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9

RETURN ARRANGEMENTS FOR NON-REFUGEES AND ALTERNATIVE MIGRATION OPTIONS

CONTENTS

INTRODUCTION

An effective migration management system provides outcomes for all persons travelling within mixed movements including persons who are not refugees. This group includes persons found not to be in need of international protection and without compelling humanitarian reasons to stay in the host country ("unsuccessful asylum-seekers") as well as persons who have never sought asylum. Persons who have withdrawn their asylum claims and who wish to return to their countries of origin also fall into this group.

Providing effective and efficient outcomes to persons who are not refugees is essential to maintain credible asylum systems and prevent irregular onward movement. Demonstrating that misuse of the asylum system cannot function as a "back door" alternative to regular migration also serves as a strategy to deter irregular migration and to reduce incentives for human smuggling and trafficking.

The 10-Point Plan proposes two options for persons who are not refugees: return to the country of origin or access to alternative legal migration options (i.e. regularization in the host country or legal onward movement to another country). Since the latter option is generally only available to individuals with a specific profile or in specific circumstances, the focus of this chapter is on return. Nonetheless, some practical examples of alternative migration options are also provided. Additional examples of alternative migration options are provided in Chapter 7.3.

Sustainability of return is best guaranteed if individuals who do not have a right to stay in a host country return home voluntarily. Voluntariness ensures that the return takes place in a safe and dignified manner. It is also cost-effective for the returning State. Several countries have developed good practices to encourage and support voluntary and sustainable return. These include the provision of information and counselling on return options and circumstances in the countries of origin; the granting of reintegration assistance; and post-return monitoring. Some countries have also established initiatives to ensure that the specific needs of groups, such as unaccompanied/separated children, people with disabilities, and others, are addressed during the return process.

IOM is a particularly important actor with regard to the voluntary return and reintegration of migrants. IOM has assisted many governments in establishing return migration programmes and has helped persons return home in an orderly and humane manner. Other organizations have also provided support and assistance for certain voluntary return operations. Although persons who are not refugees generally fall outside UNHCR's mandate, on a number of occasions the Office has positively responded to requests from States, and has recognized the impact of return policies and practices on the international refugee protection system.

While separate considerations apply to the repatriation of refugees (as outlined further in Chapter 7), as well as to the return of refugees and asylum-seekers to a first country of asylum (as outlined further in Chapter 8), some of the general aspects of return management that are outlined in this chapter are relevant to all return movements. Of particular importance is the need to prevent *refoulement* and to promote voluntary, humane, dignified and sustainable returns.

OPERATIONALIZING THE RETURN OF PERSONS WHO ARE NOT REFUGEES AND ALTERNATIVE MIGRATION OPTIONS: SUGGESTIONS FOR STAKEHOLDERS AND SUPPORT UNHCR CAN PROVIDE TO PARTNERS

SUGGESTIONS FOR STAKEHOLDERS

→ Promote voluntary and sustainable return, and develop information campaigns and awareness-raising strategies to inform potential returnees of all available options, as well as the circumstances in countries of origin and the dangers of irregular movements.

→ Foster partnerships with key actors, and create appropriate referral mechanisms.

→ Train authorities and civil society actors on how to ensure humane and dignified returns in accordance with human rights standards.

→ Conduct risk assessments, where relevant, prior to return in order to identify international protection needs and ensure respect for the principle of *non-refoulement*.

→ Engage in return counselling, tailor responses to meet specific needs of returnees during and after the return process, and provide post-return monitoring.

→ Facilitate voluntary return for those wishing to return to their countries of origin.

→ Encourage the participation of returnees in reintegration plans, and monitor reintegration activities that benefit the individual and the community in the country of origin.

→ Promote cooperation between host countries and countries of origin with regard to return and reintegration.

→ Raise awareness of regular migration options based on existing migration frameworks, including regularization or legal onward movement, and explore the establishment of new programmes.

SUPPORT UNHCR CAN PROVIDE TO PARTNERS

→ Support appropriate outcomes for persons who are not refugees in order to create protection space for refugees.

→ Support States in their efforts to return persons who are not refugees, provided that UNHCR's involvement is fully consistent with its humanitarian mandate to protect persons in need of international protection. UNHCR's involvement may be particularly useful to promote and support sustainable returns in the following areas: the return of stateless persons; return to post-conflict situations; and the return of persons with specific needs.

→ Assist the returning country to verify that returnees do not have international protection needs, and take a clear public position on the acceptability of return in appropriate circumstances.

→ Inform asylum-seekers of return options during the asylum procedure, where and when appropriate, and refer rejected asylum-seekers to relevant actors such as IOM.

→ Provide information on the country of origin, and facilitate access to travel documentation.

→ Lobby for funding to allow IOM and other partners to establish or broaden their assisted voluntary return and reintegration (AVRR) programmes.

→ Develop collaborative strategies with key actors to assist and protect persons with specific needs (e.g. victims of trafficking).

→ Ensure that the best interests of unaccompanied and separated children are considered before any action is taken and that child-friendly procedures are implemented. This can be done through advocacy or capacity building support. Negotiate for the inclusion of protection provisions in bilateral and multilateral readmission agreements.

→ Establish post-return monitoring mechanisms in coordination with key actors to identify protection needs in countries of origin, and monitor the reintegration of persons with specific needs, especially persons from minority groups.

