

## BIJLAGE 2

# Return Migration - Policies and Practices in Europe - IOM study

## EXECUTIVE SUMMARY

The report covers the policies, laws and practices in return migration – both involuntary and voluntary – of the current 15 EU Member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, UK), the ten acceding states (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), and Norway and Switzerland. The 27 country chapters attempt to cover the same ground in a systematic way, as far as possible following the below sequence and format for involuntary return and voluntary return respectively:

- Policy
- Legislative Instruments and Provisions
- Administrative and Procedural Arrangements
- Statistics
- Best Practices and Lessons learned

The statistics offered by the report reveal some interesting trends in and across the involuntary/ voluntary divide. Return rates vary and fluctuate from state to state, with no consistent upward or downward trend. They have increased in states like the UK, and decreased in e.g. Germany, both in direct proportion to the trends in asylum claims (up in the UK and down in Germany) and in response to stronger migration controls.

Stricter social welfare policies by states like Denmark also seem to have impacted the numbers of asylum seekers. On the other hand, the Netherlands has found that a tightening of procedures has still not led to a noticeable increase in returns, and is now looking for new ways of inducing persons without legal residence to return on their own volition. The acceding states generally have fewer returns, as a reflection both of the lower application rates and more nascent nature of their return policies. This is changing, as the focus of interest shifts eastward, and the central and eastern European countries strengthen their migration management practices.

While assisted voluntary return (AVR) continues to account for the much smaller percentage of overall returns (10-20%), it is steadily increasing and expanding to new countries. The ratio between involuntary and voluntary returns tends to be dramatically reversed when there are specific post-crisis return programmes – such as for Bosnia and Herzegovina, Kosovo, Afghanistan, Iraq, particularly in states with large return numbers. For example, in Germany in 1998 more than 270,000 persons received voluntary return assistance compared to approximately 35,000 who were forcibly returned.

There are also the largely un-registered numbers of returns that occur voluntarily without assistance. Sweden, for example, reports that in 2002, compared with 8,328 persons in irregular circumstances returning on their own volition, the government only deported 921 persons.

Alongside the steady growth in general AVRs, new AVR programmes are also being established (e.g. Ireland in 2002, UK's VARRP in 2002, Spain in 2002, Norway's VARP in 2002). In the case of the acceding countries, AVR programmes are becoming more self-sufficient and less fully dependent on external funding (Hungary, Slovakia and Czech Republic).

All the states cited in the report confirm that assisted voluntary return is many times more cost effective than involuntary return, although there is a lack of actual comparative costings. The UK's evaluation of its AVR programme (VARRP) in 2002 found that the programme was both significantly cheaper than enforced removals, and covered a wider range of countries of origin.

The majority of persons returned are still rejected asylum seekers, although that is changing, particularly in the accession countries, which are of greater interest as transit countries, or countries of return for Western Europe. Belgium, too, has found in 2003, that more than 50 per cent of its AVR cases are generally persons in irregular situations, who have not been registered in the asylum system. More and more governments are widening the target group for AVRs.

The report reveals both the similarities and divergences of approach towards return. But, while most of the states studied are tightening migration control measures, they are also increasing assisted voluntary return activities, and strengthening reintegration measures to ensure greater sustainability of return.

Besides IOM's lead role in AVRs, the cooperation of NGOs, such as the Norwegian People's Aid in Norway, or Refugee Action, YMCA and NERS in the United Kingdom, is critical for many of the programmes at both ends of the return spectrum.

## Involuntary returns

It is evident that most EU governments are struggling with how best to implement involuntary returns, and many states report difficulties in achieving them. Only a minority of irregular migrants issued orders to leave a European country are actually returned. For instance, Ireland reports that the number of persons actually removed is considerably lower than the number of removal orders issued in that country (364 compared to 1,979 in 2001). In Belgium in 2000, 13,563 expulsion orders were issued but only 3,002 persons actually removed. Sweden has established a special "Removals" unit in the Swedish Migration Board, to better enforce removals of rejected asylum seekers and others unable to remain in the country.

Many of the obstacles to return are well known. Migrants disappear before they can be returned, or they may have no documents, making it difficult for the authorities to identify them and the country they should be returned to. Countries of origin may for economic or other reasons not wish to cooperate in the return of their own citizens. Although return is often seen simply as a matter of removing the migrant from a given territory, other problems may arise if the return is not sustainable, and those subject to removal simply re-migrate to the country from which they have returned.

In some cases, it is evident that a significant number of returns are not to the migrant's country of origin but to a neighbouring country, often according to a readmission agreement. In Belgium, for example, the majority of removals in 1998 (56%) were not directly to the migrant's country of origin. Similarly in Austria in the same year just over a quar-

ter of those who were returned were not returned directly to their country of origin (IOM, 1999: 27).

