

Bernd Parusel

The EU's new agenda for returning irregular migrants

Questions and answers

The European Commission has proposed a tougher and more coherent system for returning irregular migrants. SIEPS migration policy expert Bernd Parusel examines the proposal in a wider context and notes controversial elements but no magic cure to long-standing problems.

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Summary

After the adoption of a long-awaited reform of the EU's common asylum system in May 2024, the search for effective ways of removing and returning people who are not allowed to stay in the European Union has re-entered the political debate over migration and asylum in Europe. Returns have long been difficult to enforce, politicians decry low return rates, and it is often argued that asylum and migration systems cannot work properly as long as many of those who are not granted a right to stay end up remaining in the EU anyway.

In March 2025, the European Commission presented a proposal for a new EU regulation on returns, setting out a more unified and tougher approach. With a question-and-answers approach, this SIEPS analysis examines the proposal in the wider context of return and migration policy in Europe. It finds that the proposed framework includes noteworthy and controversial innovations but that expecting it to be a major game-changer would be unrealistic.

About the author

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The opinions expressed in the publication are those of the author.

1. Introduction

Returning rejected asylum seekers and other third-country nationals with no right to stay in the EU to their home countries has long been a difficult task. Despite many political and practical efforts and the gradual development of a common EU asylum and migration policy, which according to EU primary law includes the ‘removal and repatriation of persons residing without authorisation’,¹ low return rates continue to worry policymakers.

‘Roughly speaking, only about one in four or five people who are ordered to leave the EU are indeed returned.’

Roughly speaking, only about one in four or five people who are ordered to leave the EU are indeed returned.² Some member states perform better than others, but low return rates can indeed be considered a common problem.³ At more or less regular intervals, often when the number of people seeking asylum in the EU is high, the issue reappears at the top of the EU institutions’ migration agendas. Recently, the debate among policymakers has centred on two main avenues of possible reform: legislative changes and the externalisation of certain asylum and return functions to non-EU countries.

In October 2024, the European Council asked the Commission to propose new legislation on returns ‘as a matter of urgency’,⁴ and in her political guidelines for 2024–2029, European Commission President Ursula von der Leyen announced a new common approach on returns, ‘with a new legislative framework to speed up and simplify the process, ensure that returns take place in a dignified manner, digitalise case management and ensure that return decisions are mutually recognised across Europe’.⁵

In March 2025, the Commission published a proposal for a new EU regulation on return.⁶ It is intended to replace the existing return instrument, which is a directive from 2008.⁷ If adopted by the European Parliament and the Council, the proposal would over time make a return decision issued by one member state binding on other member states, clarify obligations for third-country nationals to cooperate with enforcement authorities, and introduce readmission requests to returnees’ destination countries as part of the return process, among other changes. It would also enable member states to negotiate deals with third countries on so-called ‘return hubs’ under certain circumstances.

This European Policy Analysis tries to answer the most relevant and politically topical issues regarding these and other relevant aspects of EU return policy in a questions-and-answers format. It builds on a review of relevant EU legislation and policy as well as findings from research in areas such as migration studies, political science and law. At its core, the analysis includes an assessment of the recently proposed EU regulation on return, but it also comments on the ‘return hubs’ concept and other measures within the external dimension of EU migration policy, as well as the wider context of return policy.

¹ Art. 79 (2) (c) of the Treaty on the Functioning of the European Union (TFEU).

² Costica Dumbrava / Anja Radjenovic (2024): *Common approach on return policy*, Briefing PE 757.604, European Parliament Research Service. (Between 2014 and 2023, EU27+ countries issued 4.5 million return orders, out of which only 1.3 million led to effective returns (including both voluntary and forced returns). After several years of decline, the number of return orders and of effective returns increased in 2022. According to preliminary data, in the first two quarters of 2024, EU27+ countries issued 202,315 return orders and returned 27,570 third-country nationals.)

³ Member states with relatively high return rates often have a small caseload, which means that they issue few return decisions.

⁴ European Council meeting (17 October 2024) – Conclusions, p. 9.

⁵ Ursula von der Leyen (2024): *Europe’s Choice, Political Guidelines for the Next European Commission 2024–2029*, Strasbourg, 18 July.

⁶ European Commission, *Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC*, COM(2025) 101 final, Strasbourg, 11 March 2025.

⁷ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

2. Why is return a hot topic in politics?

Making returns work is important for policymakers, especially if they want to show voters that they are able to manage migration. In 2020, the European Commission stated that the low return rate acts as an ‘incentive for irregular migration’ and ‘erodes citizens’ trust in the whole system of asylum and migration management’. Loopholes needed to be closed, and procedures streamlined, ‘so that asylum and return work as part of a single system’.⁸

Returns have become a much-debated issue again since the New Pact on Migration and Asylum, a major reform of the Common European Asylum System (CEAS), was adopted in early 2024.⁹ This pact only partially addresses return,¹⁰ but limited success in enforcing returns is seen by many as a major weakness of the common system. Achieving better results is viewed as a prerequisite for improving the asylum and immigration system as a whole.¹¹ The current commissioner for internal affairs and migration, Magnus Brunner, said in March 2025 that:

Europe needs effective and modern procedures for returning unsuccessful asylum claimants and visa-overstayers. Without these, we undermine the credibility and sustainability of the entire migration and asylum system.¹²

It is also often held that, in regard to asylum, clear messages and signals to potential applicants are needed. A person whose asylum request is denied must leave – otherwise the migration control system loses legitimacy, and people might come to Europe irregularly with the expectation that even if they are rejected, they might be able to stay.¹³

‘Discussions around returns can [...] trigger emotions, and returns often catch the eye of mass media.’

Researchers have often questioned this, pointing to the fact that there can be many obstacles to returning (see Question 7 below) – at least if member states want to act in accordance with human rights and international law. Returns are also often contested by civil society and human rights groups, either as a matter of principle, or because of enforcement measures that they consider to be harsh, or because they do not consider a return destination country to be sufficiently safe, or because they view individual return orders (or the underlying rejection of an asylum application or non-extension of a residence permit) as wrong. For individuals who want to stay in Europe, receiving a return order can be a personal catastrophe. Discussions around returns can therefore trigger emotions, and returns often catch the eye of mass media.

Just how hot a potato returns are in the EU became very clear again when, just days after the Syrian dictator Bashar al-Assad was overthrown on 8 December 2024, politicians in the EU started calling for Syrian refugees living in the EU to return. Austria announced the preparation of a ‘return and deportation programme’, and in Germany, some politicians proposed offering Syrians financial incentives to return while others warned that the situation in Syria was still volatile and unsafe.¹⁴

⁸ European Commission, *Communication on a New Pact on Migration and Asylum*, COM(2020) 609 final, 23 September 2020, p. 7.

⁹ Steve Peers (2024): ‘The New Asylum Pact: Brave New World or Dystopian Hellscape?’ *European Journal of Migration and Law* 26 (4), 381–420; Bernd Parusel (2025): ‘The EU’s New Asylum System and Its Uncertain Future’, *Politics and Rights Review*, 6 February 2025.

¹⁰ Madalina Moraru / Carmen López Esquitino (2024): ‘The Impact of the 2024 CEAS Reform on the EU’s Return System: Amending the Return Directive Through the Backdoor’, *EU Immigration and Asylum Law and Policy Blog*, 25 September 2024.

¹¹ In a discussion paper from July 2024, the Hungarian presidency of the Council argued that an ‘effective return system’ was the ‘main missing element of the migration and asylum reform’ (see Council of the European Union, *Presidency discussion paper on steps towards a well-functioning return system*, 12149/24, Brussels, 18 July 2024).

¹² Politico, *Brussels Playbook*, 5 March 2025.

¹³ The reasoning of returning states is explained well in Gregor Noll (1999): *Rejected asylum seekers: the problem of return*. UNHCR, New Issues in Refugee Research, Working Paper no. 4.

¹⁴ ‘Austria prepares to deport Syrian migrants after Assad regime falls’, *Politico*, 9 December 2024; ‘Europe’s Syrians shaken by debate over repatriation to their war-ravaged homeland’, *Politico*, 12 December 2024.

