights principles to which Member States must comply while implementing return procedures. In addition, the jurisprudence of the European Court of Justice (ECJ) and the European Court of Human Rights (ECHR) has clarified the way by which such provisions should be implemented. We are concerned that the implementation of the existing human rights legal framework is deteriorating in a wide range of EU countries, which leads us to make the following recommendations to ensure that safeguards and guarantees are respected in return policies:

- **Fundamental rights and safeguards** should be equally implemented in **transit, border or airport zones,** and **collective expulsion and push backs** must never take place.
- **Return to countries other than the country of origin** should only be carried out in compliance with the international protection regime and only when the person has a **meaningful link** with the country concerned.
- The right to an **effective remedy** must be guaranteed against any return decisions and removal orders must be in line with the ECHR jurisprudence[8]. This includes a **reasonable time limit** to file an appeal against it, the **automatic suspension** of the eventual removal order pending this time and the guarantee that the judge will assess the case based on the situation currently in vigour (ex-nunc) and not as it was when the challenged decision was taken (ex-tunc).
- **Forced removals** must be carried out with respect to the **right of life and mental and physical integrity**, and medical experts should be made available during the return process when necessary. The use of **coercion** during forced removals should be no more than **absolutely necessary and proportionate**.
- A proper **assessment** should be made to identify **vulnerable people**, including those with non-visible vulnerabilities (e.g. mental health trouble, victims of sexual violence) and **victims of human trafficking.** They should be treated with special attention according to their needs; in many such cases, they should be protected against forced removal[9].
- **Seriously ill people** (e.g. suffering from HIV/AIDS, renal failure, cancer, and hepatitis) should not be removed unless it is guaranteed that they can get access and afford appropriate treatment and medical care in the return country[10].

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[8] See Sharifi and Others v. Italy and Greece 21 October 2014 (Chamber judgment); Singh and others v Belgium (no. 33210/11) 2 October 2012; Hirsi Jamaa and Others v. Italy 23 February 2012 (Grand Chamber judgment); M.S.S. v. Belgium and Greece (no. 30696/09) 21 January 2011 (Grand Chamber judgment); Čonka v. Belgium 5 February 2002 (Chamber judgment).

[9] http://www2.erso-project.eu/fileadmin/user_upload/X/ERSO_SURE_Manual.pdf.

[10] "Real access" means "accessibility" as defined in UN Committee on Economic, Social and Cultural Rights - CESCR General Comment no.14, article 12 (Accessibility: Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions Non-discrimination, physical accessibility, economic accessibility (affordability) and information accessibility.)

- The **best interest of the child** should always prevail. Children and unaccompanied minors should be assigned a **guardian**, and should never be forcibly returned unless the guardian assesses that this is in their best interest. In case of return, they should only be sent back when it is safe and in their best interest, after having ensured that the rights they enjoy under the UN Convention on the Rights of the Child will be guaranteed in the country of return. Guarantees and safeguards reinforced in the EC communication "The protection of children in migration for children"[11] should be implemented.
- **Family unity** should be strictly respected in the return process.
- **Access to basic services** such as health care and education and protection against destitution should always be granted, independently of the stage of the return procedure or the individual's status. Actors providing social services and shelter to migrants should not be put under pressure by state authorities to collaborate in the implementation of return policies in ways that go against their mission mandate and solidarity principle. They should, for example, not be asked to provide data that would lead to deportations, that categorise people according to their administrative status or exclude them from access to services.[12]
- A system of **monitoring of forced returns** should be put in place at all important points of departures, particularly at the EU airports[13] used for most national and European return operations. National and Frontex monitors should have similar training and an annual meeting for exchange of experience, as has been the case through the Forced-Return Monitoring (FReM) project[14]. The monitors should be independent from State authorities and observe the return operations during all phases. They should report their observations and findings to relevant stakeholders and decision-makers.
- The human resources' **capacity of Frontex Fundamental Rights Officer's** office should be increased to be able to look into and monitor the Frontex return operations from operational plan to implementation.
- During **collecting flights and cooperation with third country authorities** on return operations, Frontex should ensure that no person will face the risk of **inhumane and degrading treatment** and should implement the **non-refoulement** principle. In order to guarantee **privacy and safety of personal data,** only data essential and necessary for the return ought to be transmitted.