All states are using a mixture of tools to try to achieve higher numbers of involuntary returns. Measures taken include:

- Introducing or extending the number of places in detention centres for persons awaiting removal; in some countries such as the UK this includes using prisons, whereas in others such as Sweden this is forbidden;
- Providing information about return options as early as possible in the asylum process;
- Accommodating rejected asylum seekers in return centres both to prepare and induce them to accept that return is their only option;
- Working more closely with countries of origin to try and ensure their cooperation in identifying and accepting their nationals for return;
- Enhancing reintegration assistance and other measures to make return more sustainable;
- Strengthening legislation with respect to returns and extending the number of readmission agreements to a broader range of countries;
- Ensuring that asylum seekers are given information earlier in the procedure about the likelihood of expulsion if their application is rejected;
- Reducing or removing welfare benefits from rejected asylum seekers (e.g. Netherlands);
- Toughening border management to combat irregular immigration.

Carrier sanctions have become a common practice across most countries; as have readmission agreements, targeted almost exclusively at involuntary returns. Many governments are fingerprinting asylum seekers and/or irregular migrants returned involuntarily (e.g. UK, Ireland, Poland, Latvia, Denmark); and have strict rules about identifying a deportee in travel documents and prohibiting return to the country of destination for a specified period (up to ten years in the Czech Republic; up to five years in Poland); many allow voluntary return to mitigate that prohibition (from five to three years for Poland). Finland's new law of 2003 introduced some restrictions and increased penalties for carriers.

It is difficult to assess the impact of all these measures in the absence of reliable data or evaluations of individual programmes. For example, it is reported that “there is no comprehensive evaluation of the Dutch involuntary return policies available” (see section on the Netherlands).

National return trends are varied, and there is neither a uniform upward nor downward trend. Across Europe the number of persons returned has been increasing in countries such as the UK and decreasing in countries like Germany. Identifying “best practices” is difficult given the absence of reliable and comparable return data.

There are marked differences between states, in terms of the numbers of persons returned, which are likely to reflect both differences in policy approach and the scale and nature of irregular migration in the country of destination. Southern European countries, for example, have tended to provide greater opportunities for irregular migrants to participate in amnesties than northern European states, and given less priority to returns. Southern European states also receive far fewer asylum claims than northern European states and therefore have far fewer failed asylum applicants to return. The amnesty currently being offered to some asylum seekers by the Netherlands government will be accompanied by a strict enforcement of forced returns of those not eligible for the amnesty.

There are also clearly discernible differences between EU and non-EU countries. Generally speaking, the number of persons returned from non-EU European countries appears to be much lower than for EU countries, which partly reflects the fact that these countries have only recently introduced policies and procedures for achieving returns, and have generally received fewer asylum applications than EU countries.

Nonetheless, as the number of failed asylum applications has increased considerably in recent years in central and eastern Europe, there has been a significant rise in the number of returns. For example, in the Czech Republic, one of the countries receiving high numbers of applications, expulsions rose from 730 in 1993 to 2,307 in 2000. In the first half of 2001, the Border and Aliens Police issued expulsion notices to foreigners and 1,700 were expelled.

Developing a common policy approach to involuntary returns in Europe will be a considerable challenge given the widely differing experiences and laws of the states in managing returns. Enforcement of immigration law is an area where governments tend to define their sovereignty regarding migration management most forcefully; and well entrenched sovereign approaches are difficult to change in favour of a more common, multilateral approach. Some practical steps have been proposed, for example in the European Council Directive on the responsibility of carriers to remove foreigners refused entry at the border, which is expected to be implemented in mid-2004.

## Voluntary returns

While all states cited are resorting to voluntary return as a more humane and cost-effective alternative to forced return, the practice differs widely. Most allow for unassisted voluntary return, i.e. where the migrant is encouraged to return of his/her own volition, with some states offering inducements such as mitigation of the customary time-limited prohibition on re-return. The option of not having a removal stamp in the passport also works as an incentive. As stated earlier, the numbers of such voluntary returns are generally not known, or recorded (see however Sweden's report of higher voluntary returns than forced ones in 2002). More research on this would definitely benefit any future planning on return migration.

But it is the assisted voluntary return programmes (AVR) that demonstrate the greatest divergences of approach among European states, notwithstanding their widely proclaimed success. Not all assisted voluntary return programmes provide pre-return information and counselling, financial incentives or reintegration assistance. Where there are cash or other incentives, or reintegration support, they vary in approach and amount.