3. Emigration, removal, return, repatriation: what is the right terminology?

Return can overlap with the broader phenomenon of emigration, which is defined by the International Organization for Migration as ‘the act of moving from one’s country of nationality or usual residence to another country, so that the country of destination effectively becomes his or her new country of usual residence’.¹⁵

Existing EU secondary law defines return as:

the process of a third-country national going back – whether in voluntary compliance with an obligation to return, or enforced – to:

- his or her 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 in which he or she will be accepted.¹⁶

There are different ways in which people residing – legally or illegally – in the EU leave the territory. A basic distinction can be made between voluntary and forced returns, but there are also differences within these two main types. Sometimes, the word ‘repatriation’ is used instead of return.

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As far as voluntary return is concerned, people can leave on an entirely voluntary basis; even if they have a right to stay (on the basis of a residence permit, for example, or holding the citizenship of a member state), they may decide to migrate elsewhere – back to the country of origin or birth or to another country. In other cases, return may not be entirely voluntary: when a visa or residence permit expires and is not extended, or an authority issues an order to leave (for example, when an application for asylum is rejected or a foreign national commits a serious crime), and at this point an individual decides to comply with this decision and leaves. Member states sometimes make different kinds of assistance available to people who comply with return orders. For example, they might pay for a plane ticket, offer reintegration assistance or offer to repay social security contributions paid by migrants while they were working in the member state. This is sometimes called ‘assisted voluntary return’.¹⁷

Individuals may also not want to leave and instead try to stay without permission, whereby a process of enforcing the return of a person may begin. People may be detained, for example, until their forced return is organised and, against their will, they are brought back to their country of origin or another country. EU member states also use certain alternatives to detention to prevent individuals from absconding, such as requiring returnees to report, at regular intervals, to authorities, or ordering them to take residence in special accommodation (‘return centres’) on their territory or to wear an electronic tracking device.¹⁸ Forced return is sometimes also called ‘removal’, ‘expulsion’ or ‘deportation’.¹⁹

¹⁵ International Organization for Migration (2019): *International Migration Law, Glossary on Migration*, p. 64.

¹⁶ Directive 2008/115/EC, Art. 3 (3).

¹⁷ International Organization for Migration 2019, pp. 12–13.

¹⁸ An overview of such practices used in the EU is given in European Migration Network (2022): *Detention and alternatives to detention in international protection and return procedures*, European Migration Network Study, May 2022.

¹⁹ International Organization for Migration 2019, pp. 180–181.

There can also be situations where an individual must leave and wants to leave but is not accepted and taken back by their country of origin or of previous residence. This can happen if the nationality of the person is not documented, if the person does not have travel documents and cannot get them, or when a country refuses to take back their nationals, such as for political reasons (see Question 7 below).

4. What are the competences of the EU in matters of migrants' returns?

Policies relating to the return of irregular migrants fall under the 'area of freedom, security and justice', which is a policy domain where the EU shares competence with the member states.²⁰ The Treaty on the Functioning of the European Union specifies that the European Parliament and the Council shall adopt measures on 'illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation'.²¹ Such measures are adopted in accordance with the ordinary legislative procedure, which means that the European Parliament and the Council adopt legislation jointly. The procedure starts with a legislative proposal from the Commission.

This means that the EU is entitled to adopt common and binding legislation concerning return, which member states must follow. One example of such legislation is the above-mentioned Return Directive.²² The actual operations when it comes to returns, such as return counselling, removing a person or placing an individual in detention, are normally carried out by member states' authorities, whereby the common rules have to be respected.

'Today, many returns are carried out in practice by the EU Border and Coast Guard Agency Frontex.'

However, the EU itself has also acquired operational capabilities. Today, many returns are carried out in practice by the EU Border and Coast Guard Agency Frontex.²³ The Frontex Regulation states that 'to organise, coordinate and conduct return operations and return interventions' is one of the 'key roles' of the Agency.²⁴ Article 10 (1) (n) states that Frontex shall 'provide assistance at all stages of the return process', 'assist with the coordination and organisation of return operations', and 'provide technical and operational support to implement the obligation to return returnees and technical and operational support to return operations and interventions'.²⁵

The EU also addresses return in the 'external dimension' of its migration policy, such as through targeted readmission agreements, diplomacy and migration cooperation arrangements with third countries (see Question 10). Recently, the idea of establishing 'return hubs' outside the EU has gained traction (see Question 12).²⁶ The EU also funds certain return-related activities undertaken by the member states.

²⁰ Article 4 (2) (j) of the Treaty on the Functioning of the European Union (TFEU).

²¹ Article 79 (2) (c) TFEU.

²² The Return Directive does not apply to Denmark and Ireland.

²³ According to Frontex, 24,850 people returned with Frontex's support in 2022, 40% of them voluntarily. Between 2019 and 2023, the agency helped organise almost 10% of all returns from the EU (about 50,300 out of 544,000); see Frontex, *Return operations*, <https://www.frontex.europa.eu/return-and-reintegration/return-operations/return-operations/> (accessed 26 February 2025).

²⁴ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No. 1052/2013 and (EU) 2016/1624, Recital 3.

²⁵ However, Frontex cannot order an individual to return, with the Frontex Regulation stating that this remains 'the sole responsibility of the Member States'.

²⁶ 'Exclusive: EU Commission poised to propose migrant "return hubs" in legislation', *Euronews*, 4 February 2025; European Union Agency for Fundamental Rights (2025): *Planned Return Hubs in Third Countries, EU Fundamental Rights Law Issues*, FRA Position Paper 1/2025, Vienna.

5. How does the issue of return relate to other migration issues that the EU regulates?

Since 1999–2000, the EU has developed a Common European Asylum System (CEAS) and passed legislation on other types of migration, such as migration for family reunification, and for certain types of work and studies. In addition to these ‘sectoral’ policies, there are also cross-cutting basic rules, such as a directive on the rights of third-country nationals who are ‘long-term residents’ and a directive on ‘single permits’. There are also common measures and legal acts against the smuggling of migrants and human trafficking. Overall, this is a comprehensive system, but harmonisation on borders, visas and asylum has come relatively far compared to other types of migration, where member states have more national discretion.

‘The recent overhaul of the CEAS, adopted in 2024 after long negotiations, did ultimately not include a revised version of the 2008 Return Directive, although this was intended.’

The recent overhaul of the CEAS, adopted in 2024 after long negotiations, did ultimately not include a revised version of the 2008 Return Directive, although this was intended. But it does feature several elements relevant for returns. For example, the regulation on screening²⁷ is aimed at improving control over unauthorised entries into EU territory and making sure that people who must return do so quickly. The new Asylum Procedures Regulation²⁸ provides for asylum seekers to be sorted into different tracks, with normal asylum procedures and quicker border asylum procedures as the main avenues. Those processed in border procedures are not considered to have entered EU territory, and if they are rejected, they are referred to a special border return procedure.²⁹ This means that they are required to reside for up to 12 weeks in locations at, or in proximity to, an external border or in a transit zone while their return is prepared.³⁰ The current Return Directive itself (or a new version of this instrument) will only start applying if the rejected asylum seeker is not returned within the stipulated 12 weeks.³¹

When the new CEAS instruments become applicable in 2026, member states will also have to issue return decisions as part of asylum rejection decisions, or at least at the same time and together with the asylum rejection.³² The purpose of this provision in the new Asylum Procedures Regulation is to avoid gaps between the issuance of a negative asylum decision and the return process, to increase the efficiency of procedures, and to reduce the risk of absconding and the likelihood of unauthorised movements.³³

Perhaps, in an ideal world, a person arriving in the EU to apply for asylum would either be found to be in need of protection and therefore be granted a protection status and a residence permit or be rejected and then return (or be returned). In reality, however, there are many grey areas between a clear ‘yes’ and an enforceable ‘no’, such as the exceptional granting of temporary residence on humanitarian grounds (when an individual is too sick to return, for example) or due to practical obstacles to returning (e.g. no available flight connections to the country of return). A return can also be prohibited due to the non-refoulement principle (see next question and Question 7). Sometimes, member states have decided to regularise people or to offer them opportunities to transition from an irregular to a regular status under certain conditions.

²⁷ Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No. 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, OJ L, 22.5.2024.

²⁸ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, OJ L, 22.5.2024.

²⁹ Regulation (EU) 2024/1349 of the European Parliament and of the Council of 14 May 2024 establishing a return border procedure, and amending Regulation (EU) 2021/1148, OJ L, 22.5.2024.

³⁰ If a member state cannot accommodate the refused asylum seeker there, it can resort to using other locations on their territory, but still under a fiction of non-entry.

³¹ See Steve Peers, ‘The new EU asylum laws, part 7: the new Regulation on asylum procedures’, *EU Law Analysis*, 28 April 2024.