Prioritise and invest in voluntary return: putting the well-being of people first

We would like to highlight that **voluntary return should always be prioritised over forced return**[15]. Nevertheless, the line between forced and voluntary return can sometimes be blurred, for example when the only alternative available to voluntary return is forced return[16]. We underline that it is fundamental to keep the voluntary nature of "voluntary" return programmes and render the reintegration process efficient. For this, ambitious **assisted voluntary return and reintegration (AVRR) programmes should put the well-being of migrants at the centre** to empower the person to **start a new phase of life** in the country of return. The best practice as developed by the European reintegration support organisations (ERSO)[17] also underlines that **pre-departure and post-arrival phases should be closely linked to ensure proper reintegration**. Against this backdrop, we are making the following recommendations:

- Authorities must **refrain from exercising coercion and pressure** on potential beneficiaries of voluntary return programmes. Voluntary return and forced removals must be clearly separated with regard to timing and content.
- **Financial and human resources** need to be increased and provided, to prioritize voluntary return over forced return. **Investing in appropriate counselling and support for voluntary return** programmes ought to become a priority in words and actions, starting from the return decisions.

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[11]https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf.
[12] Recommendation 2.b from EC recommendations on return asking MS to coordinate actions with medical and social services to increase returns is particularly problematic in this respect: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_commission_recommendation_on_making_returns_more_effective_en.pdf
[13] In line with article 8 (6) of the EU Return Directive and with the purpose to ensure transparency and accountability in relation to deportations
[14] https://www.icmpd.org/fileadmin/user_upload/Project_Description_FReM_II_02_2018.pdf
[15] http://www.ngo-platform-asylum-migration.eu/wp-content/uploads/2014/09/Common-principles-on-removal-lay-out.pdf
[16] This excerpt from the EC action plan on return (p.7) is highly problematic in that regard: "Irregular migrants are more likely to accept voluntary return packages if they know that the only other alternative is forced return as staying irregularly would not be an option any longer". https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_a_more_effective_return_policy_in_the_european_union_-_a_renewed_action_plan_en.pdf
[17] http://www.erso-project.eu/.

- **Assisted voluntary return and reintegration (AVRR) programmes** should be tailor-made, context specific and carried out in a trusting environment, with no time pressure to allow potential returnees to make an **informed decision. Pre-departure counselling** should be carried out by impartial and trusted professional social services staff, without prejudice to the outcome, using a humane and individualised approach, taking into account the fact that voluntary return is a difficult decision, often entailing shame and depression. **Medical support** should be provided whenever necessary. The returnee should be provided with tailor-made **reintegration assistance** and economic reintegration activities, such as vocational trainings, business support to ensure true ownership of the project by the beneficiary. **Close collaboration with local NGOs** is needed and mechanisms of **information exchange** between the host and return country should be established, both between states' migration services and NGOs. **Risk assessments** of the conditions in the country of origin and a **follow-up monitoring mechanism** are needed to ensure that return does not endanger the returnee's life, particularly in the context of fragile countries.
- When voluntary return involves people under **medical treatment,** necessary medical follow-up is needed to ensure that life-saving treatment (e.g. cancer, hepatitis C), will not be interrupted once returned and **vulnerable persons** must receive specific assistance.
- In case of **voluntary return of minors** (accompanied or unaccompanied), reintegration support should be adapted to meet the real needs of the children and to ensure that the best interest of the child is implemented[18]. In case of voluntary return of **unaccompanied minors**, the relevant stakeholders in the host countries and countries of origin, such as, legal guardians, have to be involved.
- Migrants who want to leave the country on a voluntary basis must be entitled to **family unity, emergency health care and education** awaiting departure; and they must **not be detained**[19].
- **Frontex should not be involved in voluntary return programmes,** except for assisting in obtaining travel documents when this is appropriate and is requested by the returnee.