At the migration response centre in Obock, Djibouti, efforts of the IOM to dissuade Ethiopian migrants from risking the crossing through war-stricken Yemen have resonated with many who eventually accept IOM's assistance to return to their home country. © UNHCR / O.Khelifi / October 2015

9.1
Return

9.1.1 Respecting the principle of *non-refoulement* in the return process and ensuring return in safety and with dignity

Asylum procedures are the primary mechanism to ensure that individuals are not returned to situations where they face a risk of persecution or other irreparable harm. However, some individuals in the return procedure may not have had access to asylum procedures or, if they have, new risks may have developed, including in the country of origin. It is therefore important that the return process includes safeguards to ensure respect for the principle of *non-refoulement*. States have adopted two different approaches for assessing new or unexamined risks: either re-referral to the asylum procedure; or through the establishment of a separate process for the examination of these risks as part of the return procedure. Concerns that some returnees might abuse such a process in order to prolong their stay are best addressed through efficient procedural and case management mechanisms (as outlined further in Chapter 6).

Respect for the rights and human dignity of returnees during the return process can be challenging, particularly in the event of forced returns. Developing guidelines and training for law enforcement officials can promote a better understanding of applicable legal and policy standards as well as appropriate tools to handle difficult situations in a way that respects the rights and dignity of the returnees. Training can also equip national authorities to identify persons with specific needs and establish appropriate channels for referral (see Chapters 3, 5 and 6). In addition, monitoring of returns may contribute to evaluating if relevant procedural guarantees and safeguards are applied throughout the process.

Europe: Comparative study on best practices in the field of forced return monitoring
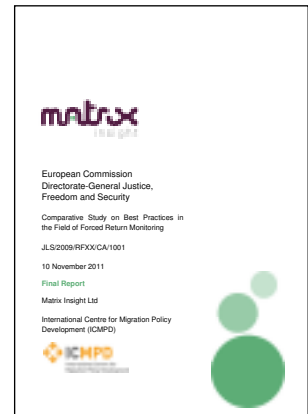
Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals establishes common standards and procedures in EU Member States for the return of third-country nationals staying unlawfully. Article 8(6) of the Directive introduces the obligation to establish mandatory forced-return monitoring systems, an important guarantee to safeguard the rights of third-country nationals ordered to leave the EU.

The European Commission's Directorate-General Justice, Freedom and Security commissioned a study to facilitate the transposition of Article 8(6) into national law. The study provides Member States with information on best practice examples to support their efforts to develop an effective and transparent monitoring system of forced-return.

Key recommendations include:

- Organizations entrusted with monitoring forced returns should be different from the enforcement authorities.

- Organizations in charge of monitoring return (monitors) should automatically be informed of impending return operations.

- Cooperation between all stakeholders should be facilitated and encouraged.

- Comprehensive forced return monitoring should encompass all phases, from pre-return to arrival/reception in the destination country.

- Monitors should be able to decide what cases to monitor on the basis of agreed criteria.

- Authorities should use monitoring reports as the basis for systematic improvement.

For more information see: http://goo.gl/Z5Lpj.

matrix

European Commission
Directorate-General Justice,
Freedom and Security

Comparative Study on Best Practices in
the Field of Forced Return Monitoring

JLS/2009/RFXX/CA/1001

10 November 2011

Final Report

Matrix Insight Ltd

International Centre for Migration Policy
Development (ICMPD)

European Union: Forced Return Monitoring Project

Ⓐ Background and rationale

The Forced Return Monitoring (FReM) project was designed to create a pool of forced-return monitors to ensure that human rights standards and legal obligations are met during return operations. The overall objective of the project is to strengthen the quality of the EU return system in line with human right standards and best practices thus supporting the implementation of Article 8(6) of the return directive (Directive 2008/115/EC) that introduced the obligation to establish a forced-return monitoring system. This capacity building initiative was developed and implemented by the International Centre for Migration Policy Development and co-funded by the EU Return Fund.

Ⓑ Actors

- International Centre for Migration Policy Development
- Representatives of return units in all participating European States: Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland
- The European Fundamental Rights Agency and Frontex

Ⓒ Actions

→ The FReM project established framework, mandate, working modalities and methodology for an EU pool of forced-return monitors;

→ Developed guidelines for forced-return monitors;

→ Identified and selected forced-return monitors to be part of the EU pool;

→ Developed a training manual for the EU pool of forced-return monitors and implemented it through a training programme;

→ Conducted pilot monitoring operations covering specific phases of the return; and

→ Produced a final report including the findings of the monitors and recommendations.

Ⓓ Review

The independent monitoring of forced returns ensures that persons are returned in a manner compliant with national legislation and international human rights standards. The FReM project promotes greater harmonization of return procedures, common standards and a common understanding of forced-return monitoring. It makes guidelines and monitoring tools available to Member States, which serves to multiply efforts.

E Further information

For further information on the project, see:
http://www.icmpd.org/our-work/capacity-building/irregular-migration-return/completed-projects.

For more information on the implementation of other European return monitoring systems, see:
http://fra.europa.eu/en/theme/asylum-migration-borders/forced-return.

9.1.2 Promoting and assisting voluntary and sustainable return

Voluntary return is generally more cost-effective and administratively less cumbersome than forced return for the returning country. Countries of origin also prefer voluntary return because it helps ensure that the rights of their nationals are respected and avoids any stigma associated with forced returns. Voluntary return can be promoted and supported in many ways, ranging from pre-return support to post-return monitoring. Among the activities that have proven particularly useful are:

- The establishment of appropriate referral mechanisms to agencies assisting with voluntary return in the host country;

- The provision of information and counselling on return options;

- The dissemination of accurate and up-to-date country of origin information; and

- The provision of reintegration assistance.

9.1.2.1 COMPREHENSIVE INITIATIVES

1979–PRESENT

IOM: Assisted voluntary return and reintegration programmes

A Background and rationale

Assisted voluntary return and reintegration (AVRR) is a well-established area of IOM expertise. Since 1979, IOM's AVRR activities have grown to include more than 30 AVRR programmes and 100 projects, helping individuals return to approximately 170 countries worldwide. IOM has assisted at least 1.4 million migrants to return voluntarily to their home countries.