³² See Article 37 of Regulation (EU) 2024/1348; Moraru / López Esquitino 2024.

³³ See Recital 40 of Regulation (EU) 2024/1348.

‘States may be inclined to define a country of origin or a third country as safe enough for return, but for individual returnees, there can still be dangers.’

6. How are human rights brought to the fore in this area?

First of all, enforcing returns is a human rights problem when there are risks of infringements on the non-refoulement principle, which prohibits states from transferring or removing individuals from their jurisdiction (or effective control) when there are substantial grounds for believing that such people would be at risk of irreparable harm upon return, including persecution, torture, ill treatment or other serious human rights violations. This principle applies to all migrants at all times, irrespective of migration status.³⁴ States may be inclined to define a country of origin or a third country as safe enough for return, but for individual returnees, there can still be dangers. Also, mistakes can be made in asylum proceedings, which can mean that an individual is ordered to leave despite being in need of protection.

Enforcement measures to ensure return, notably detention, are also subject to human rights concerns. International law demands that states ensure that detention is not arbitrary, that it is necessary and proportionate as well as time-limited and for the shortest appropriate period. Whether detention is necessary and proportionate must also be reviewed at regular intervals. Detention can be wholly inappropriate for individuals with specific needs or for children.³⁵

7. What do we know about obstacles to returning?

When trying to return rejected asylum seekers or other migrants to their countries of origin, member states face many obstacles, which can also be interconnected.

In the political discussion about a return policy that is perceived as sluggish, a reason often given for low return rates is a lack of willingness to cooperate on the part of rejected asylum seekers. For example, they may have no travel documents, or deliberately choose not to present them, refuse to disclose their identity or evade control by authorities by going into hiding. Many might simply not want to leave, for various reasons, and they might also perceive the rejection of their asylum application, or non-extension of a permit to stay, as unfair.

But sometimes it may not be the migrants themselves but rather their countries of origin that are the reason behind low return rates. Certain countries of origin have refused to allow their own nationals to re-enter, contrary to applicable international law, or they may not issue passports or not cooperate with the enforcement authorities of the EU states.³⁶

In certain cases, however, it might be unrealistic to expect a well-functioning return policy at all, such as when people are ordered to return to conflict-ridden countries. Experts from the International Centre for Migration Policy Development (ICMPD) note that ‘continued violence and a precarious security and economic situation in countries of origin’ are likely to be the biggest obstacles to returning and reintegrating.³⁷ Afghanistan could be quoted as a case in point. Although the EU had concluded a readmission agreement with Afghanistan in 2016 and several member states also negotiated bilateral agreements,³⁸ which at least partially removed several of the practical obstacles mentioned above, the enforcement of

³⁴ United Nations, Office of the High Commissioner for Human Rights, *The principle of non-refoulement under international human rights law*.

³⁵ Elspeth Guild / Maja Grundler (2024): *The Minimum Standards of International Protection Applicable to the European Union*, Swedish Institute for European Policy Studies, Report 2024:1, pp. 80–96.

³⁶ European Migration Network (2016): *The Return of Rejected Asylum Seekers: Challenges and Good Practices*. Synthesis Report, Brussels.

³⁷ ICMPD 2025, p. 63.

³⁸ European Council on Refugees and Exiles (2017): *European countries step up returns to Afghanistan*. News article, 7 April 2017.

returns to the country was never successful to any large degree.³⁹ Rather, a deteriorating security and human rights situation in Afghanistan stood in the way of deportations.

In a comparative study from 2016, a 'volatile security situation' in countries such as Iraq, Afghanistan and Eritrea was cited as the cause of legal and logistical challenges in implementing repatriations to these countries from Germany and the Netherlands.⁴⁰ With regard to Afghanistan, deportations did not necessarily pose a danger only to the returnees themselves but also to the officials involved in the repatriation process, such as police, border guards and embassy personnel. EU and bilateral readmission agreements with Afghanistan collapsed entirely after the Taliban took over the Afghan government in 2021, which shows that readmission arrangements can be short-lived.

'Research suggests that the longer rejected asylum seekers remain in a host country, the more complex and difficult their choice to leave becomes.'

According to a 2023 Commission document on return, a further obstacle is that member states face bottlenecks and a lack of coordination among different national actors in the return process as well as misalignment between asylum and return procedures. The report also names lengthy administrative and judicial procedures, difficulties in preventing absconding, insufficient resources and infrastructures, and limited administrative capacity to follow up on return decisions as reasons for delayed or failing returns.⁴¹

Research suggests that the longer rejected asylum seekers remain in a host country, the more complex and difficult their choice to leave becomes. For example, prolonged stays may create formal or informal opportunities for integration and increase the likelihood of returnees finding legal, social or economic pathways to remain, even if they are in an irregular status.⁴² This also means that the length of asylum procedures can play a role. The longer an applicant must wait for a decision, the less inclined they may be to comply with a rejection and return order.

An interview study by the Swedish Migration Studies Delegation found in 2020 that migration law and policy sometimes send mixed messages, which might signal to returnees that return may not be the only alternative available to them. Rejected asylum seekers might, for example, be allowed to 'change tracks' and continue their stay on other grounds than asylum law (e.g. work, humanitarian or family reasons), or they might be regularised or be able to apply for asylum again after a limitation period. The same study also identifies other problems – for example that state employees view return as a low-status task, or that migration authorities prioritise other functions or devote less attention to returning than to other tasks.⁴³

8. What do available data sources show?

Eurostat collects and publishes statistical data, delivered by member states, on returns as part of its data sets on 'enforcement of immigration legislation'. The collection comprises the number of 'orders to leave' issued by the various member states and the number of people actually returning following an order to leave. Various disaggregations are available,

³⁹ Bernd Parusel (2018): *Afghan Asylum Seekers and the Common European Asylum System*. German Federal Agency for Civic Education, 17 October 2018.

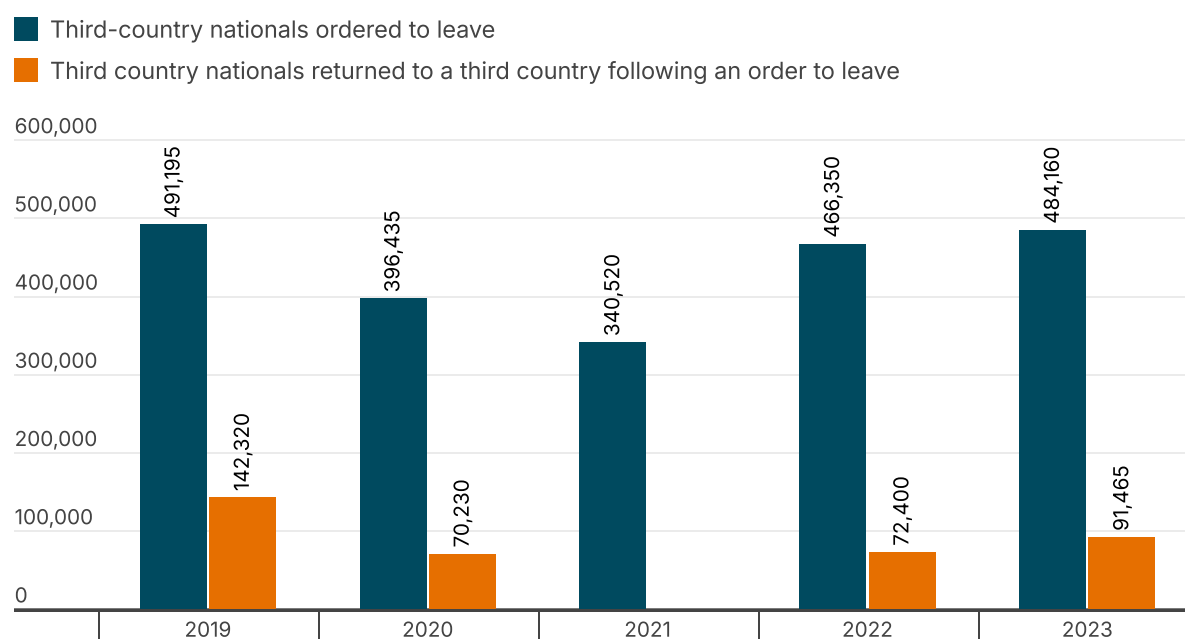
⁴⁰ European Migration Network 2016.