Maintain a clear separation between international protection and return policies

In recent years, the focus on fast and effective returns has had an undeniably negative impact on the asylum procedure and the individual right to asylum. It has led, among others, to the **categorisation of asylum seekers** in function of their likelihood to remain in the hosting country, to the **longer placement** of asylum seekers in closed and isolated accommodation centres and to the **wider use of safe country concepts** (such as "First Country of Asylum" or "Safe Third Country") and **accelerated procedures**. The current discussion on the reform of the **Asylum Procedures Regulation** aims at further extending the use of the **safe country concepts** that shift the responsibility of protection to third countries' neighbouring conflict zones. The criteria used to assess protection available in "safe third countries" are often vaguely defined, questioning the effective safety of those countries. These concepts could breach the principle of **non-refoulement** as people in need of protection risk to be returned to unsafe places without an examination on the merits of the application[20].

In addition, in some EU Member States, **inadequate asylum procedures, complicated family reunification processes and poor reception conditions**, combined with **pressure to sign up for voluntary return** can lead asylum seekers to **'voluntarily' return out of despair** and not out of a real choice. Even though providing information on return is important, the practice of providing return information during the asylum procedure can lead to misperceptions of asylum prospects and mistrust in the reality of a fair asylum system. **Encouraging asylum seekers to interrupt their asylum application and return as early as possible** by offering them a more generous return financial package if they voluntary return at an early stage of their status determination procedure or if they renounce their right to appeal, is particularly problematic. **Return packages should never influence the asylum procedure.** We are concerned that the **safeguards and guarantees** embedded in the asylum procedures and in the Geneva Convention are being **eroded** to increase the number of returns. Thus, we put forwards the following recommendations to counter this trend:

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[18] This includes cooperation on family tracing, supporting child protection systems, helping to address unaccompanied minors needs, adapting reception centers and ensuring access to educational systems.
[19] ECRE (2005), The way forward, https://www.ecre.org/wp-content/uploads/2016/07/ECRE-The-Way-Forward_Towards-Fair-and-Efficient-Asylum-Systems-in-Europe_September-2005.pdf.
[20] Dr. Reinhard Marx, lawyer, Specialist in migration law, Legal Opinion on the Compatibility with International and Union Law of the Concepts of First Country of Asylum and Safe Third Country proposed by the Commission of the European Union, 7 March 2018

- **Policies on international protection must never be influenced by the goal of limiting arrivals or increasing returns of third country nationals**. The international protection regime's unique aim is to provide protection to those in need, as foreseen by the Geneva Convention and the EU asylum acquis.
- The EU and its Member States should **refrain from applying the « safe country » concepts** in the asylum procedure.
- **Poor reception conditions and complicated asylum and family reunification procedures** should not be used to deter arrivals or encourage 'voluntary' return.
- Information on **voluntary return** in the context of asylum should never be provided **with the aim to encourage the withdrawal of one's asylum application**. Information should be provided within a trust-based relationship framework, by qualified and independent personnel. Asylum seekers' right to refuse such information pending the asylum procedure should be respected.

Give priority to alternatives to detention and apply detention only as a last resort measure

Although longer detention periods have not proven to lead to more returns, detention is increasingly being used and advocated for, even by the European Commission, to facilitate the implementation of return decisions. Unfortunately, this is further fuelling the negative perception of migrants being associated with criminals. Detention is an extreme measure generating huge stress and psychological damage and should only be a last resort measure and in ways that are reasonable and proportionate. We recommend:

- **Alternatives to detention** such as bail, supervision, reporting or holistic case management should be implemented as they have proven to be more cost-effective and more respectful to human dignity than detention[21].
- The length of detention should be **as short as possible and should never be indefinite.** The detention order must meet the requirement that detention is strictly necessary for the return. Migrants should be detained in **special facilities** and never in prisons with common criminals. Vulnerable people should never be detained and special facilities and care should be in place to meet their needs.
- **Procedural safeguards and legal remedies** should be clearly enshrined in national law and in internal detention centre regulations. The administrative detention period must be limited to instances where migrants are awaiting effective removal[22]. Free legal, medical, psychological and social assistance should be guaranteed, as well as the right to be visited by families, NGOs and representatives of faith communities. Freedom of movement within the centre, as well as norms of security and hygiene should be ensured. Means of communication, such as internet access and use of mobile phones should be facilitated. Judicial authorities and independent control mechanisms should be allowed to oversee the condition of detention. Detention should be reviewed by a judge once per month to ensure the proportionality of detention.
- **Children and unaccompanied minor migrants should never be detained as it is against the best interest of the child[23]**. Detention should never lead to the separation of children from their parents and family. When children are concerned, the whole family should be accommodated in special open facilities and alternative to detention systems should be applied.

Ensure a return policy that does not criminalise migrants or force them into destitution

Policy makers across Europe are increasingly promoting policies that tend to associate migrants with criminals. **Entry bans are, for example, used as a punitive tool** against irregular migration. Entry bans can be **permanent** when it has been established that the person poses **a serious threat to national security and public order,** a concept often vaguely defined in national law and prone to abuse. In a context where one of the few options to apply for asylum is often to enter the EU irregularly since legal entry channels are cruelly lacking, entry bans can impede people in search of protection to reach Europe in order to apply for asylum, breaching the non-refoulement principle[24].

[21] http://idcoalition.org/publication/view/there-are-alternatives-revised-edition/, EMN study on good practices 2016, p.16. According to the current Return Handbook, the benefits of alternatives to detention include "*higher return rates (including voluntary departure), improved co-operation with returnees in obtaining necessary documentation, financial benefits (less cost for the State) and less human cost (avoidance of hardship related to detention)",* UNHCR, Alternatives to Detention of Asylum Seekers and Refugees, April 2006, http://www.refworld.org/pdfid/4472e8b84.pdf
[22] ECJ Case C-357/09 PPU Said Shamilovich Kadzoev (Huchbarov) v. Bulgaria.
[23] UN Conventions on the rights of the Child Article 37(b).
[24] PICUM (2015). Position paper on EU return directive, http://picum.org/picum.org/uploads/publication/Final_ReturnDirectiveEN.pdf.

Deficient return policies also lead to **limbo situations and destitution**. Thousands of migrants live in a **limbo situation** in an EU country, neither returnable nor provided with a legal status due to a situation beyond their control, generated, for example, by the reluctance of the administration of their country of origin to deliver travel documents and to co-operate with the host country to implement the return. This unsustainable situation can last for several years and often **pushes people into extreme vulnerability, poverty and destitution** as they are often denied access to work, social benefits, housing, health care, education and justice, without any prospect of regularisation.

We spell out the following recommendations to counter the increasing criminalisation and destitution of migrants:

- Member States should **refrain from using re-entry bans** and removals should not automatically be accompanied by a re-entry ban. If used, a re-entry ban should be proportionate and issued on a case-by-case basis, providing for a right to appeal.
- The situation of **unreturnable migrants** should be recognised and their status should be **regularised.** They should be entitled to access basic social benefits and services, such as health care, shelter, food and education.

Do not instrumentalise development aid and implement opaque practices to facilitate returns

Enhanced collaboration with countries of transit and origin of migrants is on the rise in order to facilitate the implementation of return. **Development aid is increasingly being instrumentalised** and used as **a** leverage for migration control purposes. Through the **migration partnership framework**[25] launched in 2016 that aims at co-operating with transit and origin countries on migration management, focus countries such as Mali, Nigeria, Niger, Senegal and Ethiopia are urged to co-operate in the fight against irregular migration by facilitating readmission. The provision of **development aid is seen as positive and negative incentives** to get the buy-in of third countries. Similarly, instruments, such as the **EU Emergency Trust Fund for Africa**[26] established in November 2015, although mostly funded by the European Development Fund, are being used to contain people where they are and are diverting funds to migrant-producing countries under the aim of "tackling the root causes of migration"[27]. We are concerned that there is a risk of development aid being made conditional on the co-operation of the partner countries in the areas of return, readmission and reintegration of their nationals and thus being diverted from its very purpose: creating opportunities and well-being in the poorer countries.