AVRR programmes aim to support the orderly, humane and cost-effective return and reintegration of migrants who are unable or unwilling to remain in their host countries and who wish to return voluntarily to their countries of origin. IOM implements AVRR from an ever-increasing number of host and transit countries and supports reintegration activities in many countries of origin. The conditions under which assistance is provided and the nature and extent of resources made available to return migrants and support their reintegration vary from country to country.

Ⓑ Actors

- IOM

- National counterparts and a network of partners both in host countries and countries of origin.

ⒸActions

→ IOM AVRR activities are developed to respond to the specific humanitarian needs of migrants and to provide dignified and safe returns. Each AVRR programme consists of three essential elements:

  → Pre-departure assistance;

  → Transportation assistance; and

  → Post-arrival assistance.

→ This assistance is provided to unsuccessful asylum-seekers, migrants in an irregular situation, migrants stranded in transit and other persons in similar circumstances. IOM AVRR programmes are either available to all migrants in an irregular situation in a particular country or tailored to the particular needs of particular groups, including migrants with specific needs, for example, victims of trafficking.

→ IOM assistance typically includes information dissemination on return possibilities, the provision of country of origin information, referral to available services, the arrangement of travel to the home location (including travel documentation and escorts) and limited support towards reinsertion in the country of origin. Assistance may also include profiling target groups and providing return information and counselling to potential returnees, as well as medical assistance, reception and longer-term reintegration assistance in order to facilitate sustainable returns (e.g. support for vocational training, income-generating activities, etc.).

→ Most of the IOM AVRR programmes include an evaluation component. IOM also provides technical and other support to governments in order to improve the management of return caseloads and to facilitate return-migration dialogue among countries of origin, transit and destination.

→ IOM makes available stories of return, which provide snapshots of returnees who have agreed to share their experiences regarding return and reintegration assistance received through IOM AVRR programmes.

Ⓓ Review

The AVRR programmes adopt a cooperative approach through the engagement of countries of origin, transit and destination in order to establish partnerships to better manage returns within broader migration frameworks. The cooperation thus initiated in the context of voluntary return among the various parties constitutes a platform for discussion on, for example, possibilities to establish and facilitate legal migration channels. In doing so, it enhances the positive value of coordinated migration management, including voluntary return options.

The pre-departure, transportation and post-arrival components, coupled with reintegration assistance, contribute to the sustainability of returns, to the benefit of both migrants and States. IOM's experience also demonstrates that AVRR programmes are more effective if information on voluntary return options is given to asylum-seekers at an early stage in the asylum procedure.

E Further information

For further information on AVRR Programmes and
an overview of the specific country projects, see:
http://www.iom.int/assisted-voluntary-return-and-reintegration.

IOM stories of return are presented in "Seventeen return stories", available at:
http://goo.gl/GoYZ28.
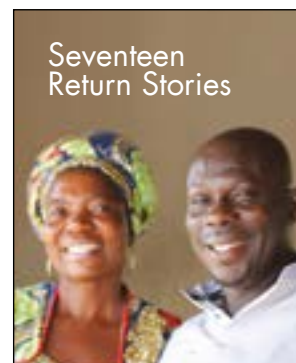
2009

The European Red Cross Return Initiative:
A study on how to support sustainable
return in safety and dignity

The European Red Cross Return Initiative issued a study on supporting
sustainable return, the results of which offer a best practice model for return
arrangements. This study also provided the European Red Cross Return
Initiative and the International Federation of Red Cross and Red Crescent
Societies, as well as governments and EU institutions, with recommendations
to develop the capacities of National Red Cross and Red Crescent Societies
with regard to return, to enhance coordination of return activities, and to
complement return management activities implemented by EU Member States
and other key actors.

The study is available at: http://goo.gl/Sb74W2.

9.1.2.2 ACCESS TO RETURN INFORMATION AND PROVISION OF COUNTRY OF ORIGIN INFORMATION

Comprehensive information packages and counselling, which include return information, ensure that persons
are aware of their options and can make informed decisions. As outlined in Chapter 4, it is important that such
information be provided as early as possible after arrival. However, ongoing access to return information
throughout various procedures is also essential, as it may encourage persons who are at other stages of
the procedure and who lack the possibility to legalize their stay to return. To avoid any ambiguity, return
information provided to asylum-seekers should clearly state that those in need of international protection will
have the opportunity to seek and be granted asylum.

After the decision to return has been taken, the continual provision of up-to-date country of origin
information, including information on socio-economic conditions, will help the individual to prepare for return
and reintegration. Participation by returnees in reintegration planning can ensure that assistance is tailored to
specific needs and skills.

Europe: Information on Return and Reintegration in Countries of Origin Project

The Information on Return and Reintegration in Countries of Origin (IRRiCO) Project was initiated by IOM in 2007 to gather, consolidate and share information on countries of origin in order to ensure that migrants were provided with reliable, up-to-date information on return and reintegration possibilities as well as on the socio-economic conditions in the country of origin.

At the IRRiCO II website, factsheets can be found that provide general overviews of the situations in specific countries of origin, as well as a list of contact details for relevant organizations and service providers. Return and reintegration information is stored in a database, which facilitates the exchange of individual queries between individuals and IOM offices. Communication strategies were developed focusing on the diaspora of returnees in selected host countries. Outreach activities in host countries inform migrants and return counsellors of return options, and information sessions, leaflets and posters are provided in various languages. The public website of the project provides easy access to information on return and reintegration possibilities in nearly 20 countries.