⁴¹ European Commission, Towards an operational strategy for more effective returns, Policy Document, COM(2023) 45 final, 24 January 2023, p. 4.

⁴² See, for example, Laura Peitz (2025): *Return or Regularization? A Temporal Analysis of Rejected Asylum Seekers in Germany*, RSC Working Paper 2025/06, European University Institute.

⁴³ Henrik Malm Lindberg (2020): *Those who cannot stay. Implementing return policy in Sweden*. The Migration Studies Delegation, Report 2020:1.

Figure 1: Third-country nationals in the EU ordered to leave and returned, 2019–2023



Sources: Eurostat, *Third-country nationals ordered to leave – annual data (rounded)*, last updated 23 May 2024 and *Third-country nationals returned following an order to leave – annual data (rounded)*, last updated 20 September 2024.

No data on third-country nationals returned to a third country are available for 2021.

such as on voluntary and enforced returns, countries of citizenship of people ordered to leave and returned, and groups of countries that people are returned to, as well as gender and age groups.

As Figure 1 shows, EU member states issued 484,160 *orders to leave* to non-EU citizens in 2023, which was 3.8% more than in 2022. The highest numbers of such orders were issued by France, Spain and Germany. As far as nationalities are concerned, most orders were issued to citizens of Morocco, Algeria, Afghanistan, Syria and Türkiye. The vast majority of people ordered to leave were men (around 362,000), but there were also women (around 49,400) and children (22,200).⁴⁴

The data on *actual returns to third countries* (following an order to leave) show much lower numbers, even though there was an increase in 2023 compared to the year before. In 2023, some 91,465 non-EU citizens were returned to a country outside the EU following an order to leave, about 26% more than in 2022. Germany, France and Sweden had the highest absolute numbers and the main citizenship groups were Georgians, Albanians, Turkish, Indians and Moldovans.

Roughly 57% of all returns in 2023 were forced ones, and 43% were voluntary returns. These percentages do not seem very reliable, however, as some member states report that

⁴⁴ Eurostat, *Enforcement of immigration legislation statistics*, 30 April 2024.

all (or almost all) of their returns were enforced (Germany, Hungary and Italy, for example), while others report that (almost) all returns were voluntary (Denmark, Latvia and Lithuania, among others). This does not seem plausible and may indicate gaps or methodological problems in the data collection.

Based on these Eurostat data sets, it is possible to calculate return rates, i.e. the percentage of people who actually leave the EU after having received a return order.⁴⁵ Even if any such calculations have weaknesses, they are often used as a main indicator regarding the effectiveness of return policies in the EU – and the results hardly indicate that the return system is working well. For 2023, the EU return rate – calculated on the basis of the figures above – was around 19%, which means that most people who were issued a return order did not actually leave; or if they left, they did not notify authorities about their departure. Over the last few years, the return rate has been fluctuating around similar percentages (23% in 2021, 19% in 2022, for example), but a wide gap between the number of returns and the number of people ordered to leave seems to have persisted over time. There are huge variations among individual member states, however, with small countries with limited caseloads generally performing better than nations with high numbers of people to be returned.⁴⁶

‘[...] among third-country nationals found to be illegally present in the EU, almost 82% were men.’

As the ICMPD notes, national authorities recorded almost 60 different third-country nationalities each with more than 1,000 orders to leave issued in 2023. The actual return rates for these countries fluctuated between 1.5% and 65.2%.⁴⁷

Scholars have tried to make sense of return rates. In an interesting study, Stutz and Trauner (2024) have asked whether the EU returns more irregular migrants to democratic or to autocratic states, and what happens if the democratic context of a partner country changes. They found that the EU’s return rate tends to be higher with democracies, although there have been notable exceptions. Whether a country becomes more or less democratic over time seems to matter less than the geographical position of a country.⁴⁸

9. Is there information on women and children in return procedures?

Data from Eurostat show that most third-country nationals returned by member states, following an order to leave, are men. In 2022, a total of 72,400 people were returned to a third country following an order to leave, and 91,465 in 2023. The share of men among all returnees was around 76% in 2022 and 74% in 2023. The share of women was around 19% both in 2022 and 2023.⁴⁹

This gender ratio is not surprising because men are also the dominant gender group among those ordered to leave (see Question 8) and groups such as asylum seekers or third-country nationals found to be irregularly present in the EU. In 2023, for example, roughly 70% of first-time asylum applicants were male,⁵⁰ and among third-country nationals found to be illegally present in the EU, almost 82% were men.

⁴⁵ Costica Dumbrava / Anja Radjenovic (2024): *Common approach on return policy*, Briefing, European Parliament Research Service, PE 757.604, October 2024.

⁴⁶ Stéphanie Pradier / Costica Dumbrava (2024): *Data on returns of irregular migrants*, Briefing, European Parliament Research Service, PE 762.470, November 2024, p. 2.

⁴⁷ International Centre for Migration Policy Development (2025): *ICMPD Migration Outlook 2025*, p. 62.

⁴⁸ Philipp Stutz / Florian Trauner (2024): ‘Democracy Matters (To Some Extent): Autocracies, Democracies and the Forced Return of Migrants from the EU’. *Geopolitics*, 1–26.

⁴⁹ In some cases, the gender of returnees was not recorded (‘unknown’), and Eurostat does not have reliable return data disaggregated by gender for periods earlier than 2022. See Eurostat, Third-country nationals returned following an order to leave – annual data (rounded), last update 20 September 2024, accessed 18 February 2025.

⁵⁰ Eurostat, Asylum applications – annual statistics, data extracted on 20 March 2024.

‘The number of unaccompanied minors who are returned seems to be low [...]’

Children are returned as well – roughly 8,100 in 2023, for example. Reliable data on how many of these were returned together with adult family members and how many were unaccompanied minors returning alone are not systematically available, and Eurostat has only recently started collecting data on this. The number of unaccompanied minors who are returned seems to be low, however, with the first Eurostat data for 2024 indicating around 30 to 40 individuals per quarter.⁵¹

The EU’s Return Directive includes special safeguards for unaccompanied minors in the return process. Before deciding to issue a return decision to an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted, with due consideration given to the best interests of the child. Moreover, before removing an unaccompanied minor, member states have to ensure that the child is returned to a member of his or her family, a nominated guardian or adequate reception facilities in the return state.⁵²

10. What are the main instruments used by the EU and member states to make returns work?

The Return Directive

The Return Directive, which is planned to be transformed into a regulation, is currently the main piece of EU legislation governing return.⁵³ It lays down common minimum rules and procedures, which have to be respected and used by the member states. These include the issuing of return decisions,⁵⁴ enforcement of these decisions (by voluntary return, the preferred option, or by forced return), issuing re-entry bans (to prevent people who refuse to return voluntarily from re-entering the EU) and the use of detention. These measures shall be implemented in accordance with fundamental rights obligations, relating to the principle of the best interests of the child, family life, the state of health of the person concerned and respect for the principle of non-refoulement.⁵⁵

The Commission attempted to reform the Return Directive with a proposal presented in 2018. The main objectives of this proposal were to further harmonise procedures in the member states and to reduce the risk of people absconding to avoid return. During the 2014–2019 parliamentary term, the Council adopted a general approach on the matter, but the European Parliament could not establish a negotiating position, and interinstitutional negotiations never started.⁵⁶

⁵¹ ‘Unaccompanied minor’ is defined as a third-country national or stateless person below the age of 18 years who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States. This definition is based on Article 2 (k) and (l) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20 December 2011, pp. 9–26.

⁵² Art. 10 of Directive 2008/115/EC.

⁵³ Directive 2008/115/EC.

⁵⁴ A return decision is an administrative or judicial decision imposing an obligation to leave the territory.

⁵⁵ The principle of non-refoulement prohibits states from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill treatment or other serious human rights violations (see United Nations, Office of the High Commissioner for Human Rights, *The principle of non-refoulement under international human rights law*).

⁵⁶ Costica Dumbrava / Hannah Ahamad Madatali / Anja Radjenovic (2025), *Planned revision of the EU Return Directive*, Briefing PE 769.499, European Parliament Research Service.

According to a Commission communication of 2021,⁵⁷ the effectiveness of the Return Directive is limited due to gaps in the legislation, problems with the implementation of return procedures in member states and difficulties in cooperating with third countries regarding the readmission of third-country nationals. The directive was also said to give member states too much discretion.⁵⁸

In October 2024, the European Council asked the Commission to present a new proposal as a matter of priority. It also called for ‘determined action at all levels to facilitate, increase and speed up returns from the European Union, using all relevant EU policies, instruments and tools, including diplomacy, development, trade and visas’.⁵⁹ The Commission presented a proposal on 11 March 2025 in the form of a regulation (see Question 11 below).

