



Advancing Alternative Migration Governance



Final Report on the Governance of Exit

Deliverable 2.6

Barak Kalir & Martin Dybdahl Jensen

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Acronyms

ADMIGOV	Advancing Alternative Migration Governance
AVR	Assisted Voluntary Return
ATD	Alternatives To Detention
CF	The Frontex Consultative Forum on Fundamental Rights
EBCG	European Border and Coast Guard/Frontex
EC	European Commission
EU	European Union
IOM	International Organization for Migration
MS	EU Member States
NGO	Non-Governmental Organization
TCN	Third country national
WP	Work Package

Abstract

In this final report of WP2 we wish to highlight three major findings concerning the governance of exit on the level of Member States as well as the EU. First, the call for evidence-based policymaking in the field of exit should become a concrete reality and not a mere slogan as it currently is. For that reason, clear guidelines for collecting, maintaining and sharing statistics and other relevant data on crucial aspects of exit must become the norm. This should assist taking decisions and devising policies on crucial matters such as the length of pre-removal detention and possible alternatives to it. Second, as investment in the capacity and responsibility of Frontex to implement exit policies increases dramatically, there must be a parallel strengthening of mechanism for monitoring Frontex expenditure, practices, and lines of accountability. Thirdly, the effectiveness of exit policies crucially relies on the sustainable reintegration of returnees. Supporting sustainable reintegration requires a more ambitious, longer-term, and flexible approach. We suggest to acknowledge the lack of voluntariness in many cases and focus on enhancing 'preparedness' for return. Sustainable reintegration programmes need to be adaptable to changing conditions, and funding requirements need to allow for these adaptations.

1. Introduction

This final report of ADMIGOV WP2 is a synthesis of the findings on Exit governance as they have transpired from all WP2 deliverables (as outlined in the table below). The report highlights the most important conclusions and policy recommendations for improving the governance of exit.

WP2 Deliverables	Authors
D2.1 Legal and operational infrastructures of Exit regimes in the European Union	Arja Oomkens & Barak Kalir
D2.2 EU exit regimes in practice: case studies from the Netherlands, Spain, Germany and Denmark	Barak Kalir, Martin Lemberg-Pedersen, Arja Oomkens, Janis Geschke, Markus González Beilfuss, Joan-Josep Vallbé, Oliver Joel Halpern & Wendelien Barkema
D2.3 Frontex and Exit Governance : Dataveillance, civil society and markets for border control	Martin Lemberg-Pedersen & Oliver Joel Halpern
D2.4 EU Exit Regimes in Practice: Sustainable Return and Reintegration	Talitha Dubow & Katie Kuschminder
D2.5 Alternatives to pre-removal detention in return procedures in the EU	Markus Gonzalez Beilfuss & Julia Koopmans
D2.7 Legal pathways to regulatisation of illegally staying migrants in EU Member States	Markus Gonzalez Beilfuss & Julia Koopmans

Before discussing the conceptual framework of WP2 and the main findings, a brief summary of the respective forms of data used in the different deliverables. D2.1 consists of desk research which documents, for example, the rise in the length of pre-removal detention in all Member States across time. D2.2 was conducted through in-depth interviews with interlocutors e.g. the Danish Ombudsman, head of the monitoring division, head of the Dutch Unit for Return. D2.3 relies on a dataset constructed through publicly available document requests, compiling Frontex chartered return operations in 2016, 2017 and 2018. D2.4 used in-depth interviews with returned migrants as interlocutors on a country-case basis, e.g. post-exit migrants trying to (re-)integrate into Albanian society. D2.5 is legal evaluative research paper, which emphasises the lack of ATDs in the proposed recast of the Return Directive as well as the current measures adopted by MS. D2.7 compares current regularisation programs across MS.

We start off with briefly sketching the conceptual framework of WP2 and then move to succinctly present our main findings and the ensuing policy recommendations.