The IOM "Practical guide on information provision regarding return and reintegration in countries of origin" is available at: http://goo.gl/foi5gs.

The IRRiCO II website is available at: http://irrico.belgium.iom.int.

Austrian Red Cross: Website and training manual on researching country of origin information

The training manual created by the Austrian Centre for Country of Origin and Asylum Research and Documentation, a department of the Austrian Red Cross, sets out quality standards for country of origin information (COI), such as relevance, reliability and balance, accuracy, transparency and traceability. It further provides principles for researching, but also for using this information, pointing out limitations in drawing solely on COI to assess the risks for the return of individual persons. Given the wealth of available information on the internet, the manual dedicates an entire chapter to describing the opportunities and pitfalls of social media sources and offering guidelines for their use.

Austrian Red Cross and partner institutions maintain a regularly updated COI database, which is accessible via www.ecoi.net. The website covers more than 160 countries.

The training manual "Researching country of origin information" is available at: http://goo.gl/w1H0Rp.

Germany: The Information Centre for Voluntary Return

The Information Centre for Voluntary Return (ZIRF) was developed in mid-2003 by the Federal Office for Migration and Refugees in Germany. ZIRF provides relevant information to persons interested in returning on voluntary return and assistance programmes, as well as counselling possibilities throughout Germany and contacts for relevant agencies involved in the return process.

ZIRF maintains an extensive collection of up-to-date and relevant information on assisted returns, conditions in countries of origin and transit, as well as integration in Germany. An expert forum consisting of judges, academics, lawyers and NGOs analyses the collated information and provides advice and guidance on asylum, refugee protection and migration. Country factsheets on the general situation in countries of origin, including health care, the labour market and housing, are prepared and made available to a wide audience. ZIRF answers inquiries from counselling agencies and public authorities on available return options, and individual queries are collected in the ZIRF database, which is available on the website of the Federal Office for Migration and Refugees.

More on the Information Centre for Voluntary Return (ZIRF) is available at: http://goo.gl/CxUuFk.

9.1.2.3 COOPERATION BETWEEN HOST COUNTRIES AND COUNTRIES OF ORIGIN

Cooperation between a host State and the country of origin can help ensure that return takes place in an orderly, dignified and predictable manner. The return of persons who are not refugees is on the agenda of many regional consultative processes (as outlined in Chapter 1). Cooperation could include assessing the impact of returns on the country of origin and providing financial support, including to local communities. States often formalize operational arrangements on return through bilateral readmission agreements. These accords are frequently coupled with development assistance and other financial support for countries of origin. Any agreement should include an explicit reference to obligations of the States Parties deriving from the 1951 Convention and the 1967 Protocol. Specific safeguards should also be enshrined for vulnerable persons, including unaccompanied and separated children, stateless persons and victims of trafficking.

INFORMATION ON READMISSION AGREEMENTS

In 2010 the Council of Europe, Parliamentary Assembly, issued a report: "Readmission agreements: A mechanism for returning irregular migrants", 2010, available at: www.refworld.org/docid/4bdadc1c3.html.

UNHCR: Aide-memoire regarding the return of unaccompanied and separated children to Afghanistan

Given the large number of unaccompanied and separated children from Afghanistan that apply for asylum, UNHCR drafted an aide-memoire to set out the main safeguards that should apply during their voluntary return. The aide-memoire includes an article regarding special measures for vulnerable groups, including unaccompanied and separated children. These special measures reinforce the commitment to ensure that:

- Unaccompanied and separated children are returned only following formal procedures;

- Each child's best interests are considered;

- Genuine efforts to trace family members are made prior to return;

- Minimum reception and care arrangements are in place including receiving the child at the airport; and

- Unaccompanied and separated children have immediate access to appropriate accommodation and support for basic needs, as well as access to education and health care upon return.

UNHCR, "Aide-memoire: Special measures applying to the return of unaccompanied and separated children to Afghanistan", 2010, is available at: http://www.refworld.org/pdfid/4c91dbb22.pdf.
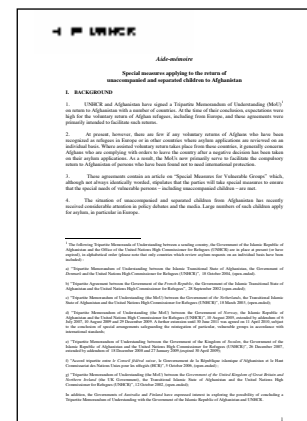
9.1.2.4 COUNSELLING ON RETURN OPTIONS

Counselling on return is needed at different stages: upon arrival in the host country, during immigration or asylum procedures, and after a return or removal order has been issued. This requires enhanced cooperation between asylum authorities, civil society actors and key agencies that specialize in return procedures.

Switzerland: Return counselling and assistance for unsuccessful asylum-seekers

Ⓐ Background and rationale

The Swiss Federal Office for Migration and Refugees initiated a comprehensive programme to facilitate the voluntary return of unsuccessful asylum-seekers and to provide them with reintegration assistance. The programme aims to:

- Ensure better migration management at the international level;
- Promote orderly, voluntary and cost-effective returns and reduce the need for forced returns at the federal level; and
- Encourage countries of origin to readmit their nationals and to improve conditions for sustainable reintegration.

An essential element of the programme is the provision of return counselling and assistance at the federal and local canton levels.

Ⓑ Actors

- International organizations, most notably IOM
- Local NGOs
- Swiss Cantons
- The Swiss Federal Office for Migration and Refugees and other federal bodies in Switzerland

Ⓒ Actions

→ The Swiss Federal Office for Migration and Refugees implements Government-run return counselling and assistance for voluntary returns from Switzerland.