Encouraging voluntary return

EU law has so far provided that for people ordered to leave, voluntary return should be prioritised over forced removal. The 2008 Return Directive states that ‘[w]here there are no reasons to believe that this would undermine the purpose of a return procedure, voluntary return should be preferred over forced return and a period for voluntary departure should be granted’.⁶⁰

‘EU law has so far provided that for people ordered to leave, voluntary return should be prioritised over forced removal.’

In a communication from 2021, the Commission argues that voluntary return is considered more cost-effective than forced return, allows the needs, expectations and prospects of returnees to be taken into account, and can make return countries ‘more inclined to participate and take ownership of the process’.⁶¹ Voluntary return should also include reintegration measures to ‘help overcome the socio-economic and psychosocial difficulties migrants face when returning’ and make their return ‘more sustainable’.⁶²

To operationalise this preference for voluntary return and reintegration, the EU has been financing networks and projects in member states. This includes a *European Return and Reintegration Network*, which facilitates cooperation among migration authorities. Among other things, it has enabled the joint contracting of reintegration service providers in destination countries of returnees. The EU also provides financial support, including under its Asylum, Migration and Integration Fund (AMIF), for return and reintegration assistance.⁶³

Since 2020, the European Border and Coast Guard Agency Frontex has also been supporting member states with voluntary return and reintegration, and there is an EU framework on return counselling that provides guidance to organisations in the member states on setting up, managing and developing counselling structures. Voluntary return and reintegration projects in countries of origin of migrants, such as in Africa, have been financed by the EU via the International Organization for Migration and other intermediaries.⁶⁴

Enforcement: detention and forced return

Enforcing migrants’ compliance with return orders, and deporting them if relevant, are operational tasks to be carried out by member states’ authorities, such as police, border police

⁵⁷ European Commission, *Enhancing cooperation on return and readmission as part of a fair, effective and comprehensive EU migration policy*, COM(2021) 56 final, 10 February 2021.

⁵⁸ Dumbrava / Madatali / Radjenovic 2025.

⁵⁹ European Council meeting (17 October 2024) – Conclusions, p. 9.

⁶⁰ Directive 2008/115/EC, Recital 10.

⁶¹ *The EU strategy on voluntary return and reintegration*, Communication from the Commission to the European Parliament and the Council, COM(2021) 120 final, p. 1.

⁶² Ibid., p. 2.

⁶³ European Migration Network (2024): *Coherent return and reintegration assistance*, EMN Inform, Brussels.

⁶⁴ Ibid., pp. 3–4.

or migration agencies. But EU law sets certain rules and conditions for member states' actions, and – as mentioned above under Question 4 – Frontex today often carries out forced returns on behalf of member states.

The Return Directive says that third-country nationals – 'unless other sufficient but less coercive measures can be applied effectively in a specific case' – can be kept in detention to prepare their return and/or carry out their removal, particularly when there is a risk of absconding or the person 'avoids or hampers' the preparation for return or the removal process. But there are limits and conditions. Among others, detention shall be ordered by administrative or judicial authorities, in writing (with reasons given), and be reviewed at regular intervals. Periods of detention may not exceed specific time limits (six months, with extensions up to a maximum of a further 12 months under certain conditions). The directive also provides minimum rules for the circumstances of detention, such as the type of facilities to be used and the rights of detainees regarding health care or contacts with legal representatives or family members.⁶⁵

On removals, the directive says that where – as a last resort – coercive measures are used to carry out the removal of a person who resists such an operation, measures taken shall be proportionate and not exceed 'reasonable force'. They also have to be implemented in accordance with fundamental rights and with respect for the dignity and physical integrity of the individual concerned. Member states have to provide a forced-return monitoring system, and there are special safeguards for unaccompanied minors.⁶⁶ The new return proposal of March 2025 would, if adopted, amend some of these rules (see Question 11 below).

'Article 13 of the United Nations' Universal Declaration of Human Rights of 1948 states that everyone "has the right to leave any country, including his own, and to return to his country".'

Entry bans

Another tool used in EU member states' return procedures is the 'entry ban'. An entry ban prohibits a returnee's legal re-entry, for a specified period, not only to the member state that issues the ban but to the entire Schengen area. To achieve this supranational effect of a national ban, the sending state registers an alert in the Schengen Information System (SIS). All participating states are then required to refuse the person entry. The purpose of this is to punish non-compliance with return orders and to act as a deterrent.⁶⁷

The Return Directive of 2008 established mandatory and optional entry bans, and says that states may refrain from issuing, or withdraw or suspend, an entry ban in individual cases for humanitarian or other reasons.

Readmission agreements

Article 13 of the United Nations' Universal Declaration of Human Rights of 1948 states that everyone 'has the right to leave any country, including his own, and to return to his country'. This suggests that states are obliged to take their citizens back, which can be regarded as international customary law.⁶⁸ However, a common view among EU policymakers is that an effective implementation of the EU's return policy also requires a cooperation framework with third countries so that they do indeed take back people who are not allowed to stay in the EU.

⁶⁵ Articles 15 and 16 of Directive 2008/115/EC.

⁶⁶ Article 8 of Directive 2008/115/EC.

⁶⁷ See Article 11 of Directive 2008/115/EC and, for further analysis, Izabella Majcher / Tineke Strik (2021): 'Legislating without Evidence: The Recast of the EU Return Directive', *European Journal of Migration and Law* 23, 103–126.

⁶⁸ Dumbrava / Radjenovic 2024, p. 6.

The efforts of the EU and its member states to develop such cooperation have led to the conclusion of 18 legally binding EU readmission agreements (EURAs) with, for example, Serbia, Pakistan, Georgia, Armenia, Türkiye and Sri Lanka.⁶⁹ EURAs generally do not establish a state's obligation to readmit its citizens, but serve to facilitate the readmission process with provisions on, for example, the issuing of travel documents, procedures upon arrival of a person in the country of return, cooperation between the contracting parties' authorities, or support offered to returnees. There have also been informal EU readmission agreements (for example with Bangladesh, Afghanistan and The Gambia), the contents of which have not been disclosed.

Third countries may be reluctant to engage in negotiations about readmission agreements because such agreements can be controversial domestically. If migrants are sending money home to relatives or friends, for example, people depending on such remittances can be critical towards policies that can lead to people being brought home against their will.

Conditionality and return diplomacy

'Policymakers in the EU also use incentives and punitive levers to put pressure on non-EU countries to cooperate with them on return and take their citizens back.'

Policymakers in the EU also use incentives and punitive levers to put pressure on non-EU countries to cooperate with them on return and take their citizens back. In research, this is often called 'migration conditionality' or 'return conditionality'. Levers that are often talked about, and to some degree also used, include visa rules, development aid and trade. For example, the EU can make it more difficult for people from countries that do not cooperate with the EU on migration to obtain visas, or it can reintroduce visa requirements for countries for which such requirements have been lifted. The EU has so far discussed using visa restrictions as a lever against The Gambia, Bangladesh, Iraq and Nigeria. In the case of The Gambia, visa restrictions were actually imposed.⁷⁰

The development lever has also gained traction. It can be used in a positive (offering more development aid to countries cooperating on migration) and in a punitive (cutting aid to recalcitrant countries) sense. While the EU and its member states have long been focusing on the positive ('more for more') approach, recent discussions have also been leaning towards the punitive ('less for less') method.⁷¹ A recent example from a non-EU country is Switzerland stopping its development aid to Eritrea because this country did not cooperate on forced returns.⁷²

The trade lever has so far not been used as a primary tool, at least not in the punitive sense, although the EU has had a strategy of incorporating return, readmission and irregular migration clauses into bilateral and multilateral trade agreements for decades.⁷³ Recent EU agreements with countries such as Tunisia, Mauritania and Egypt, sometimes called 'cash for migration control deals', encompass trade and investment commitments as well as migration management commitments including return.⁷⁴

⁶⁹ Ibid. See also: European Court of Auditors (2021): *EU readmission cooperation with third countries: relevant actions yielded limited results*. Special report, p. 12.

⁷⁰ Victoria Rietig / Marie Walter-Franke (2023): *Conditionality in Migration Cooperation: Five Ideas for Future Use Beyond Carrots, Sticks, and Delusions*, DGAP Report, 2023.