Most returning states also do not monitor the effectiveness of the return programmes, or evaluate the impact and possible follow-up measures. A number of the states cited are now investing more in "profiling" potential returnee caseloads, to understand motivations and needs better, and factor this information into future return planning (e.g. UK, Switzerland, Ireland, Netherlands). There is also generally more investment in both incentives to return and reintegration support at the return end.

There is a high degree of convergence across many of the states studied on the issue of what are the emerging "best practices" among them in the area of assisted voluntary return. Most agree that the following have proven to be critical to any successful voluntary return:

### **1. Voluntary return is preferable to forced return – and more cost effective.**

While most EU states have tightened migration controls, they agree that voluntary returns work and are generally more preferable than forced returns – both in terms of humaneness and cost effectiveness, although they do not provide detailed comparable costings. Many immigration laws make some provision for persons issued an expulsion or removal order to choose the option of voluntary return, but this is different from actively providing for assisted voluntary return.

In many cases, assisted voluntary return has not been enshrined in law, but rather takes the form of administrative, operational agreements with partner agencies such as IOM, NGOs and others. Finland, for example, has an agreement with IOM, whereby persons who are no longer allowed to remain in the country, and are without means, may avail themselves of IOM's AVR services.

But this is changing, as more governments are tending to formalize AVR options in their laws. France has, exceptionally, allowed for assisted voluntary return for decades, with its 1945 Ordinance on the conditions for Entry and Residence of Foreign nationals in France. Portugal's 1998 Aliens Act makes provision for assisted voluntary return specifically in cooperation with IOM. More recently, the 1999 Danish Act on Repatriation encourages and facilitates voluntary return through information, and identifies a broad migrant target group for AVR. With increased numbers of rejected asylum seekers in the past few years, Denmark introduced a Statute in 2003 to support the voluntary return of asylum seekers. The UK Nationality and Immigration Act of 2002 includes provisions to expand assisted voluntary programmes, following the conclusions of the Home Office's earlier White Paper ("Secure borders, safe haven") that voluntary returns are key to the UK Government's efforts to return rejected asylum seekers.

### **2. Early information/counselling prior to return; and as an aid to the return decision.**

Most of the programmes surveyed routinely include some form of information and counselling to potential and confirmed voluntary returnees – as a comfort-raising and pre-orientation strategy; and to help the decision to return voluntarily. The Dutch found in recent years that by increasing and geographically expanding access to information/counselling among migrant communities, the number of voluntary returns did increase. Key to their mobile, decentralized information delivery approach was the fact that asylum applicants could be informed early in the procedure about voluntary return options, and that a negative decision would result in expulsion. This approach will be strengthened under new provisions in 2004.

The Danish Act on Repatriation of 1999 (in force in 2000) specifically targets information as a means of facilitating voluntary return of foreigners, regardless of their legal or illegal status. A number of evaluations of voluntary return have been undertaken in Europe – e.g. by the UK Home Office, a special Norwegian MOI working group, the Swiss Federal Office for Refugees the Danish Refugee Council and the European Commission – and confirmed the importance of information for preparation of the potential returnee, spurring on voluntary return and contributing to its sustainability.

Increasingly, governments like the UK, Sweden and Finland are offering this service to potential returnees, while they are still in the asylum system, or in reception centres, or already in the expulsion process. Sweden assigns social workers to all asylum applicants, to aid them through the asylum process and advise them of their voluntary return options. Hungary is considering further engaging border guards around the country

to inform persons in refugee centres about AVR possibilities (using IOM forms). Italy espouses the importance of training/counselling in reception centres.

### **3. Close cooperation and teamwork among Ministries, NGOs, IOs and migrants.**

This was identified by a number of states as critical to effective planning and implementation of returns, and is being actively pursued by e.g. Belgium, the Netherlands and the United Kingdom. There needs to be more cooperation particularly among affected Ministries in the future.

### **4. Cooperative approaches between country of origin and country of destination.**

The Netherlands has been a strong advocate for closer cooperation with countries of origin; and in 2000, along with IOM, played a strong role in establishing a consultative process between a number of EU Members and the three south Caucasus states (the “Cluster” process). This revolved around joint approaches to managing returns, reintegration and the technical capacity building to support these and migration management generally.

Readmission agreements are seen by European states as a useful framework for consensual approaches to return; and most countries surveyed now have a number of such agreements. They are, however, limited in scope, because of their main focus on facilitating involuntary returns. The pros and cons of such agreements have been amply discussed in reports by governments, IOM, ICMPD, IGC and others. One of the “cons” clearly is the need for capacity building of transit and origin countries to be able to fulfil their end of the agreements. Since the *quid pro quos* surrounding such agreements are often negotiated outside their formal frameworks, there is scanty detail provided by governments on the individual agreements and how they are working.