→ Under the Swiss REPAT-IOM Movements Programme, IOM, in cooperation with the Swiss authorities, organizes the voluntary return to the country of origin, providing transport services, medical escorts and reception in the country of origin.

→ The Bern IOM office is tasked with setting up return counselling offices in the Swiss Cantons to provide comprehensive information on return and available assistance to rejected asylum-seekers who may wish to voluntarily return to their countries of origin.

→ The Return Information Fund, established by IOM in 2002, provides the Swiss Federal Office for Migration and Refugees and return counsellors in the Swiss Cantons as well as in asylum reception centres with adequate and timely return information to support voluntary return and reintegration based on socio-economic circumstances in selected countries of origin.

→ Local NGOs (e.g. the Swiss Red Cross) have implemented pilot projects to encourage more Swiss Cantons to open their return counselling and assistance mechanisms to persons in irregular situations and to monitor the return of rejected asylum-seekers and migrants, regardless of their status.

Ⓓ Review

Counselling has become an important component of the comprehensive return and reintegration assistance programme in Switzerland. Counsellors in Swiss Cantons and asylum reception centres are confronted with an increased number of complex cases concerning persons with specific needs. They also require detailed information on the situation in the country of origin. IOM collects accurate and up-to-date return information through a network of IOM field offices and their local partners in countries of origin. Information, including on housing, the labour market and transportation, is made available to counsellors to inform potential returnees of return options and reintegration opportunities. The Return Information Fund enables the Swiss Federal Office for Migration and Refugees to better prepare, organize and support returns and to use counsellors to transfer information to potential returnees. In some cases, a reintegration stipend is provided to returnees based on the information collected through the Return Information Fund.

Ⓔ Further information

The website of the Swiss Federal Office for Migration and Refugees can be found at:
http://www.sem.admin.ch/sem/en/home/rueckkehr.html.

9.1.3 Reintegration assistance

Reintegration assistance that is tailored to the individual's profile and the country situation, including social and economic circumstances, contributes to the sustainability of return. Reintegration assistance can include vocational training, skills training, education grants, assistance with small-business schemes and loans for business or micro-enterprise development. Vocational training programmes and grants for business or micro-enterprise development in the country of origin have been generally more successful than lump-sum payments. Good results have been achieved where assistance is offered to both the individual and the community to which the person is returning.

EXAMPLES OF REINTEGRATION ASSISTANCE PROGRAMMES

In Ecuador, the Fondo Concursable "El Cucayo" supports business creation or expansion in various economic sectors. The competitive matching fund programme was implemented by the National Secretariat for Migration of Ecuador. Business ideas can be submitted through a dedicated website by Ecuadorian citizens who have returned to Ecuador since 2007 and do not face legal obstacles that would impede eligibility. Entrepreneurs whose business ideas are selected benefit from direct mentoring, including technical advice, training and referrals to public banking institutions for accessing lines of credit.

In Ghana, IOM assisted Ghanaians in forming a cooperative union and provided returned migrants with training to start producing sunflowers, to be sold in local markets for oil and biodiesel products. This programme not only benefitted returnees, but also their families and communities of return by increasing employment opportunities, raising living standards and, as a result, improving general well-being. Such an inclusive approach reduces the burden placed on communities of return that may need to support returnees while also losing the benefit of remittances from abroad.

In Mexico, the Government has created a programme to certify skills and knowledge acquired abroad through migrant's job experience. The diplomas issued have been very useful when applying for jobs in the country of return.

In Germany, the Federal Government and several Länder governments have supported the URA 2 project for returnees to Kosovo. The project provides a bridge for returnees – "ura" means "bridge" in Albanian – by offering concrete, practical local support and social and psychological counselling for all returnees to help them become reintegrated in Kosovar society. In addition, the project provides financial assistance and grants to cover, for example, the cost of initial home furnishings, rent, lost wages and business start-up costs, special language courses and school supplies. (For further information see: http://goo.gl/nAfzdC.)

For further information on reintegration programmes, see:
IOM, "Reintegration: Effective approaches", 2015, available at http://goo.gl/YHstEB.
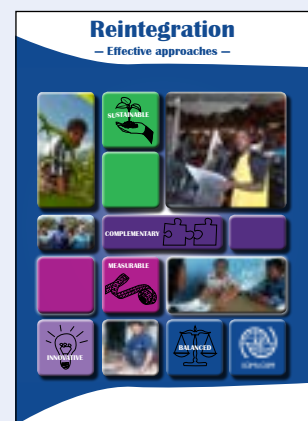
Iraq: Job placement assistance project: MAGNET II

Ⓐ Background and rationale

MAGNET was an IOM pilot project designed to provide Iraqi returnees with information on existing potential job opportunities as well as to liaise with employers in the Kurdistan region of Iraq. After the successful completion of the pilot phase in 2012–2013, MAGNET II was launched in 2014. The overall objective of MAGNET II was to contribute to the establishment of a common approach for the reintegration of rejected asylum-seekers – and irregular migrants when applicable – returning to the Kurdistan Region of Iraq from Belgium, Finland, France, Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland.

Ⓑ Actors

- IOM
- National institutions and the private sector in the Kurdistan region of Iraq
- MAGNET II project focal points in participating EU Member States.

Ⓒ Actions

→ Prior to their departure, returnees received information on the Iraqi labour market, its key economic sectors as well as training and job opportunities through a leaflet offered in eight languages and a booklet offered in three.

→ Upon arrival, counselling sessions were offered by IOM staff supporting returnees through skill profiling and assessment, review of qualifications, work experience and expectations, and through CV drafting in preparation for job referrals to potential employers.