⁷¹ David Kipp / Nadine Knapp / Amrei Meier (2020): *Negative Sanctions and the EU's External Migration Policy*, SWP Comment No. 34.

⁷² With Swiss development funding, hundreds of Eritreans received vocational training, among other projects; see Dominik Meier: 'Schweizer Entwicklungshilfe für Eritrea wird gestoppt', *SRF*, 3 February 2025.

⁷³ Sandra Lavenex / Tamirace Fakhoury (2021): *Trade Agreements as a Venue for Migration governance*, The Migration Studies Delegation, Report 2021:11.

⁷⁴ For example, the 'Memorandum of Understanding on a strategic and global partnership between the European Union and Tunisia' of 16 July 2023 states that the parties 'shall endeavour to strengthen their economic and trade cooperation with a view to develop trade in goods and services [...]'. It also says that [b]oth Parties agree to further support the return and readmission from the EU of Tunisian nationals in an irregular situation, in accordance with international law, whilst respecting their dignity and acquired rights, and commit to work together towards their socio-economic reintegration in Tunisia' (see European Commission, *Memorandum of Understanding on a strategic and global partnership between the European Union and Tunisia*, Press release, 16 July 2023).

Further levers include legal migration opportunities that EU member states could offer for people that it wants to attract, and origin countries are ready to let go, such as certain workers or students. They could also offer to alleviate third countries of burdens arising from the reception of refugees there, by enabling transfers to Europe under resettlement or humanitarian admission. Arrangements of these kinds are much spoken about,⁷⁵ but their actual use and their effects have so far fallen behind expectations.⁷⁶

The extent to which the use of conditionality is effective is also not clear, and there can be risks. For example, not all countries react in the same way to threats from the EU about visa restrictions because in many parts of the world it is already difficult for people to obtain EU visas. Making trade preferences or development aid conditional on the obedience of third countries to the EU's restrictive migration policy goals might work if a country is truly dependent on this, but if remittances sent home by refugees and migrants in the EU are a more important source of income, a reduction in official aid may not be the most powerful lever. Trade restrictions can inflict self-harm on those who use them. Moreover, pressure from the EU on third countries regarding readmission can endanger democratic transition processes in these countries (Biehler et al. 2021).⁷⁷

Engaging third countries to achieve better results on returns is sometimes called 'migration diplomacy' or 'return diplomacy'. In addition to negotiating readmission agreements and using conditionality as bargaining tools, this can also include cooperation between EU governments and the diplomatic missions of third countries. It has been argued that in such relationships, the EU side could invest more in building trust and mutual understanding.⁷⁸

11. What would change with the European Commission's proposal for a new Return Regulation?

'If the new proposal on return is adopted the EU will move [...] to a common system of a more binding and harsher nature.'

If the new proposal on return, presented in March 2025, is adopted, the EU will move from a minimum harmonisation approach to a common system of a more binding and harsher nature. Cornerstones of the new proposal include the mutual recognition of member states' return decisions, including a new 'European Return Order'; stricter obligations and duties for third-country nationals subject to such decisions; the widening of detention; further digitalisation and simplification of return procedures; and enhanced sharing of data on returns among the member states as well as with destination countries of persons to be returned. The proposal would also expand the definition of 'countries of return', thus widening the range of countries (beyond countries of origin or of previous residence) to which third-country nationals can be returned against their will. It would also make it possible for member states to negotiate 'return hubs' with third countries (see Question 12 below).⁷⁹

While the existing Return Directive expresses a preference for voluntary returns, the proposed regulation downgrades this and instead emphasises enforcement by stating that 'third-country nationals can be returned by coercive measures through removal or by voluntarily complying with the obligation to leave'. It also says that 'cooperating third-country nationals should continue to be returned primarily through voluntary return' but that

⁷⁵ European Commission, *Communication [...] on Skills and Talent Mobility*, COM(2023) 715 final, 15 November 2023.

⁷⁶ Bernd Parusel (2023): *Vad kan EU:s talangpartnerskap leverera?* Europapolitisk analys 2023:16epa, Swedish Institute for European Policy Studies.

⁷⁷ Nadine Biehler / Anne Koch / Amrei Meier (2021): *Risks and Side-Effects of German and European Return Policy*. SWP Research Paper 12.

⁷⁸ Constanza Vera-Larrucea / Iris Luthman (2024): *Return migration diplomacy. On return and readmission cooperation between Sweden and diplomatic missions*, The Migration Studies Delegation, Report 2024:8.

⁷⁹ COM(2025) 101 final.

stronger rules on removal seek to ensure a ‘direct and immediate consequence’ when a third-country national does not respect the date by which they need to leave.⁸⁰

Mutual recognition of return decisions and a new ‘European Return Order’

Return decisions issued by one member state are already visible to all other member states through the Schengen Information System, and the European Commission has previously recommended that member states ensure mutual recognition of these decisions.⁸¹ The proposal of March 2025 now demands that member states insert the main elements of a return decision into a new ‘European Return Order’. The idea is that if an individual is ordered to return in one member state, but moves on to another and is detected there, the second member state should recognise the return decision issued by the first member state and, on this basis, enforce the return of the person. It is proposed that mutual recognition be voluntary at first, but by July 2027, the Commission intends to make it mandatory if the necessary legal and technical arrangements are in place.⁸²

‘Mutual recognition therefore raises fairness issues, and a state enforcing another state’s return decision may face litigation.’

The intention of mutual recognition is to prevent secondary movements of returnees within the EU and facilitate removals, which at first might seem logical. But there are problematic aspects because member states still take different views on whether or not an asylum seeker is in need of protection. Recognition rates for asylum seekers from the same countries vary a lot among different member states, and their laws and policies also differ when it comes to residence rights awarded on the basis of national, non-EU harmonised grounds, such as humanitarian or compassionate reasons. This means that a person who is rejected and ordered to leave in one member state could have been eligible for protection (or a residence permit on other grounds) in another member state.⁸³

Mutual recognition therefore raises fairness issues, and a state enforcing another state’s return decision may face litigation (even though appeals against the return order would have to be lodged against the issuing member state). There is certainly a cost and resources aspect as well, despite opportunities for funding from Frontex or compensation by the issuing state. Consequently, mutual recognition can be said to be in the interest of member states that people with return orders choose to leave, and disadvantageous for destination states of such secondary movements.⁸⁴

Entry bans

According to the proposal, return decisions could be accompanied by entry bans lasting for up to ten years, with possible extensions over successive periods of a maximum of five years. This means that entry bans would become more punitive than under the existing Directive. Even with the new proposal, however, they can be withdrawn, suspended or shortened in ‘justified individual cases’, such as for humanitarian reasons.⁸⁵

⁸⁰ COM(2025) 101 final, Recital 21.

⁸¹ Moraru / López Esquitino 2024.

⁸² Exceptions would be possible if the enforcement of a return decision taken by another member state is manifestly contrary to public policy in the enforcing member state, or where a third-country national is to be removed to a different third country to that indicated in the return decision of the issuing member state.

⁸³ Recent data from the European Union Asylum Agency (EUAA) show that in 2024, recognition rates for asylum seekers from Afghanistan varied between 40% and close to 100%. Huge variations were also found for applicants from Iraq, Somalia, Mali and Türkiye; EUAA (2025): *Latest Asylum Trends – Annual Analysis*, 3 March 2025. For a deeper discussion of this problem, see Bernd Parusel / Jan Schneider (2017): *Reforming the Common European Asylum System. Responsibility sharing and the harmonisation of asylum outcomes*, Stockholm: Swedish Migration Studies Delegation.

⁸⁴ Izabella Majcher (2025): ‘The New EU “Common System for Returns” under the Return Regulation: Evidence-Lacking Lawmaking and Human Rights Concerns’, *EU Law Analysis*, 2 April 2025.

⁸⁵ COM(2025) 101 final, Article 10.

Obligations for returnees to cooperate in return procedures

The proposed regulation also widens the obligations of returnees to cooperate with member states' authorities 'at all stages of the return and readmission procedures'.⁸⁶ This includes remaining on the territory of the competent member state and not absconding; providing all information and documentation necessary for establishing identity; providing information on third countries transited; and providing biometric data. Returnees must also make themselves available to authorities throughout the return and readmission procedures and appear for the departure of the return transport as well as participate in return and reintegration counselling. In cases of non-compliance, there can be sanctions, including refusal or reduction of benefits and allowances, or financial penalties.⁸⁷ To ensure that individuals are available for the return process, their freedom of movement can be restricted to a geographical area within a member state, and they can be required to reside at a specific address or to report to the competent authorities at regular intervals.