IOM has recommended in the context of the EU deliberations on a Community Return policy, that such agreements should cover assisted voluntary return as well, in the spirit of true joint ownership of migration management among all countries concerned. There may also be merit in ensuring more consistency of approach across EU countries, to avoid potential competitiveness among states offering incentives for country of origin cooperation within such agreements.

There may equally be merit in discarding the individual agreement approach for broader cooperation agreements that cover the full range of elements that make return sustainable – including those oriented towards development, trade and cultural exchange.

### **5. “Profiling” of irregular migrant populations in the country of destination.**

Some governments cited in the report advocate the need to better understand the “profile” of potential returnees in order to plan and tailor voluntary returns in a more sustainable way. A number of current EU Member States – notably the UK, Netherlands, Belgium, the Nordic countries and Germany – have undertaken surveys of specific migrant communities (e.g. Somalis, Afghans or Roma), and in some cases complemented these with surveys in the migrants’ places of origin (e.g. Somalia) to better plan realistic return strategies that match individual needs with available reintegration options at home.

### **6. Incentives to return – particularly voluntary return.**

These have taken a variety of forms, with mixed results. Monetary incentives, particularly at the return end of the spectrum have served the dual purpose of (a) ensuring the returnee collects the money, and (b) monitoring by the returning government that this

has actually happened. When this is a one-off, singular event, it does not necessarily guarantee that the returnee remains in the country of return.

There is evidence from IOM's studies of AVR programmes that money alone is often not considered by migrants to be sufficiently compelling to choose the voluntary return option. A recent analysis of Belgian AVR experiences by IOM Brussels shows that in that country at least, voluntary return is only seriously considered as an option by irregular migrants after they have spent some time in the country, and exhausted any other options. It is considered a last resort by newcomers. Ireland also found in 2002 that fewer than 10 per cent of Afghans on temporary stay in the country took up the cash incentive to return home voluntarily; and Luxembourg attempted a cash-incentivized AVR programme in 2000/2001, which ultimately failed.

Other incentives have involved longer term investments in sustainable reintegration projects to leverage job-generation, employment and security at least for one year, (e.g. the well publicized Kosovo programmes supported by Switzerland, Germany and others), particularly in post-crisis scenarios. Germany has derived some good models from its vocational training programmes in countries of origin, particularly when they involve the local population as well. Italy also has had favourable experiences with information/counselling strategies to prepare migrants in reception centres for voluntary return.

Return of Qualified Nationals programmes (RQN), as they have been implemented in Bosnia and Herzegovina and Afghanistan, have been used at times to encourage further large-scale return.

One cautious note was struck by a number of governments: that cash incentives for returnees should not become the trigger for competition among returning states – and “shopping around” by the returnees.

#### **7. Return is likely to be more sustainable where there is supplementary longer term reintegration assistance at the return end.**

Most governments surveyed place a high premium on sustainability of return; and now invest in some form of reintegration support. The UK has anchored provisions for reintegration assistance to returnees in its new Immigration Act of 2002; and provides for small loans for some returns. Some governments still seem reluctant to offer such assistance, in case it becomes a pull factor and encourages more irregular migration. They also believe countries of origin should be legally bound to accept their returnees without any added financial incentives.

#### **8. Voluntary return should be offered to a larger beneficiary group than just rejected asylum seekers.**

There have been inconsistent approaches to this across states. While some, like Germany, have from the outset taken a broad approach to eligibility for AVR support, and made it available to irregular migrants across a wide spectrum, others have focused their voluntary return programmes on rejected asylum seekers or specific national groups. This is changing. One of the best examples of that is the Danish Act on Repatriation which specifically targets residents granted “humanitarian” permits and other immigrants wishing to return home. One of the marked changes over the last ten years has been the growth in the number of programmes being targeted specifically in favour of victims of trafficking.

As a general conclusion, it would appear to be less difficult to identify “good practices” in assisted voluntary return than on the involuntary return side. A range of programmes have been tried and tested, and found successful in terms of achieving more humane alternatives to forced returns, a better basis for broader good relations with countries of origin and some sustainability of return.

IOM had earlier suggested to the European Commission in the context of its deliberations and hearings on a European Return Policy that there may be sufficient commonality of approach and experience in this area, as yet relatively un-hampered by entrenched and divergent national laws, to establish some common denominators for a workable European policy.

But there is still a need for more evidentiary material to corroborate the generally held belief by the states cited in this study that AVRs are ultimately more effective and cost-efficient than forced or involuntary returns.