→ Maintenance of a database allowed returnees to access accurate and up-to-date information on available jobs and necessary skills.

Ⓓ Review

Returnees received assistance for their economic reintegration. The project aimed to empower returnees and to enhance personal and professional skills that, in turn, helped them to reintegrate and achieve a sustainable return. The project focused on the economic aspects of reintegration. However, it could have benefited from greater consideration of the social and psychological aspects of the reintegration process, such as discrimination against returnees by receiving communities.

Ⓔ Further information

MAGNET II information can be found at: www.magnet-project.eu/.

9.1.4 Return of persons with specific needs who are not refugees

Persons with specific needs may require targeted assistance during return and reintegration. In some cases, the availability of such arrangements may determine whether or not the individual can be asked to return to his or her country of origin. With regard to the return of unaccompanied or separated children, for example, the appointment of a guardian in the host country, consultations with a guardian or a legal representative in the country of origin, as well as family reunification or placement in foster care in the country of origin need to be arranged prior to return. Victims of trafficking found not to be in need of international protection may continue to require medical and psychological attention and specific reintegration support to ensure that they are not re-trafficked. Where stateless persons return to their countries of habitual residence, reintegration assistance may be required along with awareness raising about the specific protection needs of stateless persons.

2012–2014

Europe: Sustainable return of vulnerable or disadvantaged people returning to Mongolia, Pakistan and Iraq

ERSO SURE assisted 100 vulnerable returnees to reintegrate in Mongolia, Pakistan, and Iraq by providing them with tailor-made reintegration support and assistance. It was implemented by the European Reintegration Support Organisation Network (ERSO), a network of several European reintegration and support organizations working closely together in the field of migration and development, notably Caritas Austria, Caritas International Belgium, METAction (Greece), Maatwerk bij Terugkeer (Netherlands), Caritas Mongolia, ETTC (Iraq), and Weldo (Pakistan). The main objective was to strengthen links between persons returning and available socio-economic structures in the countries of origin to ensure sustainability of return. ERSO developed country-specific vulnerability criteria for returnees and provided tailor-made sustainable reintegration packages with an additional focus on needs-based medical assistance to persons meeting these vulnerability criteria, such as minors, single and/or pregnant women, elderly, victims of trafficking, persons suffering from a physical or mental illness, and families. The project also built-up capacities of the local partners.

Caritas developed a manual for the reintegration of disadvantaged and vulnerable persons in Mongolia, Pakistan and Iraq. It is available at: http://goo.gl/W3OVJW.

For more information about ERSO and its projects, see: http://www2.erso-project.eu/projects/ongoing-projects/erso-sure/.

Caritas

Manual

Reintegration of Disadvantaged and Vulnerable persons in Mongolia, Pakistan and Iraq.

April 2014

This project is co-financed by the EU Return Fund – Community Actions 2011
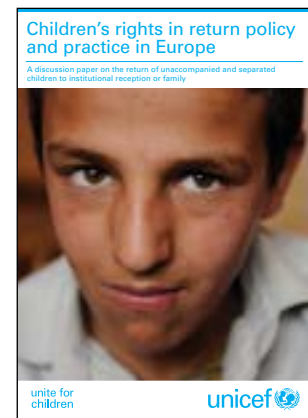
ERSO

Europe: Reviews of return and reintegration programmes for children and victims of trafficking

Once return and reintegration programmes are in place, careful independent monitoring and evaluation is paramount in order to ensure that the rights and protection, particularly of vulnerable persons, are respected in line with all international obligations.

- UNICEF, "Children's rights in return policy and practice in Europe", February 2015.

  This 2015 study evaluated the European Return Platform for Unaccompanied Minors (ERPUM I, 2011–2012, and ERPUM II, 2013–2014) with a view to informing government policy and practice. It recommended that States should only return children to institutional reception if recommended safeguards are in place; take the particular needs of children into account when assessing the security situation on a country and local basis; and develop and use child rights-based procedures for tracing and contacting families.
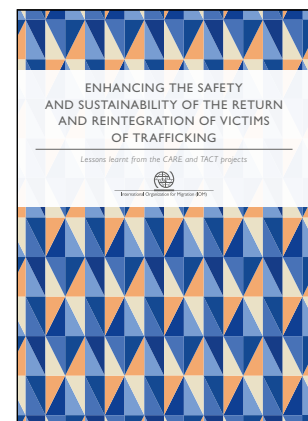
  The study is available at: www.refworld.org/docid/54e4854c4.html.

Children's rights in return policy and practice in Europe
A discussion paper on the return of unaccompanied and separated children to institutional reception or family

unite for children

unicef

- IOM, "Enhancing the safety and sustainability of the return and reintegration of victims of trafficking: Lessons learnt from the CARE and TACT projects", 2015.

  The report describes lessons learnt from IOM's implementation of two projects for victims of trafficking from nine EU Member States between 2013 and 2015. The report concludes that family, relatives and communities should be more systematically included in return and reintegration projects, and that transnational cooperation among law enforcement services should be reinforced to guarantee returning victims' safety while ensuring proper follow-up of the prosecution of traffickers. The report proposes the establishment of formal agreements between governments, known as transnational referral mechanisms, that would allow for more organized cooperation on cross-border comprehensive assistance and/or transfer of identified or potential victims of trafficking.
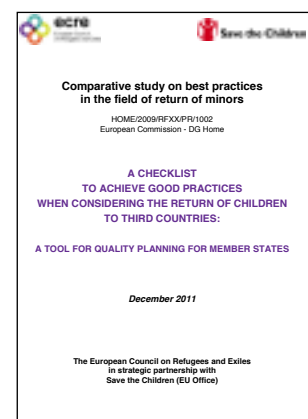
  The study is available at: http://goo.gl/mIjgCD.

ENHANCING THE SAFETY AND SUSTAINABILITY OF THE RETURN AND REINTEGRATION OF VICTIMS OF TRAFFICKING

Lessons learnt from the CARE and TACT projects

International Organization for Migration (IOM)

- European Council on Refugees and Exiles and Save the Children, "Comparative study on practices in the field of return of minors: A checklist to achieve good practices when considering the return of children to third countries", 2011.

  The checklist provides a concise and extensive list of procedures and mechanisms that should be in place in EU Member States when considering the return of children to third countries. The checklist covers different steps associated with a decision and procedure to return as required under the return directive (Directive 2008/115/EC). It further includes references to the relevant international legal obligations and authoritative guidance on them, as well as specific indicators for good practices.

  The study is available at: http://www.refworld.org/docid/4f17ef302.html.

ecre   Save the Children

Comparative study on best practices in the field of return of minors
HOME/2009/RFXX/PR/1002
European Commission - DG Home

A CHECKLIST
TO ACHIEVE GOOD PRACTICES
WHEN CONSIDERING THE RETURN OF CHILDREN
TO THIRD COUNTRIES:

A TOOL FOR QUALITY PLANNING FOR MEMBER STATES

December 2011

The European Council on Refugees and Exiles
in strategic partnership with
Save the Children (EU Office)

IOM: Comic book for children on voluntary return and reintegration

In 2016 IOM published "Ulyana's grote avontuur" ("Ulyana's great adventures"), a comic book that explains voluntary return procedures in the Netherlands to children. Recognizing the right of children to be informed about the return procedure and the role that IOM plays, IOM Netherlands developed this comic book about voluntary return and reintegration. The comic can be used by parents as a tool to explain to their children their decision to return to their countries of origin and illustrates the steps involved in the return procedure.

The electronic version of the comic book can be accessed here:
http://publications.iom.int/books/ulyanas-grote-avontuur.

9.1.5 Post-return monitoring

Independent monitoring during the post-return phase helps ensure that returnees are not subject to protection risks upon return to their countries of origin and that they can access reintegration services. Protection concerns can relate to the security and/or reintegration prospects of returnees, particularly where the overall situation in the country or the circumstances for specific individuals and groups (e.g. ethnic minorities, unaccompanied and/or separated children, and victims of trafficking) remains fragile. Monitoring activities build confidence among returnees and encourage voluntary return. They can also help identify and address shortcomings in the return process.

Post-Deportation Monitoring Network

Ⓐ Background and rationale

The Post-Deportation Monitoring Network was established in 2012 by the Fahamu Refugee Programme to enable organizations in returning and receiving countries to link up with each other, and to improve information sharing and data gathering on potential post-return human rights violations.

Ⓑ Actors

- IOM
- Fahamu Refugee Programme
- Organizations and individuals engaged in post-return monitoring in 27 countries worldwide

🅒 Actions

The activities of the Post-Deportation Monitoring Network include the following.

→ Maintaining a database of organizations or individuals in receiving countries that can be contacted prior to the return;

→ Contingent on the capacity of the organization in the country of origin or third country, monitoring the arrival of returnees (services can include pick-up at the airport, legal advice and psychological counsel, advocacy if a returnee is arrested, documentation of human rights violations, referral to organizations providing reintegration assistance); and

→ Compiling data for reporting and lobbying.

🅓 Review

The Post-Deportation Monitoring Network facilitates coordination between organizations in returning countries and organizations engaged in post-return monitoring. Follow-up action can include both the provision of assistance and the documentation of human rights violations for advocacy purposes.

🅔 Further information

For further information, see www.refugeelegalaidinformation.org/post-deportation-monitoring.

9.2
Migration options as an alternative to return

Some persons who do not have international protection needs may be able to regularize their stay in the host country through possibilities provided by the country's migration laws, or to take advantage of opportunities to legally migrate onward to a third country. While Chapter 6 provides examples of processes and procedures established to address specific needs, this chapter presents examples of additional possibilities to regularize stay provided by some States.

9.2.1 Regularization

Regularization has become an important mechanism to address the situation of non-nationals in irregular status in certain host countries.

Regularization can be an ongoing process or a one-time opportunity. It can be granted on the basis of an individual assessment (as shown in the examples in section 2.2.1) or on a group basis (as shown in the examples in section 2.2.2). Individualized procedures generally leave a fairly large margin for discretion to competent authorities. Their objective is to enable authorities to take individual circumstances sufficiently into account when deciding on whether a person should be entitled to stay in the country.

By contrast, the principal objective of collective regularization processes is to reduce the number of individuals in irregular status and the size of the informal sector of the economy. Collective regularization procedures are generally based on objective and well-defined eligibility criteria.

Regularization can be beneficial for both the individual as well as the host country. It may prevent the marginalization and exploitation of individuals in an irregular situation, particularly those who cannot be removed from the territory for practical or humanitarian reasons. In addition, the host country usually benefits economically from regularizing its irregular labour force, as regularized migrants pay taxes and social contributions.

9.2.1.1 INDIVIDUAL PROCEDURES

Germany: Hardship commissions
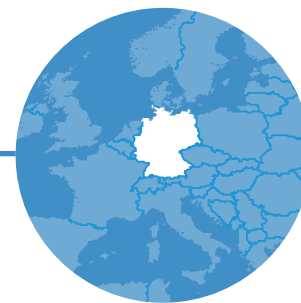
Ⓐ Background and rationale

Section 23a of the German Residence Act allows German Federal States to grant a residence permit to a foreigner who would otherwise be obliged to leave Germany if a hardship commission makes such a recommendation. Hardship commissions review applications received from unsuccessful asylum-seekers who claim that special hardship prevents them from returning to their countries of origin. This provides Government authorities with the possibility to review and, if necessary, correct the denial of a residence permit. By the end of 2006, all 16 German States had established independent hardship commissions.

Ⓑ Actors

- Ministries of the interior/senators of the interior of Federal States in Germany

- Hardship commissions, composed of representatives of different authorities/ministries, churches, civil society organizations and NGOs depending on the implementation within each federal State.

- Vinnitsya Human Rights Group, Ukraine

Ⓒ Actions

→ There is no formal right for application, however, requests for consideration of a case may be directed to any member of the responsible hardship commission. Each request must be accompanied by documentation outlining all relevant facts (e.g. curriculum vitae, medical reports, and written commitments from potential employers) which support the claim for continued residence in Germany.

→ The commission must be convinced that departure of the individual from Germany would present special hardship. The criteria applied vary, but all hardship commissions comprehensively assess personal circumstances that put an individual in a special situation compared to other individuals legally obliged to leave. Certain criminals and applicants subject to extradition orders, for example, are excluded from consideration. Moreover, some hardship commissions exclude applicants if the hardship situation was self-inflicted, if the person recently entered the country, or if the applicant was deported, returned or extradited prior to application. Hardship commissions assess each case only once.

→ Protection against deportation during the hardship procedure varies amongst the Federal States. The statutes of most hardship commissions do not exclude deportation. In practice, however, persons who have applied to one of the hardship commissions are usually not returned before a decision on their case has been taken.

→ It is at the Government authorities' discretion whether or not to follow a recommendation of the hardship commission. In most positive decisions, a long duration of stay, good command of the German language and the presence of children in school were decisive factors. Serious health problems and the need for medical and/or psychological treatment are generally not considered sufficient for the grant of continued residence.

Ⓓ Review

The establishment of hardship commissions allowed Government authorities to consider individual circumstances and to issue residence permits beyond strict legal requirements. Many applicants have been able to legalize their stay in Germany since the introduction of the hardship commissions in 2005 and the commission represents a vital opportunity of last resort that allows for individual circumstances to be taken into consideration. However, there has been a decline in the overall acceptance rate in the last two years with a majority of negative decisions being attributed to the applicant's insufficiently long residency or "evidently unfounded requests". The individual acceptance rate varies among Federal States.

Ⓔ Further information

Section 23a Residence Act is available at: http://www.iuscomp.org/gla/statutes/AufenthG.htm.

Further information on the hardship commissions is available at the websites of each State's hardship commission, such as Hardship Commission Saarland: http://www.haertefallkommission.saarland.de/ and Hardship Commission of Nordrhein-Westfalen, available at: http://goo.gl/vCbvkq.

9.2.1.2 COLLECTIVE REGULARIZATION PROGRAMMES

**EXAMPLES OF LARGE-SCALE REGULARIZATION PROGRAMMES**

In Morocco, a policy adopted in September 2013 included the special regularization of certain categories of undocumented migrants. Eligible candidates include, among others, those with work contracts effective for at least two years and non-nationals who have lived in Morocco for five years or more. Within a year, the number of regularization requests had reached nearly 20,000 representing 103 countries, nearly half of which were approved.

In Argentina, a national migration law was adopted to grant residence status to irregular migrants. The National Programme for the Regularization of Migrants "Patria Grande" was subsequently launched as part of a comprehensive approach to address irregular migration and to facilitate the integration of migrants into society. In its first phase in 2005, residence status was granted to migrants who were not citizens of the Common Market of the South (MERCOSUR) and, in 2006, it facilitated the regularization of migrants from MERCOSUR and associated countries (which account for 90 per cent of all migrants in Argentina). In 2013, the Government adopted a progressive law to regulate the employment relationships of domestic workers who were previously regularized.

In Mexico, Programa Temporal de Regularización Migratoria, a large regularization programme, was implemented in 2015 for foreign nationals who entered the country before 9 November 2012. Through this programme, foreigners received documents to establish temporary resident status valid for four years. The programme was criticized for requiring fees that would allow only a certain group of migrants to apply for regularization.

In Venezuela, the Mission Identidad (Identity Mission), implemented between 1998 and 2006, provided documentation to approximately 415,000 migrants who were not in possession of identity documents but who had been living in the country for many years. It allowed these persons access to social services provided by social and welfare programmes.

For further information on regularization programmes, see: International Organization for Migration, "World migration report: Migrants and cities: New partnerships to manage mobility", 2015, available at: http://publications.iom.int/system/files/wmr2015_en.pdf.
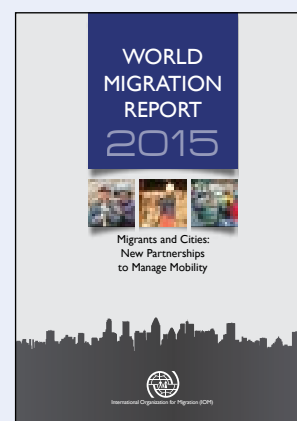
9.2.2 Legal migration alternatives

States have established various channels for legal migration in order to fulfill different purposes, such as meeting labour market needs, enabling family reunification, or pursuing study. The range of available options differs between countries. While some migration schemes are strictly temporary, requiring the individual to leave when his or her stay permit expires, others provide possibilities for permanent settlement upon arrival or after a certain period of stay. States may also give preferential access to admission, stay and residence to nationals of certain States based on bilateral agreements or cultural ties.

Access to most legal migration channels is generally not possible for persons in an irregular situation in the host country. Rather, migration channels tend to become available following return to countries of origin rather than as an alternative to return.