Detention and alternatives to detention

The proposal widens the use of detention by introducing additional grounds for this measure, such as the need to determine or verify a person's identity or nationality, and by removing a provision in the Return Directive that says that member states may only apply detention if other sufficient but less coercive measures cannot be applied effectively in a specific case. The principle that detention shall only be maintained as long as removal arrangements are in progress is also not included in the new text.

'The proposal widens the use of detention by introducing additional grounds for this measure.'

Under the proposal, member states may detain a third-country national on the basis of an individual assessment of each case, but only insofar as detention is proportionate. A person can only be kept in detention for the purpose of preparing the return or carrying out the removal.

As regards the duration of detention, the proposal states that it shall be as short as possible and not exceed 12 months. In certain circumstances, this can be extended by another period not exceeding 12 months. Thus, the maximum detention period is now 24 months, six months longer than under the directive. Why this is necessary remains unclear; if 18 months are not enough for a member state to carry out the removal of a person, it seems unlikely that six additional months would make a decisive difference.

As 'alternatives to detention', the proposal introduces obligations to regularly report to competent authorities; electronic monitoring; the surrender of identity or travel documents to authorities; obligations to reside in a place designated by authorities; and the deposit of an adequate financial guarantee.⁸⁸ Member states can choose from these measures. Whether they really can be regarded as alternatives to detention is debatable, however, because they are not to be imposed instead of, but in addition to, detention, i.e. when detention is not, or is no longer, justified.⁸⁹

Readmission procedure

Upon issuance of an enforceable return decision, the competent member state authorities would be required to 'systematically and without undue delay initiate the readmission pro-

⁸⁶ COM(2025) 101 final, Article 21.

⁸⁷ COM(2025) 101 final, Article 22.

⁸⁸ COM(2025) 101 final, Article 31. The existing Return Directive does not include alternatives to detention explicitly.

⁸⁹ Majcher 2025.

‘There would be an EU-wide standard form for readmission applications to be sent to the authorities of the relevant third country.’

cedure’. There would be an EU-wide standard form for readmission applications to be sent to the authorities of the relevant third country. With this form, they would be asked to confirm the nationality of a returnee and, if needed, issue a travel document. The readmission procedure in third countries would be supported by dedicated EU ‘return liaison officers’.

Rights, safeguards and return assistance

The proposal takes into account certain rights of returnees in regard to, for example, their right to information, legal assistance and representation, and the right to an effective remedy such as appeal before a competent judicial authority. The suspensive effect of appeals against returns would not be automatic, however, so people could be removed from the EU before a decision on their appeal is taken.

The proposal would require member states to establish return and reintegration counselling structures to ‘provide third-country nationals with information and guidance about return and reintegration options’. They would also have to establish national programmes for supporting return and reintegration and, as a general rule, have to make use of programmes provided by the EU. These would consist of logistical, financial and other material or in-kind assistance or incentives, including reintegration assistance in the country of return. But reintegration assistance would not be an individual right and would not constitute a prerequisite for a readmission procedure to proceed.⁹⁰

Member states would also have to provide for an independent mechanism to monitor the respect of fundamental rights during removal operations.

Alternatives to return

According to the Commission’s proposal, member states would retain the right to grant, at any moment, a residence permit, long-stay visa or other authorisation, offering a third-country national staying illegally on their territory a right to stay for compassionate, humanitarian or other reasons. This would keep the door open for regularisations, amnesties or changes of immigration status and allow member states to offer solutions for situations where returns, for various possible reasons, cannot be carried out or appear unrealistic. At the same time, however, member states would have an obligation to issue a return decision for every person in an irregular situation. Member states would no longer be able to issue a residence permit for humanitarian or other reasons *instead of* a return decision.⁹¹

12. What are ‘return hubs’ and other ‘third-country solutions’?

Frustration with how difficult it often is for member states to return rejected asylum seekers and other migrants to their countries of origin is one of the reasons why, in 2024 and 2025, many EU leaders have talked about a need to ‘think outside the box’ and come up with ‘innovative solutions’.⁹² Such ideas mainly related to two different things – expanding the notion of ‘safe’ non-EU countries to exclude more people from being able to apply for (or get) protection in Europe in the first place, and to send those who are rejected after an asylum procedure to countries other than their countries of origin (or countries of previous residence).

⁹⁰ European Council on Refugees and Exiles, *Weekly Bulletin*, 13 March 2025.

⁹¹ Majcher 2025.

⁹² Jennifer Rankin / Lorenzo Tondo, ‘EU considers offshore centres for deportees as it hardens on migration’, *The Guardian*, 17 October 2024; Jorge Liboreiro, ‘In shift to the right, von der Leyen endorses “return hubs” for rejected asylum seekers’, *Euronews*, 15 October 2024.

‘Why it would be easier to organise returns from “hubs” abroad, instead of from EU territory, has so far remained unclear [...]’

On the first point, most member states and EU secondary law already use the notion of ‘safe countries’ outside the EU.⁹³ The new EU Asylum Procedures Regulation differentiates between safe first countries of asylum, safe countries of origin and safe third countries. The basic idea is that a person residing in, or coming from, such a country is not entitled to protection in the EU or has no ground to even apply for protection, which means that an application from such a person can be considered inadmissible. Generally speaking, in order for a third country to be considered ‘safe’, EU law requires it to provide a sufficient level of protection and for there to be ‘a connection between the applicant and the third country in question on the basis of which it would be reasonable for him or her to go to that country’.⁹⁴

If the aim is to reject a greater share of asylum applications, or declare them inadmissible, it would appear reasonable to widen the use of safe country rules by weakening the related conditions – which is exactly what some member states have asked for. In May 2024, interior ministers from 15 member states demanded in a letter to the European Commission that ‘in order to decrease the overall pressure on our migration management, it is important that Member States have the possibility to transfer those asylum applicants for whom a safe third country alternative is available to such countries’. They also asked for the concept of ‘safe third countries’ to be reassessed [...] including the connection criteria’.⁹⁵ If the connection criterion were eliminated, it would – at least theoretically and if suitable countries existed – become possible to send asylum seekers to countries that they have no connection to but that could be claimed to be safe for them.

On the second point, there have been discussions about the idea of establishing ‘return hubs’ in non-EU countries. This in essence means that rejected asylum seekers (or other migrants with no right to stay in the EU) could be brought to a safe third country and that their return to the actual home country would be organised from there. Why it would be easier to organise returns from ‘hubs’ abroad, instead of from EU territory, has so far remained unclear, but there seems to be an assumption that a person who is sent to a country where they do not want to be might be more willing to comply with an order to return to the country of origin. Perhaps the existence of such centres in third countries would even deter migrants from attempting to enter the EU in the first place. Other legal and practical issues have so far not been clarified, such as where such centres could be located; whether related operations would be based on bilateral agreements or EU-wide arrangements with third countries; whether the return process would be ‘outsourced’ entirely to authorities in the respective third countries or managed by one or more EU member states; whether the approach would be compliant with EU law and international human rights law;⁹⁶ if all migrants without a right to stay in the EU could be sent there or just certain groups or quotas; and what would happen to people who cannot be returned from the hubs to their home countries.⁹⁷

The recent discussion about return hubs has arguably been inspired by externalisation models in the United Kingdom (where migrants entering irregularly were to be sent to Rwanda) and Italy (which has worked on sending certain asylum seekers for external pro-

⁹³ European Migration Network (2018): *Safe Countries of Origin*, EMN Inform, Brussels; Daniel Thym (2024): ‘Safe Third Countries: the Next “Battlefield”’, *EU Immigration and Asylum Law and Policy Blog*, 5 July 2024.

⁹⁴ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, Article 59 (5) (b).

⁹⁵ Kalin Stoyanov et al. (2024): Joint Letter from the undersigned Ministers on new solutions to address irregular migration to Europe, Sofia / Prague / Copenhagen / Tallinn / Athens / Rome / Nicosia / Riga / Vilnius / Valletta / The Hague / Vienna / Warsaw / Bucharest / Helsinki, 15 May.

⁹⁶ See European Union Agency for Fundamental Rights 2025.

⁹⁷ See ICMPD 2025, pp. 64–65.

cessing in Albania). Even though these initiatives have faced legal, practical and political obstacles and were – at the time of writing – not operational, they seem to have affected debates at EU level.

In its new proposal for a return regulation, the European Commission establishes a legal ground for return hubs. The proposed Article 4 (3) (g) defines as a possible destination a ‘third country with which there is an agreement or arrangement on the basis of which the third-country national is accepted (...)’. Article 17 specifies further that such an agreement or arrangement ‘may only be concluded with a third country where international human rights standards and principles in accordance with international law, including the principle of non-refoulement, are respected’. It also provides further details for such deals and says that unaccompanied minors and families with children shall not be sent to such places.

While the proposal would make it possible for member states to set up return hubs in third countries, the Commission did not provide further guidance on how such hubs would work, where they could be located or how many returnees they should accommodate. Some member states might have expected the Commission to present more concrete ideas or devise a pilot project.⁹⁸ But with the draft regulation it presented in March 2025, the Commission essentially leaves it to the member states to go forward or refrain. It has been noted that the return hubs have generated much public attention but that they might never be implemented due to political, legal and financial obstacles.⁹⁹

13. Are there alternatives to return? If so, what would speak for them?

‘The main alternative to return is very simple: letting more people stay.’

The main alternative to return is very simple: letting more people stay. This can be done in various ways – for example, by widening the scope or length of residence permits, allowing transitions between different kinds of residence permits (such as from study-related permits to work-based permits), taking a more generous approach on granting people asylum, or widening the possibilities of granting legal residence on humanitarian grounds or due to obstacles to return. Such alternatives to return can exist within standard immigration law or be offered on an ad hoc basis by way of regularisations or amnesties. We could thus differentiate between ‘permanent’ and time-limited, ‘one-off’ solutions.¹⁰⁰

Ad hoc regularisations have been carried out in various member states, and many have standard provisions in their immigration laws. ‘Regularisation’ is not a legal term, however, which explains why laws and policies regularising people do not always carry this name. A frequently used definition of regularisation is that it represents ‘the means by which a government provides lawful status to foreigners in an unlawful or irregular situation in respect to admission, stay and economic activity’.¹⁰¹

Politicians often take the view that regularisations are bad for the clarity of immigration law and convey a false message of hope to potential migrants. There can be economic as

⁹⁸ The Swedish government, for example, has argued for a pilot project to be developed (see Regeringskansliet [Government Offices of Sweden], *Kommenterad dagordning för rådets möte för rättsliga och inrikes frågor (RIF) den 5 och 7 mars 2025*).

⁹⁹ Alberto-Horst Neidhardt, *Returns under the spotlight: Towards an effective common EU system?* Commentary, European Policy Centre, 26 March 2025.

¹⁰⁰ For different definitions and classifications of regularisation, see Kevin Fredy Hinterberger (2023), *Regularisations of Irregularly Staying Migrants in the EU*, Baden-Baden: Nomos.

¹⁰¹ Intergovernmental Committee for Migration (1983), ‘Undocumented Migrants and the Regularization of their Status’, *International Migration* 109.

well as humanitarian benefits to regularisations, however, and they can prevent migration and return systems from becoming clogged with increasing numbers of pending and un-enforceable cases. A new study suggests that, contrary to the current discussion at political level in the EU, people in the EU prefer policies that include, rather than exclude, targeted opportunities for regularisation. The study also indicates that combining irregular migrants' access to rights with migration controls can generate public support.¹⁰²

Another way of avoiding returns would be to change the current asylum system in such a way that only people actually in need of protection (or otherwise entitled to a right to reside in the EU) would arrive in the EU in the first place. There have already been discussions about replacing territorial asylum systems with resettlement or similar admission schemes. But such ideas carry great risks, contravene international human rights law and are unlikely to achieve the desired effects.¹⁰³ Furthermore, returns would still be necessary in cases where a person loses a protection status (or other legal residence status) again. As many people who are subject to return orders have come legally to the EU (as workers or students, for example) and receive return orders because their visas or residence permits expire, even fundamental changes to the asylum system would not make return policies entirely redundant.

14. Conclusion: what is the future of return policy in the EU?

Recent activities on return policy show that the EU aims to further strengthen control over international migration flows, including enforcement of returns. This is not unexpected and follows demands from, and debates in, many member states. The EU has been on this trajectory for years, which the long-negotiated reform of the Common European Asylum System (CEAS) adopted in 2024,¹⁰⁴ recent activities in the external dimension of EU migration policy¹⁰⁵ and the reform of the Schengen border rules (also in 2024) have also shown.¹⁰⁶

‘The intended creation of a “European Return Order” is a clear expression of this more unified approach [...]’

Although there are doubts about its feasibility, the CEAS overhaul marked a step towards greater harmonisation, more coherence and centralisation of asylum systems in the EU. While operational tasks (such as screening, registration and examination of asylum seekers) remain in the hands of national authorities, more overall planning and steering is set to happen from Brussels, with EU agencies playing facilitating roles. Most of the legal instruments of the CEAS are now regulations and not directives.

The return proposal follows a similar approach. Not only does the type of legislation change, but the proposed regulation also emphasizes cooperation among the member states, common systems and assistance by Frontex. The intended creation of a ‘European Return Order’ is a clear expression of this more unified approach, as is the wider range and greater level of detail of the proposed legislation. Thus, if adopted, the EU will not only have a common asylum system but also take steps towards a common return system – instead of only setting minimum norms.

¹⁰² Lutz Gschwind / Martin Ruhs / Anton Ahlén / Joakim Palme (2025): *Public preferences for policies vis-à-vis irregular migrants in Europe: the roles of policy design and context*. Research Paper, Protecting Irregular Migrants in Europe (PRIME), European University Institute / Migration Policy Centre.

¹⁰³ Bernd Parusel (2021): ‘Why resettlement quotas cannot replace asylum systems’. *Forced Migration Review* 68, 10–11.

¹⁰⁴ Parusel 2025.

¹⁰⁵ Bernd Parusel (2024): ‘Recent developments in the European Union’s external migration policy: Wishful thinking, questionable assumptions and high risks.’ In: Ulrike Krause / Christiane Fröhlich, *Externalising Asylum, A compendium of scientific knowledge*. <https://externalizingasylum.info/recent-developments-in-the-european-unions-external-migration-policy/>

¹⁰⁶ Steve Peers (2024): *Restoring the Borderless Schengen Area: Mission Impossible?* European Policy Analysis May 2024:12epa, Swedish Institute for European Policy Studies.

As the analysis presented here also shows, however, member states are facing many obstacles and constraints regarding the return of third-country nationals they order to leave. Some of these will not simply disappear even with a tougher policy, such as the fact that many people arriving in Europe to apply for protection do not have travel documents, or that there are countries of origin that cannot or do not want to take their nationals back. Asylum decision-making is still not always realistic in the sense that individuals who have their applications rejected also have a reasonable prospect of returning home and being safe there. When ordered to leave, many see their hopes crushed and try to hide, even if this means precarity and destitution. There is also the issue of limited resources: return procedures (including detention) can be very cumbersome, resource-intensive and costly. The larger the caseload, i.e. the more people EU countries decide to return, the harder it becomes to achieve satisfactory results, even with more support from the EU. The return proposal, if adopted, would make the system more coercive and punitive and might contribute to somewhat higher return rates, but expecting it to achieve miracles would be unrealistic. As it did not come with an impact assessment or evidence-based justifications for the various changes it puts forward, it is difficult to assess whether the proposed measures are indeed necessary and proportionate, and what they would achieve and cost.

Whether or not the idea of establishing return hubs outside the EU will come to fruition will most likely not depend on the European Commission, but on the member states and third countries. With a legal basis for such hubs, EU countries might choose to go forward with this concept either individually or in groups, and if interested third countries are indeed found, we might see pilot projects. However, it remains at this point hard to imagine many positive responses to this idea from outside the EU, or any large-scale operations that would matter in terms of numbers and effects.

‘Finally, the new approach has a humanitarian cost.’

Finally, the new approach has a humanitarian cost. We might see, for example: more people in detention, and for longer periods; return orders issued (and perhaps enforced) for people who might have been given a right to stay if they had arrived in another member state; and people being sent to third countries where they do not want to be and that they have no connection with. In the current political climate surrounding migration, which emphasizes control and deterrence, there seems to be little room for alternatives to return, such as regularisations. However, such alternatives should not be forgotten: they can relieve the pressure from strained return systems and yield positive economic and humanitarian results.