1.1 Conceptual Framework

The governance of exit includes all the ways by which EU Member States (hereafter MS) ensure that Third-Country Nationals (hereafter TCNs) whose stay has been made unlawful will leave the country. This includes tourists, businesspeople, and both regular and irregular migrants of all types. Importantly, WP2 concerned itself specifically with the governance of exit in the case of irregular migrants. The orderly manner in which TCNs leave MS within the permitted timeframe has been taken as the norm for the operations of exit governance. An irregular migrant is a TCN present on the territory of a MS who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in an EU Member State.

By the term exit regime we refer to all the institutions, legal procedures, and specific measures and practices that are meant to ensure that irregular migrants actually exit MS. An exit regime includes two main modalities; ‘forced return’ (also referred to as deportation, expulsion and forced removal) and so-called ‘voluntary return’, which comes in different modalities, mostly differentiated according to the level of assistance that is provided to the migrant. There is a third form, which is often referred to as ‘independent return’, that refers to irregular migrants who decide to leave MS without informing and/or drawing on the services of any state or non-state organization. Strictly speaking, and in our understanding of it, independent return forms part of the exit regime, as the decision of irregular migrants to leave MS independently can be largely influenced by the exit regime which is operative.

1.2 Methodological adjustments due to Covid-19

Field research for this report was originally designed to be ethnographic in essence, including face-to-face interviews with several actors at central state institutions, Frontex, and non-governmental organizations. Unfortunately, our research was severely affected by the outbreak of the Covid-19 pandemic exactly at the time that field research was planned to commence in February 2020. We first opted for delaying our research in the hope that conditions would become more accommodating but, in fact, the opposite happened. Face-to-face interactions or field site visits became very difficult to realize. Consequently, we largely resorted to online qualitative research that was performed mostly by interviewing single actors or conducting a small focus group by having a few members of the same organization present on an online video conference. In some MS and with some non-governmental organizations, face-to-face meetings were possible.

With respect to the study of returnees’ reintegration experiences, the impact of Covid-19 meant that fieldwork in Iraq and Senegal was subcontracted to local partners. In Iraq, almost all interviews were conducted by telephone, while in Senegal some in-person data collection via semi-structured interviews was still possible. Fieldwork in Albania was conducted as originally planned.

At the start of our work on the governance of Exit, we had no way to assess how long the Covid-19 pandemic would last, and we therefore deliberately opted to leave out its possible effects on exit policies. We believed it was better to understand the field as it had been operating in recent years and decades, rather than to try to capture the impact of the unusual circumstances that were created by the pandemic.

Obviously, many of our interviewees made references to the pandemic, and to the extent it was relevant to the governance of exit, we have included such information in our reports. In hindsight, we understand that Covid-19 might be of immense importance in reconfiguring the entire entry and exit fields in the years to come. It is therefore clear that a follow up study will be required to supplement this report with a clear focus on the impacts of Covid-19, for example, on the possibility and conditions for pre-removal detention, the access to medical care for irregular migrants, and the performance of forced removal on commercial flights.

2. Main findings

2.1 Lack of data for evidence-based policymaking

There is a widespread issue with the availability of data on crucial aspects that pertain to the operations of exit regimes in MS and by Frontex. The lack of data is particularly caused by the absence of harmonised EU guidelines for MS concerning the recording, sharing and maintenance of databases relating to exit. Currently, the EU has no obliging common framework for the collection of data on irregular migrants, pre-removal detention, forced or voluntary exits. There is a second issue concerning the availability of data in the field of exit. Although aggregated data on exit is non-confidential in character, our researchers found it difficult to gain access to existing databases and to certain units and functionaries in the field. Our experience very much echoes that of researchers in ADMIGOV WP1, who ‘documented multiple instances where available data (including statistical data) is either unavailable, ambiguous or contradictory, and information is either dispersed, unreadily available, confidential or simply absent’.

Sadly, even as researchers who are funded and tasked by the EU to conduct research into exit, we were unable to access the EMN website data and were told that it was only available to ‘stakeholders engaged in migration processes’. We conclude that access to existing data is not made fully available for social scientific research.

Our research has demonstrated how a lack of data has become detrimental to the governance of the exit field in two major areas.

- 1) Pre-removal detention: Length, recurrence and alternatives. Our findings show that, based on existing evidence, no correlation, let alone a causal link, can be established between an increase in the length of pre-removal detention and return rates. Even though the EC expects that longer detention periods will ensure more effective removals, practitioners (e.g. those working in pre-removal detention centres) often argue, in contrast, that 2-3 months in detention is usually enough to determine whether forced (and in some cases ‘voluntary’) return would be successful. In fact, some interlocutors said that lengthier detention terms were counterproductive to the probability of a successful return as they disincentivise and numb detainees. Several interlocutors also mentioned that lengthy pre-removal detention was an inhumane and disproportional measure and its implementation was having a high emotional cost on practitioners.

In spite of all this, in 2017 the EC recommended longer periods of pre-removal detention, which materialized in a pronounced trend among several

MS to raise the maximum length to 18 months. Similarly, while there is little evidence that a recurrent detention of stateless people, or other irregular migrants without feasible prospect of return, results in more effective return rates, the EC has failed to regulate a decisive (legal) practice across MS to refrain from such detention that becomes punitive in essence.

As for alternatives to pre-removal detention (ATD), while MS are required to provide for them in their national legislation, the Return Directive does not use the term ‘alternatives to detention’ at all, and it does not clarify what type of measures might be used. The Return Handbook (2017) provides a bit more guidance but fails to specify how different measures might be implemented effectively and with respect for the rights of migrants in the context of return procedures. As a result, the legal framework of ATD can be considered underdeveloped. Moreover, our research findings show that there is no systematic mechanism for gathering, sharing and evaluating experiences and ‘best practices’ around the use of ATD.

- 2) Considering the partial implementation rate of return orders in MS, and the persistent permanence of non-removable irregular migrants, the regularisation of migrants’ legal status could and probably should have been a top priority. In practice, however, unsubstantiated claims regarding a potential “pull factor” of regularisation or its impact on secondary migration have frequently been presented without evidence as reasons not to implement such measures in the EU.

Interlocutors in our four case studies (Denmark, Germany, the Netherlands, Spain) acknowledged openly the impossibility of returning all irregular migrants. Many interlocutors believe regularization procedures should be advanced, and that they are currently eclipsed by a particular political climate that leaves little or no space for thinking in the direction of increased legalization.

Our legal analysis shows that regularisation frameworks varies widely across MS. The main variation is found in the conditions and target groups of individual regularisation provisions. Common to all MS is the provision of regular status on the basis of fundamental rights or humanitarian needs, e.g. to persons requiring medical treatment or to maintain family unity. However, regularisation on the basis of employment, long-term de facto residence or social or cultural integration is less widespread. Further, our findings show that regularisation procedures are currently not examined comparatively in ways that could ensure their optimal implementation among all potential target groups across MS. In general, our research has revealed that data on existing mechanisms for regularization are lacking and are not shared widely across MS.

2.2 The role of the European Border and Coast Guard Agency (Frontex) and its interaction with civil-society actors and the private sector

In the past years, the role of Frontex has been central and rapidly expanding in the institutional structure and operational dynamics underpinning EU exit policies. Next to its collaboration with MS, Frontex interacts with a range of non-state actors, ranging from commercial for-profit companies to International Organizations, and civil society organizations, such as NGOs. Our research aimed to divulge the problematic of delegation of policy tasks and responsibility in managing exit on an EU level. This includes both the delegation of implementation task within the EU to Frontex (and the problem of control and openness including a non-functioning CF), as well as the problematic of outsourcing (exit policy) tasks by the EU/ Frontex.

Unfortunately, and in spite of repeated attempts, our researchers were not granted access to interview Frontex personnel as had been envisioned in our research design. We have, nevertheless, achieved a comprehensive desk research (analysis of policy documents and statistical studies of open-source datasets) coupled with semi-structured interviews across supranational, public, private and organizational actors. We thus managed to study important ways in which Frontex is involved in transforming not just the operational side of exit policies, but also the very knowledge environment through which exit is understood by MS and non-state actors. This more expansive understanding of exit governance in which Frontex play a major role includes connections to various markets for border control technologies and enforcement, as well as to forums where non-profit actors seek to impact how exit is managed in the EU.

Here are our three main findings with respect to the work of Frontex in the exit field.

- 1) The creation and functioning of the Frontex Consultative Forum on Fundamental Rights (CF) demonstrates how the interactions of civil society organizations with Frontex must also be considered as part of the multileveled EU exit governance. While Frontex is prone to highlight this relation as a deep-seated influence on its border work, several members in the CF have been decidedly more critical, pointing at not being granted institutional gravity, and encountering lacking transparency as well as an insufficiently funded Secretariat. Under these conditions, it is difficult if not impossible for members in the CF to accomplish their mandate and advance more effective fundamental rights monitoring.¹

More specifically, regarding the monitoring of forced return flights, Frontex draws on a pool of monitors, who come from state institutions as well as non-

¹ For more on this, see the following recent publication: Loschi C., Slominski P. (2021) Interagency Relations and the EU Migration Crisis: Strengthening of Law Enforcement Through Agencification?. In: Pollak J., Slominski P. (eds) The Role of EU Agencies in the Eurozone and Migration Crisis. European Administrative Governance. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-030-51383-2_9

state organizations. Discretion resides with Frontex, however, as to who will select the monitoring organizations. Different organizations have different standards for monitoring; some organizations were only present on the plane for about half of the flights they monitored. Additionally, when it comes to the operational, geographic and temporal scales of these monitoring operations, differences are observable across MS with respect to the volume of return flights and the presence of monitors. For instance, Frontex chartered return operations from Italy to Tunisia in the period 2016-2018 consisted of 150 single-stop flights where only two were monitored. In contrast, in the same period, Frontex chartered return operations to the Balkans from Germany made use of multiple-stops, with significantly more people being returned per flight, and with more frequent usage of monitoring. We conclude that there should be a clearer guideline regarding the presence of monitors as well as cultural mediators and interpreters during all return operations.

- 2) Frontex is increasingly involved in responding to the political demand from the EC to use the extraction, storage and processing of evermore disaggregated data about displaced populations in order to close the perceived gap between asylum and exit policies. Several interviewed interlocutors point out that the interconnectivity between a rising number of information systems leads to challenges regarding interoperability and data ethics. This is illustrated by the recast proposals for the Eurodac, Schengen Information System and the Visa Information System as well as the envisioned Entry/Exit System and Common Identity Repository systems. The massive expansion of data stored about TCNs does not seem to be accompanied by a similar attention to individuals' privacy. As noted by the European Data Protection Supervisor, it is currently premised on a conflation of phenomena like migration management, internal security and the fight against terrorism.

In this landscape of rapidly accelerating datafication of EU exit governance, Frontex is gaining a more prominent role with respect to formulating and operationalizing EU visions of datafied migration control. Attention must be given to the repurposing of information systems towards exit, whereby the existence of certain databases is used to justify their expanded usage and the centralization of information flow. This amounts to a dangerously circular argument for more dataveillance of TCNs for the purpose of return.

- 3) As Frontex acquires an increasing operational role in guarding EU borders, it is also awarded with a rising budget and an ensuing involvement in the creation of various markets for exit operations that can be traced from networking events. Mapping the levels of state and non-state governance of EU exit policies shows, for example, a growing market of European-wide contracts for scheduled and chartered airline returns. The series of Framework Contracts through which the exit provisions of the controversial EU-Turkey statement is being effectuated via local companies operating passenger ferries and busses is a recent and underexamined result of this tendency.

Companies interacting with Frontex operate across a wide range of sectors such as aerospace, defence, biometrics and security, and across a wide range of scales. Next to large-scale contracts, our searches through the EU

repositories illustrate that different layers of businesses derived from Frontex exit policies involve a plethora of small and medium sized businesses that reap smaller contracts concerning IT, housing, interpretation, health, cleaning, layout/design, software, conference and meetings, consultancies, maritime or aviation services, office supplies or transportation.

Crucially, we could not find evidence that the pace with which Frontex has expanded in terms of budgets and operational capacity has been met with a similar pace for establishing sufficient monitoring capabilities and reporting mechanisms. The issue of Frontex transparency with industrial actors does not feature in the CF's Programmes of Work. While some members of the CF have focused on security and defence industry in their own work, there seems not to have been a systematic focus in the CF's work on the political economy of Frontex involvement with stakeholders and interest groups representing the growing market for border control.

2.3 Sustainable reintegration post-exit

We examined three cases of sustainable reintegration: Albania, Iraqi Kurdistan, and Senegal. The exploration was focused on decision-making regarding acceptance or refusal of assisted voluntary return packages, the experiences of migrants since their return, and how reintegration processes were impacted by EU exit regimes.

We have made a distinction between assisted voluntary return as a policy category and the voluntariness of returnees' decision making in practice. It is evident that although the majority of respondents interviewed participated in an assisted voluntary return programme, they felt heavily constrained within the context of their return decision and most often did not consider their return as a voluntary choice. Among the respondents, uptake into assisted voluntary and humanitarian return programmes is driven by the lack of any viable or acceptable alternatives for regularization of status.

Furthermore, the analysis shows that a lack of preparedness for return makes reintegration particularly difficult. Several stakeholders discussed the shock of an unprepared return as a central challenge for supporting reintegration, regardless of whether the migrant returned via assisted voluntary return or forced removal.

The comparative analysis of reintegration across the three case studies corroborates previous research that has highlighted the importance of both the structural context and the individual characteristics shaping reintegration processes. The oft-stated conclusions that, "not all returnees are entrepreneurs" and, "there is no one size fits all approach" are reiterated here. Reintegration is a complex process and there are a multiplicity of intervening factors at play.

Our findings show that the key factors vary by country. In Albania, the key factors were: Unemployment, a lack of access to public services – particularly healthcare, family and community tensions, insecurity and marginalisation, and a lack of perceived future prospects in a country where key drivers of migration were experienced again upon return. In Senegal, economic challenges are similarly experienced prior to migrating and upon return, when reintegration is further undermined by difficult family and community receptions, and by the lasting effects of traumatic migration experiences. Further, debts incurred from the migration have

been demonstrated to be a hindrance in reintegration. Finally, in Iraqi Kurdistan, some respondents similarly returned to the same economic, family, social or political problems which had motivated their departure, although their reintegration processes were mixed and some respondents reported the resolution of these problems and/or the achievement of wellbeing and security.

Our case studies highlighted the following issues as significant in influencing sustainable reintegration:

- 1) Respondents who had been more integrated into their communities prior to migrating were better able to reintegrate upon their return. This calls into question the concept of reintegration when individuals were not integrated in the first place. Can reintegration be considered a useful concept or policy goal in these cases? These challenges to both integration and reintegration were particularly evident in the case of some of the Roma and Egyptian return migrants in Albania.
- 2) Overall, few respondents across the three case studies could be considered sustainably reintegrated according to either a highly ambitious definition such as the United Nations Network on Migration's (UNNM) recent proposition (2021) or to a more pragmatic conceptualisation such as the IOM's (2017). Returnees highlighted a lack of dignity and rights in their lives post-exit. Few returnees felt that they had an adequate standard of living, and economic empowerment was also considered to be low. Returnees expressed their anxieties and frustrations regarding their personal safety, feelings of social inclusion and stigma, and access to social protection, healthcare, education, and justice. Satisfaction with quality of life was generally low among the respondents in Albania, and more mixed in Senegal and Iraqi Kurdistan, but feelings that re-migration would be necessary – or may in the future be necessary – to achieve a secure, dignified and fulfilling life were common across all three countries.
- 3) The generally difficult reintegration processes experienced by respondents, whether or not they returned via AVR or forced removal, challenges the assumption that AVR offers a path to sustainable reintegration upon return. However, it was also clear that forced removal poses a number of additional costs for return migrants which may further inhibit sustainable reintegration. These include the dangers of overland removals (in the case of Senegal), the shock and distress of a forced removal (even in cases where these were implemented safely), the lack of time to prepare for return and reintegration, the confiscation of savings (in the case of Albania) and the imposition of a multi-year EU entry ban (particularly significant for the Albanian nationals for whom opportunities for re-migration to the EU are otherwise more accessible).
- 4) Our findings reiterate that reintegration assistance is limited in its effectiveness. Migrants who return via AVR and receive reintegration assistance are not necessarily more sustainably reintegrated than migrants who are forcibly removed. Respondents and key stakeholders emphasised that reintegration assistance is not sufficient to ensure sustainable reintegration. Reintegration assistance was certainly found useful and valued by respondents in many cases but typically offers only a small boost to an individual's

reintegration efforts and does not address the – often, multiple – structural barriers to reintegration. Moreover, even with a strong will to reintegrate, return migrants’ efforts may be undermined by a lack of skills or simply by bad luck. Policymakers must therefore not assume that the provision of reintegration assistance is sufficient to ensure sustainable reintegration. Broader structural factors within the country context must be acknowledged as playing a central role in shaping reintegration processes and may call into question the extent to which sustainable reintegration is even possible.

3. Policy recommendations

Our main findings in WP2 have led us to some important policy recommendations. In what follows we list those policy recommendations that correspond to the main findings we have presented in this final report. We then outline a number of additional policy recommendations that emerged as underlining issues from our integrative analysis of the governance of exit at the level of MS and the EU.

3.1 Lack of data for evidence-based policymaking

- We recommend the construction of an assessment mechanism for evaluating the otherwise vague notion of what constitutes proportional and necessary measures in legislating and implementing exit regimes. Related to this, the EC should complete its awaited implementation assessment before proceeding with the legislative procedure of the recast of the Return Directive.
- The EC should introduce clear standards and comprehensive guidelines for the production, collection and maintenance of key statistics and databases concerning the governance of exit in MS as well as in Frontex and all other EU-led agencies and initiatives.
- In close consultation with the board of EU’s key funding programme for research and innovation (like Horizon Europe), the EC should establish a mechanism that ensures researchers’ access (not least those who work for EU-funded projects) to the study of exit regime. This mechanism should concern both access to all relevant data and to the practical work of executive branches and agencies involved in the governance of exit. With respect to statistics and data (see previous bullet point), we recommend that access can only be restricted when identifying details of (potential) returnees cannot be anonymised.
- There is an acute need for establishing an evidence-based approach to changing the length of pre-removal detention procedures. Since no positive correlations or causal links have been established between an extension in the length of pre-removal detention and an increase in return rates, we recommend revising the current length and requiring empirical evidence from policymakers who support extension. More concretely, the EC need to formulate legal and normative criteria to evaluate whether re-detention and the maximum length of 18-22 months of pre-removal detention are in line with the principle of necessity and proportionality.
- The EC needs to coordinate a systematic mechanism for gathering, sharing, and evaluating experiences, formulating “best practices” around ATD and their implementation in different Member States.

3.2 The role of Frontex and its interaction with civil-society actors and the private sector

- The EC should formally separate and empower the Consultative Forum on Fundamental Rights (CF) from the Frontex administration. The CF should have the authority to require Frontex to address its concerns and to assess the concrete measures that are taken by the agency. Currently, there is no obligation for Frontex to follow up on the input that is brought up by the CF. Ideally, executive consultation with the CF should become mandatory rather than optional. More specifically, the CF should have authority pertaining to oversight of the mechanism for reporting serious incidents in the Joint Operations Reporting Application (JORA 2), as well as oversight regarding data protection procedures of the Frontex Application for Return (FAR) and the Integrated Return Management Application (IRMA).
- Frontex must improve and accelerate the reporting and processing of serious incidents involving potential human rights violations, such as push backs by national authorities collaborating with Frontex, and by ensuring transparent accountability structure for managing such cases.
- Frontex must improve public access to information about corporate lobbying and interest organizations' meetings and interactions with the Agency personnel.
- Frontex urgently needs to establish a mechanism to enhance financial accountability, through expenditure transparency and monitoring. Currently, there is no maintenance of financial data that indicates the exact budgets that Frontex redirects to private organisations.

3.3 Sustainable reintegration post-exit

- We call for a paradigmatic shift in the EU towards 'Assisted Return' that acknowledges the predominant lack of voluntariness and focuses on supporting 'preparedness' for return. Such 'preparedness' should include the following pre-departure support:
 - Where the migrants wish, informing their family of their approaching return, and helping to build a supportive family reception.
 - Developing the migrant's skills to support reintegration.
 - Facilitating the migrant's contact with reintegration service providers in the country of origin to support the development of a shared plan for reintegration.
 - Working with the migrant to prepare themselves psychologically.
 The EC should propose new legislation that would insure the above 'preparedness' to ensure sustainable reintegration.
- The EC should acknowledge that reintegration programming requires adaptable policies and programmes that are responsive to the changing conditions and circumstances of returnees. More resources should be made available for accompanying closely the process of reintegration once return has been operated.
- The EC should monitor more closely post-exit reintegration and build a reliable database to measure its success (and failure). Sustainable reintegration should be measured predominantly from the perspectives of returnees for it is

their subjective perception that shapes life satisfaction and migration decision-making.

- Return and reintegration should be considered under the development policy framework (e.g. the policy coherence for development) such that the conditions driving migration and the vulnerabilities of return migrants are acknowledged. Crucially, this assistance should not be conditional on bilateral cooperation of return and readmission.

3.4 Overall recommendations

- **Target population:** There is a notable tendency among MS to primarily target rejected asylum seekers for forced or assisted return. This is probably done in a belief that a failure to deport this specific population might harm the overall credibility of the asylum system. One consequence of this tendency is that less attention is paid to the vast majority of irregular migrants, who never applied for asylum. Consciously or not, MS are engaging in the non-recording of the larger part of the population of irregular migrants, possibly in recognition that these are economically active and law-abiding members in society. If the goal of exit regimes is to become more effective in realistic terms, while being in line with the EU's commitment in the Global Compact on Migration, then policymakers should reconsider the overdetermined focus on rejected asylum seekers, and focus on the development of legal pathways for irregular migrants who reside in MS.
- **Vulnerable populations:** The EC and MS should ensure that a structural regularisation mechanism is available to alleviate the situation of irregular migrants in exceptional, vulnerable, or precarious circumstances. Some MS issue residence permits to irregular migrants in vulnerable situations, like victims of gender violence. Such arrangements should be legislated and implemented at the EU level.
- **Training:** Several state and non-state actors admit performing their job in this delicate field of exit with little or no specific training. All actors who take part in the enforcement of return must be certified for acquiring specialised knowledge that is developed for the implementation of their tasks. Currently, there are agents in Frontex and in executive branches in MS who admit being unaware of what might be considered an infringement of irregular migrants' human and fundamental rights. Frontex should pay particular attention to the training of the staff who is charged with forced return flights and the operation of pre-removal detention facilities.
- **Private companies:** We recommend setting up a critical assessment mechanism concerning the role of private security companies in the current management and any potential expansion of pre-removal detention facilities and other sub-fields that are outsourced by MS and Frontex to the private sector. The structure of accountability and the (legal) responsibilities of these companies must be made clear and binding.

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