In addition, in order to facilitate return, Member States can issue **European travel documents**[28] to enable the deportation of a person without identification by the country of return, so without the person being issued a consular travel document. This can lead to people being returned without the authorities having ascertained their nationality[29]. We believe that:

- **Development aid should never be instrumentalised** to meet EU's interest in the area of migration control and return. It should be used to eradicate poverty in developing countries according to article 208 of the Lisbon Treaty[30] and should be allocated according to developing countries' priority, in line with development aid principles[31] and the Sustainable Development Goals[32].
- **Readmission agreements** with third countries should be negotiated in transparency and should fully respect human rights.
- The use of **European travel document** should be more transparent and follow clear public rules.

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[25] http://europa.eu/rapid/press-release_IP-16-2072_en.htm.
[26] https://ec.europa.eu/trustfundforafrica/content/homepage_en
[27] https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-emergency-for-whom-eutf-africa-migration-151117-en_1.pdf
[28] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R1953.
[29] http://www.aedh.eu/The-European-travel-document-Yet.html.
[30] http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-5-external-action-by-the-union/title-3-cooperation-with-third-countries-and-humanitarian-aid/chapter-1-development-cooperation/496-article-208.html.
[31] http://www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm
[32] https://sustainabledevelopment.un.org/sdgs

No return to conflict countries

Several EU Member States want to increase returns of failed asylum seekers and irregular migrants to **conflict and fragile countries**, such as **Afghanistan, Iraq or Sudan**. In order to achieve this, Member States are negotiating **agreements with origin countries to facilitate returns and readmission** and are assessing the availability of internal protection in the country of origin as part of the assessment of the application for international protection (**internal flight alternative**). We are **deeply concerned that people can be returned to unsafe conditions**, where their life and integrity are at risk, as several organisations have thoroughly documented[33]. On top of the disastrous psychological effect such return can have, it also risks putting people at the mercy of terrorists and insurgents, due to the scarcity of jobs and income-generating activities.

In the case of **Afghanistan**, while the UN declared 2016 as the deadliest year for civilian casualties on record in Afghanistan with 11,418 people killed or injured[34], returns from Europe (especially from Germany, Greece, Sweden, UK, and Norway) to Afghanistan have nearly tripled between 2015 and 2016 (from 3,290 to 9,460[35]). Since 2015, countries such as Sweden, Germany, Norway and Finland have adopted stricter rules towards Afghan asylum seekers, leading to the average European recognition rate dropping from 67% in 2015 to 46% in 2018[36]. It is worth highlighting that the recognition rate for Afghan asylum seekers varies greatly from one country to another, which raises questions on the fairness of the asylum system. Through the "Joint Way Forward on migration issues[37]" negotiated in 2016 between the EU and Afghanistan to facilitate return, an EU travel document can be issued if the Afghan government has not issued its own documents, within 4 weeks after the request has been initiated by a Member State. In this context, we recommend that:

- People should **never be returned to unsafe places** where their life is at risk. **Monitoring mechanisms** to trace back returnees and ensure that their safety and reintegration are guaranteed should be put in place.
- We recommend Member States to refrain from applying the concept of an **internal flight alternative** in the asylum procedure for people coming from conflict countries.
- Forced return and the return of **vulnerable people** to conflict countries should stop immediately.

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[33]https://www.ecre.org/wp-content/uploads/2017/11/Returns-Case-Study-on-Afghanistan.pdf,Cf., https://www.amnesty.org/en/documents/asa11/6866/2017/en/.

[34]https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_annual_report_2016_final280317.pdf.

[35] http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database.

[36] http://ec.europa.eu/eurostat/documents/2995521/8817675/3-19042018-AP-EN.pdf/748e8fae-2cfb-4e75-a388-f06f6ce8ff58

[37] https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf