



EUROPEAN POLICY BRIEF



THE GOVERNANCE OF EXIT REGIMES AND SUSTAINABLE REINTEGRATION POST-EXIT

An analysis of the policies and practices of returning irregular migrants from EU Member States via Assisted Voluntary Return or forced removal and working towards their reintegration in their countries of origin.

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ABSTRACT

This policy brief highlights the main recommendations coming out of WP2. We divided our suggestions for policy changes along the six key areas that researchers in this WP have studied. To the best of our ability, we have identified the actors who we believe should assume the responsibility for initiating and implementing necessary changes in existing procedures and practices that shape the manners in which irregular migrants are treated in and expelled from the EU and its member states.

INTRODUCTION

The return of irregular migrants has become in recent years an increasingly urgent matter for the European Union (EU) and its member states. The European Commission (EC) has made return procedures in the EU a top priority with an aim to increase return rates. In line with this, the EC has invested vastly in, and broadened the mandate of, the European Border and Coast Guard Agency (Frontex) to work on returns. The EC seeks to achieve a more effective and coherent European return policy while protecting the fundamental rights of irregular migrants as enshrined in the Charter of Fundamental Rights of the EU.¹ Notwithstanding the ambition to enhance return, there appears to be no mechanism in place to allow for the systematic assessment and evaluation of how different policy measures and implementation practices contribute to the accomplishment of more effective and efficient return procedures.

This research project examined the working of different exit regimes across the EU. By exit regime we refer to all the state institutions, legal procedures, civil society actors and private companies that are involved in ensuring that irregular migrants will exit the sovereign territory of Member States. The category of irregular migrants includes all Third-Country Nationals (TCNs)

¹ European Commission, 'State of the Union 2018: Stronger EU rules on return – Questions and Answers' (12 September 2018) (WWW-document), URL https://ec.europa.eu/commission/presscorner/detail/en/MEMO_18_5713 (accessed 5 December 2021).

whose stay has been made unlawful: tourists, businesspeople, rejected asylum seekers, etc. In this research, the orderly ways in which TCNs leave EU Member States, within the time span that is regulated for it, has been taken as the norm for the operations of exit governance. We thus focused on the examination of the two main modalities concerning the exit of irregular migrants: ‘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’, which is meant to capture irregular migrants who decide to leave an EU Member State without informing and/or drawing on the services of any state or non-state organization that work within the exit regime. In our understanding of it, independent return forms part of an exit regime, as the decision of irregular migrants to leave a certain Member State independently can be largely influenced by the exit regime which is at work (as well as various other factors).

Our research project has adopted a holistic approach to the examination of the governance of exit. We thus attempted to map and compare different models across Member States. Next to the work of state institutions, we also examined the involvement of Frontex and its collaboration with state actors as well as with civil-society organizations and private companies. Realizing that mobility can be a continuous process, we included an evaluation of the sustainability of returnees’ reintegration post-exit. And in trying to encourage creative new policies – rather than simply focusing on improvement of current ones – we investigated the possibilities and effects of working with alternatives to pre-removal detention of irregular migrants as well as with potential legal pathways for the legalization of status for certain irregular migrants.

EVIDENCE AND ANALYSIS

The following is an overview of our main policy-relevant findings, which ground our policy recommendations.

1. Evaluating investment and measuring “success” in the management of Exit

While investments in Exit (on EU and Member States levels) have increased consistently and substantially in recent years, return rates have not. It stands to reason that an increased investment in Exit is driven by an ambition to enhance the effectiveness and efficiency of Exit. Currently, however, there are no agreed – not even proposed – measures along which the EU or Member States should monitor and evaluate any impact of investment on the effectiveness and efficiency of Exit policies and practices.

Theoretically speaking, we could envision five – not mutually exclusive – criteria along which investment in Exit governance might be evaluated:

1. Absolute number of irregular migrants leaving a Member State and/or the EU;
2. Proportion of irregular migrants leaving a Member State and/or the EU out of the total irregular migrant population in a Member State/the EU;
3. The level of deterrence generated with respect to the aspiration of potential irregular migrants to reach the EU or remain in it with an irregular status;
4. A cost-effectiveness calculation of getting irregular migrants to leave – voluntarily or forcefully – a Member State and/or the EU;
5. The ability to protect, in line with the NYD and SDGs, legal safeguards for irregular migrants subjected to return and detention.

Here is what our findings show with respect to these five criteria. First, there appears to be no clear correlation between increased investment in Exit and the total number of irregular migrants leaving a Member State and/or the EU. Second, it is clear that in broad brushstrokes the proportion of irregular migrants leaving the EU is not increasing. Third, there is wide evidence in the literature regarding the futility of stricter detention and forced removal measures in deterring potential irregular migrants from reaching the EU or encouraging them to leave once they are in the EU Member States. Similar evidence for this trend has been found in other parts of the world.

With respect to a cost-effectiveness calculation of Exit, we must first acknowledge that ‘effectiveness’ cannot simply be inferred from the ability to enforce removal orders on irregular migrants, but also, crucially, on sustainable reintegration post-exit. Notwithstanding these greater complexity in evaluating the effectiveness of Exit, we were not able to present a fully-fledged

comparative analysis on the effectiveness of forced removal and voluntary return in this report because much data is missing. Lack of data, which is detrimental to evidence-based policymaking and to grounded scientific investigation, results from two essential dynamics. First, the EU has no guidelines for Member States concerning the production, maintenance and sharing of relevant data on Exit. More specifically, at this moment, there is no obligation for Member States to collect data on the numbers of irregular migrants, pre-removal detention, and forced and voluntary exits. Consequently, different Member States produce different types of data on certain aspects of Exit and not on others. This leads to an extremely partial and impossible to compare set of data when it comes to the situation in each Member State and across the EU. Admittedly, given the nature of irregular migration, collecting data is not always a simple task. Yet, while data, for example, on the total population of irregular migrants throughout the EU can never be completely accurate, our findings show that it is also not some flight of fancy, but instead attainable thorough research and coordination between Member States. In other words, the infrastructure can be put in place, but the political and administrative willingness to use it must be there as well.

Notwithstanding the lacking data on exit and its accessibility to us as researchers, we made an effort to scrutinize all the available data for two Member States where our access was most complete: the Netherlands and Germany. We found that growing investments in the operations of Exit in these two countries resulted in a low cost-effectiveness with respect to return procedures. Given our examination could only be partial, we conclude that cost-effectiveness is not a feasible criterion to be applied for as long as the data on Exit is lacking.

Finally, investment in Exit regimes can be evaluated according to the degree to which it allows the EU and Member States to enhance the protection of human and fundamental rights of irregular migrants subjected to voluntary return or forced removal. To ensure migration in a safe, orderly and dignified manner, in line with the NYD and SDGs, it is of importance that the EC evaluates how legal safeguards for irregular migrants in all exit procedures can be better protected. Our findings indicate two developments that might destabilize rather than reinforce protection in important respects. First, the simultaneous withdrawal of subsidiary protection and the restrictions and even criminalization of humanitarian aid decisively contribute to an environment in which more people live in precarious situations throughout the EU. Second, as explicitly declared by some politicians, for example in Denmark, the tendency towards externalization legislation is aimed to deteriorate a system designed to offer asylum and humanitarian protection in order to deter potential asylum seekers from arriving and push rejected asylum seekers to exit the country independently. Worth noting is the fact that this deterrence policy has been implemented despite a lack of evidence for its effect.

The recast of the Return Directive favors forced over voluntary return, while there is no evidence that this will increase the effectiveness of returns. In addition, the organizational budget of Frontex has been steadily increasing, although various concerns have been raised with regard to legal safeguards for returnees in Frontex operations as well as during so-called 'hot returns' and under EU readmission arrangements. Of special concern here is the lack of democratic control in most readmission arrangements, which makes it difficult for lawyers and civil society organizations to support returning migrants and to monitor the Exit process.

2. The European Border and Coast Guard Agency (Frontex) and its interactions with civil society

The role of the European Border and Coast Guard Agency (Frontex) has been central and rapidly expanding in the institutional structure and operational dynamics underpinning EU exit policies. Next to its collaboration with Member States, 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 findings can be divided into three distinctive sub-fields in which the operations of Frontex are relevant to the governance of exit in the EU. Firstly, 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 voice, 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 in monitoring the operation of Frontex.

More specifically, regarding the monitoring of forced return flights, Frontex publishes a list of planned return operations, whereafter organizations and institutions from across Europe and the world can express an interest in participating. Discretion resides with Frontex, though, as the Agency selects the organizations. Additionally, the Frontex Pool of Monitors (PoM) has had

different standards for monitoring than national and independent monitors, including that they were often only present on the plane ride for about half of the flights they monitored. Since 2018 there was a shift away from unmonitored joint return operations, although this should not be equated with an unproblematic quality of the resulting monitoring activities. When it comes to the operational, geographic and temporal scales of these operations, differences are observable between Member States 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-stop flights, with significantly more people being returned per flight, and with more frequent usage of monitoring. We also found a lack of clear guidelines regarding the presence of cultural mediators and interpreters during return operations.

Secondly, the implementation of 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 has many implications. Several interviewed interlocutors pointed out that the interconnectivity between a rising number of information systems, such as Eurodac, Schengen Information System (SIS), ECRIS-TCN, the Entry-Exist System and the Visa Information System (VIS), has led to growing challenges regarding interoperability, interconnectivity and data ethics. Importantly, 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, who has raised concerns about the lowered age of those whose biometrics will be collected, the expansion of data collection is currently premised on a conflation of phenomena like migration management, internal security and the fight against terrorism. With the rapidly accelerating datafication of EU exit governance, Frontex has gained a more prominent role with respect to formulating and operationalizing EU visions of datafied migration control. This links to the ongoing repurposing of information systems towards exit. This development is echoed in policy, whereby the existence of certain databases is used to justify the expansion of their usage and the centralization of information flow. This amounts to a dangerously circular argument for more dataveillance of TCNs for the purpose of return at the same time as the Agency is also being criticized for insufficient data and accountability when it comes to the monitoring of human rights violations, such as push backs, through serious incidents reports at Greek and Balkan Sea and land borders.

Thirdly, Frontex has now grown into a powerful end-user of border control technologies and services, issuing an increasing number of tenders, and agreeing to high-budget deals with sub-contractors. 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 involving the Agency. Similarly, the way in which a series of Frontex Framework Contracts through which the exit provisions of the controversial EU-Turkey statement has been effectuated involves local companies operating passenger ferries and busses is underexamined result of this tendency and is a new finding of this Work Package. Companies interacting with Frontex operate across a wide range of sectors such as aerospace, defence, biometrics and security, and also across a wide range of scales. But next to these large-scale contracts, our findings also 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. While Frontex expands in terms of budgets and operational capacity, we could not detect a matching expansion in the establishment of monitoring capabilities and reporting mechanisms.

The issue of Frontex transparency concerning its interactions with commercial and industrial actors involved in EU border control do not feature in the CF's Programmes of Work. In fact, the only reference made to the issue of transparency is when the participating organisations describe the pillars of their *own* work in the CF, and thus reflecting the general principles of the CF itself, rather than Frontex relations to industrial sectors.

3. Pre-removal detention and its alternatives

The European Commission has acknowledged that "an overly repressive system with systematic detention may also be inefficient, since the returnee has little incentive or encouragement to cooperate in the return procedure". This is in line with the EU's commitment in the Global Compact on Migration to prioritise the use of non-custodial alternatives to detention. Accordingly, the EC called in 2017 for developing alternatives to the pre-removal detention procedure. The principal of alternatives to detention (ATD) is that they are less coercive than existing detention procedures. Contradictorily, however, the 2017 EC proposal for a Recast Return Directive expands

the uses for detention both directly and indirectly, by including security risks as a third ground for detention, promoting a broader definition of the risk of absconding, and by requiring Member States to adopt maximum periods of detention of at least 3 months. Furthermore, the Recast proposal limits the application of a voluntary departure period and introduces a new border procedure where the realm of detention would be increased. The increased use of coercion is claimed to be necessary in order to increase the number of 'effective returns'. This claim, however, is not supported by evidence.

Currently, Member States are required to provide alternatives to detention in their national legislation, and should choose the least coercive measure available. However, the Return Directive does not use the term *alternatives to detention* at all, and does not clarify what type of measures may be provided instead of detention. The Return Handbook, which provides guidelines for the implementation of the Return Directive, provides a bit more guidance by mentioning examples of ATDs, such as: residence restrictions, open houses for families, case-worker support, regular reporting, surrender of ID/travel documents, bail and electronic monitoring. However, it does not specify what these measures entail nor how they can be implemented effectively and with respect for the rights of migrants in the context of return procedures. As a result, the legal framework on ATDs can be considered underdeveloped.

Our research findings show that there is no systematic mechanism for gathering, sharing and evaluating experiences and "best practices" around ATDs and their implementation in different Member States. The four most common ATDs (reporting obligations, surrendering documents, residence requirements, release on bail) have not yet been subject to evaluation within the framework of return procedures. It is necessary to understand which factors promote or discourage cooperation within ATDs, and to develop tools for authorities to assess the risk of absconding without disadvantaging irregular migrants.

When it comes to the current state of working with pre-removal detention facilities, our research has made the following observations:

Facilities for pre-removal detention in some Member States work with private security companies. It is often unclear what the (legal) responsibilities are or the professional training of such private companies. Because of a lack of transparency and an unclear structure of accountability, it is evident that mechanisms for the critical assessment of the role of private security companies should be present in the current management and any potential expansion of pre-removal detention facilities.

With respect to the length and recurrence of pre-removal detention, our findings show that no correlation could be established between an increase in the length of pre-removal detention and return rates. Even though the European Commission expects that longer detention periods will ensure effective removals, practitioners (e.g. those working in pre-removal detention centers) often argue to the contrary. During our field research, practitioners expressed that 2-3 months in detention was usually enough to determine whether forced (and in some cases 'voluntary') return would be successful.

Next to the doubts practitioners expressed about extending the length of pre-removal detention, it is also of importance to assess whether the (up to) 18-22 months period of pre-removal detention is in line with article 5(1) ECHR, which states that detention becomes unlawful once return is no longer feasible (when there is no imminent prospect of forced return). A detention period of 18-22 months may therefore be excessive if there is no prospect of return. For example, if a person is stateless, lacks documentation or is non-deportable for other reasons, there is no feasible prospect of return. For these groups of irregular migrants, detention becomes unlawful under article 5(1) ECHR. Yet, there is no decisive (legal) practice across EU Member States to refrain from detaining stateless people and other non-deportable persons. It is promising, however, that some Member States (Italy, Latvia, Luxembourg, the Netherlands, Norway, Slovakia, and Sweden) provide access to legal aid, which is necessary for the review of pre-removal detention. However, it is unclear how often a legal review of the detention measure occurs in practice.

Another issue concerning stateless people and non-deportable persons is the possibility of re-detention or repeated detention. Because this group still lacks a legal status upon their release from detention, they face a risk of re-detention at any given moment. Periodic reports written by the Committee Against Torture (CAT), for example, about the Netherlands and Cyprus show how stateless people and non-deportable persons were held in pre-removal detention facilities repeatedly for longer than 18 months because of a lack of identity documents.

4. Legal pathways to the regularisation

Taking into account the low implementation rate of return orders in all member States and at EU level, pathways to the regularisation of irregular migrants who cannot effectively return should be

improved. In addition, there is currently no widespread practice of granting temporary protection against detention and forced return to migrants who do not qualify for refugee status and who are unable to return home owing to conditions in their countries (point 53 in the New York Declaration).

In 2008, the heads of government of all Member States agreed to only make use of regularisation mechanisms on the basis of humanitarian or economic grounds. Since then, the implementation of collective regularisation programmes has indeed been limited across the EU. Our legal analysis of regularisation regimes in Denmark, France, Germany, the Netherlands, Poland and Spain shows that the design of regularisation frameworks varies widely across the Member States. The main variation is found in the conditions and target groups of individual regularisation provisions. 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, is common in all Member States. However, regularisation based on employment, long-term de facto residence or social or cultural integration is less widespread.

Our findings show two main pathways to regularization. The first one, evident mostly in Spain and France, is where residence permits can be issued to irregular migrants based on their “social embeddedness” (*arraigo social*) and/or their proven long-term employment, as proofs of their de facto integration and degree of “deservedness”. The second pathway, found in Germany, Poland and the Netherlands, pertains to the issuing of a conditional legal status to irregular migrants who cannot be deported. This is most visible in the case of Germany’s provisions for long-term “tolerated” migrants (*Duldung*) and the Dutch arrangement for irregular migrants who cannot leave the country through no fault of their own (*buiten schuld*). Poland also issues a “tolerated stay” type of status which is not a residence permit, and which can be revoked once a person is no longer non-removable. This special status only qualifies for permanent residence after a minimum stay of ten years, and only if the stay is on grounds of non-removability based on a court decision or for human rights reasons, i.e., excluding those whose non-removable condition is due to reasons beyond their control. In terms of reducing irregular migrants’ legal uncertainty, the effectiveness of these special permits for non-removable migrants is questionable as they can be revoked at any moment when the authorities believe that return becomes foreseeable again.

Further, our findings highlight the ambiguous role of discretionary clauses and the wider discretion that is invested in regularisation procedures. These pathways to regularization are different on the level of Member States and are currently not examined thoroughly in ways that would ensure they are streamlined and used across all potential target groups across EU Member States. In general, our research has revealed that data on existing mechanisms for regularization are lacking and not shared widely across Member States.

Finally, unsubstantiated claims regarding a potential “pull factor” of regularisation or its impact on secondary migration have frequently been presented as reasons *not* to implement such measures in the EU. Our research could not find any evidence to support this claim and we thus believe that further research into this issue would be useful to facilitate an evidence-based debate on regularisation.

5. Sustainable reintegration post-exit

Due to the wide extent of this research field and the ensuing analysis and recommendation, we have published a separate policy brief on ‘An analysis of the return and reintegration experiences of third country nationals returned from the EU via Assisted Voluntary Return or forced removal’. We refer the reader to the Policy Brief on *Sustainable reintegration post-exit* that is annexed here.²

POLICY IMPLICATIONS AND RECOMMENDATIONS

The following are the main policy implications of our findings, along with our ensuing recommendations. They are divided into six main fields of our study.

1. Mapping Exit governance across EU Member States.

² See Talitah Dubow and Katie Kuschminder (2021) *Policy brief Sustainable Reintegration Post-Exit*. Maastricht: MU. https://admigov.eu/upload/Policy_Brief_D24.pdf

- We recommend the construction of an assessment mechanism or evaluating the otherwise vague notion of what constitutes proportional and necessary measures in legislating and implementing Exit regimes. Without such mechanism, we risk the withering away of legal safeguards in return and detention procedures in light of evermore restrictive policies that are increasingly punitive in their implications and whose effectiveness is not grounded in empirical evidence.
- Introducing clear standards and comprehensive guidelines for the production, collection and maintenance of key statistics and all other relevant data for with respect to Exit in EU Member States, as well as in Frontex and all other EU-led agencies and initiatives. The lack of standardized statistics across the EU Member States hampers severely the possibility to advance evidence-based policymaking in the field.
- The EC should complete its awaited implementation assessment before proceeding with the legislative procedure of the recast of the Return Directive.
- To 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 implementation work of agencies involved in the governance of exit in Member States as well as in Frontex and all other EU-led agencies and initiatives. With respect to data, we recommend that access can only be restricted to data that includes identifying details of potential returnees and that cannot be anonymised.

2. The European Border and Coast Guard Agency (Frontex) and its interactions with civil society

- Frontex needs to specify and codify with precision what qualifies an assisted-voluntary return (AVR) as “voluntary”. It should be recognised that, in principle, assisted returns are not voluntary and that the Frontex should categorically refrain from using this label for its operations unless it can be explicitly qualified as such.
- All agents 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 who admit being unaware of what might be considered an infringement of irregular migrants' human and fundamental rights. Frontex agents will continue to apply uneven legal enforcement of return procedures until a certified professional training is further developed and becomes mandatory for taking part in Frontex operations.
- 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 the Agency, and ensure transparent accountability structure for managing such cases.
- 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.
- The Consultative Forum on Fundamental Rights (CF) should be formally separated from the Frontex administration. It 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.
- 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 public access and general transparency about when it comes information about corporate lobbying and interest organizations' meetings and interactions with the Agency.

3. Alternatives To Detention (ATD)

- There is an acute need for establishing an evidence-based approach to changing the length of pre-removal detention procedures. At the moment, 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 therefore recommend reversing the empirical burden of proof for extending the length of pre-removal detention to policymakers who advocate for it.
- 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.

- There is an acute need for both an evidence-based approach as well as a critical assessment mechanism concerning the psychosocial consequences for rejected asylum seekers who are subjected to alternatives to detention in the form of sanctions under deterrence regimes, such as the Danish “motivational measures”, which are designed to incentivize peoples’ desire to depart independently, but has shown little effect in this regard.
- 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. Particular attention should be paid to the training of the staff who is charged with running pre-removal detention facilities.
- Because of the discrepancy between the administrative character of pre-removal detention and its punitive implications for irregular migrants, we recommend ensuring that the same fair trial guarantees are applicable as those that apply to criminal proceedings.

4. Legal pathways to regularization

- The EC and Member States should prioritize alternative legal pathways as an important complementary measure to forced and voluntary returns. This is in line not only with the UNHCR New York Declaration for Refugees and Migrants, but also with an overdue paradigmatic shift that acknowledges the demand for migrants in Member States and the rights of settled migrants with irregular status.
- Member States should ensure that a structural regularisation mechanism is available to alleviate the situation of irregular migrants in exceptional, vulnerable, or precarious circumstances. To this end, the adoption of provisions regarding victims of human trafficking as part of the transposition of the 2004 Directive has been an important step. However, the condition that victims should cooperate with authorities limits its use in practice. We recommend removing this condition.
- Some Member States 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. Important here is that the recent Strategy for Victims’ Rights (2020-2025) opens the way for a legal pathway for all other victims, who should have a safe environment for crime reporting, not least for the benefit of the criminal justice system.
- If the goal of exit regimes is to become fair and effective, policymakers should reconsider the overdetermined focus on rejected asylum seekers as the main target group for return.

5. Sustainable reintegration post-exit

- We recommend 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.
- More resources should be made available for accompanying closely the process of reintegration once return has been operated.
- Reintegration programming requires adaptable policies and programmes that are responsive to the changing conditions and circumstances of returnees. More specifically, attempts to start-up businesses are always subject to risk for reasons beyond returnees’ influence. Accordingly, reintegration programs should allow returnees an additional attempt to sustainably reintegrate.
- Currently, there is little monitoring supervision from the side of the EU, when it comes to the assessment of successful post-exit reintegration and the building of a reliable database. In terms of measurement, sustainable reintegration must be measured:
 - predominantly from the perspectives of returnees for it is their subjective perception that shapes life satisfaction and migration decision-making;
 - by accounting for a wide range of impact indicators that are necessary to assess the complexity involved in sustainable reintegration. These indicators need to be contextualised within country contexts. Certain variables are more important in certain countries and less in others;
 - determining a threshold against which to measure successful sustainable reintegration.
- Long-term development funds should be provisioned in third countries to address the needs of return migrants. Return and reintegration should be considered under the development

policy framework, 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.

RESEARCH PARAMETERS

This project main objective has been the production of knowledge that can advance a move towards a more harmonized, safe, and humane EU exit regime of irregular migrants. The normative framework of what might constitute a more humane exit regime is in line with the 2015 Sustainable Development Goals, the 2016 New York Declaration, and the 2018 Global Compacts. To achieve this main objective, we mapped and critically assessed existing exit policies and schemes in all EU Member States. We then examined more in-depth how exit regimes are implemented on the ground in four case studies: Denmark, Germany, Spain, and the Netherlands. Our goal was to better understand the relative significance of different policy factors and investments in influencing the efficiency and efficacy of both voluntary and forced returns. We therefore also scrutinised the role of Frontex, as well as to that of civil-society organizations and private companies which are involved in implementing return policies. To complete the circle of exit regimes, we established the criteria for evaluating and monitoring post-exit integration. Finally, we paid close attention legal pathways for the legalisation of irregular migrants as an alternative to return.

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, as well as frequent visits to key sites and daily observations of the work of those who implement exit regimes on the ground. 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. 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 Member States and with some non-governmental organizations, face-to-face meetings were occasionally possible.

With respect to the study of returnees' reintegration experiences in Albania, Iraqi Kurdistan and Senegal, the impacts of Covid-19 necessitated changes to the original research design. Fieldwork in Albania was conducted, as originally planned, in-person by a WP2 researcher in January 2020. However, due to travel restrictions, fieldwork in Iraq and Senegal was subcontracted to local partners. In Iraq, all interviews were conducted by telephone by a local consultant (except in a couple of cases where the interviewees preferred to meet in person). In Senegal, where in-person data collection was still possible, a local research team conducted semi-structured interviews, mostly in-person.

Regrettably, we did not manage to have direct access to Frontex in our field research. Frontex repeatedly refused to take part in the semi-structured interview design accepted by all other actors. Moreover, individual Frontex officers who had initially accepted such interview requests, recused themselves after learning that the Agency's Media and Public Relations Office was involved. Having requested all questions in advance, the Press Office informed that it would only be responding to some of them, and only over mail. The resulting five-page document addressed some of the questions we intended to ask of the Agency. However, it also left many other pertinent issues unattended. It was unfortunately also not possible to organize interviews with IOM Europe, ICMPD and EU-Lisa, despite repeated requests.

In the start of our research, we had no way to assess how long the Covid-19 pandemic would last, and we therefore deliberately opted to leave out the possible effects of Covid-19 on the governance of exit. 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 Covid-19 pandemic. Obviously, many of our interviewees made references to the pandemic, and to the extent that they explained how it affected them and the governance of exit, we have included such information in our reports. In hindsight, we now 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.

PROJECT IDENTITY

PROJECT NAME	ADVANCING ALTERNATIVE MIGRATION GOVERNANCE (ADMIGOV).
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CONSORTIUM	Universiteit van Amsterdam (UvA) Amsterdam, The Netherlands (coordinator); Addis Ababa University (AAU) Addis Ababa, Ethiopia; American University of Beirut (AUB) Beirut, Lebanon; Centre for International Information and Documentation in Barcelona (CIDOB) Barcelona, Spain; Dansk Flygtningehjælp Forening (DRC) Copenhagen, Denmark; Koç University (KU) Istanbul, Turkey; Panepistimio Aigaiou (AEGEAN) Mytilini, Greece; Stichting Nederlands Instituut voor Internationale Betrekkingen Clingendael (CLINGENDAEL) Den Haag, The Netherlands; Universitat de Barcelona (UB) Barcelona, Spain; Université libre de Bruxelles (ULB) Brussels, Belgium; Universiteit Maastricht (UM) Maastricht, the Netherlands; Uniwersytet Wrocławski (UWR) Wrocław, Poland. University of Copenhagen (UCPH) Copenhagen, Denmark;
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FOR MORE INFORMATION	b.kalir@uva.nl
FURTHER READING	See the publication page of website http://admigov.eu for below reports. <ul style="list-style-type: none">• Arja Oomkens and Barak Kalir (2020) Legal and operational infrastructures of exit regimes in Europe. AdMiGov Deliverable 2.1, Amsterdam: UvA.• Barak Kalir, Martin Lemberg-Pedersen, Arja Oomkens, Janis Geschke, Markus González Beilfuss, Joan-Josep Vallbé, Oliver Joel Halpern & Wendelien Barkema (2021) EU Exit Regimes in Practice: Case Studies from the Netherlands, Spain, Germany and Denmark. AdMiGov Deliverable 2.2, Amsterdam: University of Amsterdam.• Martin Lemberg-Pedersen & Oliver Joel Halpern (2021) Frontex and Exit Governance: Dataveillance, Civil Society and Markets for Border Control, AdMiGov Deliverable 2.3, Copenhagen: University of Copenhagen.• Talitha Dubow and Katie Kuschminder (2021). EU Exit Regimes in Practice: Sustainable Return and Reintegration, ADMIGOV deliverable 2.4, Maastricht: Maastricht University.• Markus González Beilfuss and Julia Koopmans (2021) Alternatives to pre-removal detention in return procedures in the EU. AdMiGov Deliverable 2.5, Barcelona: University of Barcelona.

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