European Migration Network

Return Migration

This EMN Synthesis Report aims to summarise and compare, within a European perspective, the findings from eleven National Contact Points (Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands and the United Kingdom) of the European Migration Network (EMN), on the policy and practice of return migration, and is primarily intended for policy-makers, particularly at national and European levels, as well as relevant administrative bodies in the area of return.

The Synthesis Report, and the EMN NCP Country Study reports upon which it is based, are also contained in the accompanying CD-ROM.

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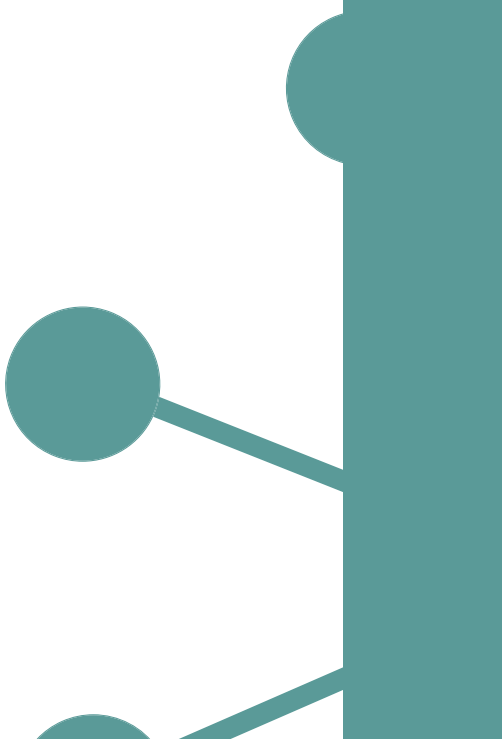

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Executive Summary

This Synthesis Report aims to summarise and compare, within a European perspective, the findings from eleven National Contact Points (**Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and the **United Kingdom**) of the European Migration Network (EMN), on the policy and practice of return migration.

The main objectives of this EMN study, in the context of its objective to support policy- and decision-making, are to reach a better-informed understanding of the different state approaches towards dealing with return in the Member States and in the European Union at large; to provide policy- and decision- makers with more detailed and up-to-date knowledge about return policies; and to develop, to the extent possible, comparable and reliable data on return measures and programmes.

Broadly speaking, return is considered to be any action that facilitates the passage of a non-EU/EEA (i.e. third country) national migrant to their country of origin or another country outside the EU. This study addresses the two main types of return actions, namely Voluntary and Forced. It is important to note, however, that there is no clear boundary between Voluntary and Forced Return, since there are different understandings of these terms by the Member States and it sometimes depends on the legal status of a returnee (legal or illegal resident). Whether return can truly be considered as voluntary, if the consequence of not returning is to be subjected to Forced Return procedures, is another consideration.

In the Introduction (Section 1), the study presents the context of the relevant EU return policy. The next section on Methodology (Section 2.1), illustrates the different approaches in the use and/or understanding of the terminology for return between the Member States. The definitions used (and given in Section 2.2) did, however, permit, to the extent possible, a degree of comparability between the participating Member States. With regard to the general characteristics of returnees (Section 2.3), the available data indicated that the majority of returnees are aged 25 to 40 years and are predominantly male. Table 1 in Section 2.3 also shows the relative magnitude between Voluntary and Forced Return between the Member States, including the main countries of return.

The political and legal framework is outlined in Section 3. An effective return policy is considered an important aim. Often this starts with Voluntary Return programmes, because they are considered more dignified, cost effective, sustainable and, in some cases, more politically acceptable. Although some NGOs contest the very concept of (assisted) Voluntary Return, public debates surrounding this issue are generally very limited. Criticism is very widespread on Forced Return and there have been a number of reviews on this.

Overall, it is found (Section 3.1) that national legislation generally regulates Forced Return in most Member States. With regards to Voluntary Return, for some Member States (**Germany, Greece, Ireland**) legislative provisions do not exist; for **Austria,** legislation foresees basic provisions with regard to Assisted Voluntary Return only; whilst for **Belgium, Estonia, The Netherlands,** and the **United Kingdom,** the proceedings are sufficiently, or to some extent, regulated by legal acts. Whilst European legislation is important, and some examples exist in its implementation, so far there has been a limited impact on Member State return actions (Section 3.1), in part owing to opt-outs, to incomplete transposition into national legislation, as well as to the lack of established procedures or insufficient exchange of information between Member States.

Return actions are described in Section 4, starting with an overview (Section 4.1) of Voluntary and Forced Return and then a more detailed description of the various steps in these actions (Sections 4.2 and 4.3 respectively), including an assessment of their sustainability. For Voluntary Return, there exist information campaigns (Section 4.2.1) and incentives (Section 4.2.2). For Forced Return (Section 4.3), the lack of identification documents, owing to the unwillingness of a returnee(s) to co-operate in establishing their true identity, an inadequate administrative capacity, or the lack of willingness of countries of return or residence in issuing the required travel documents, are considered the most challenging aspects in the enforcement of immigration controls and the main reason for the failure to execute a removal order (Section 4.3.1). An overview of the procedures (Section 4.3.2), including possible detention (Section 4.3.3) and removal (Section 4.3.4) is given.

In all Member States, the use of Voluntary Return assistance is increasing (Section 5), although in most Member States there is no official guide or general policy on the provision of such services. There is, however, a general desire to widen this activity and to begin to offer returnees both financial and other incentives in order to encourage return. Voluntary Return assistance can include financial support, free advice and information, or standardised (legal) counselling and assistance procedures, primarily related to IOM return programmes.

Information on existing bi- and multi-lateral agreements (Section 6 and Table 2) among Member States with third countries, covers a broad range both geographically and in the type of agreement. Although EU re-admission agreements (Section 1), once concluded and ratified, will supersede those of most Member States, currently these are not as numerous. The clear advantage of having any type of agreement with a third country is the ability to develop a co-operative partnership with the relevant authorities, thereby facilitating the return process. Likewise, the experiences a Member State(s) has had in their bi-lateral agreement with a third country, could assist other Member States (and thus the EU as a whole) in the successful implementation of an EU re-admission agreement with the same third country. In some cases, however, it is considered that an EU re-admission agreement is not as favourable as the bi-lateral agreement it supersedes, owing to the scope of the latter being more extensive.

The Concluding Remarks (Section 7) highlight the main findings from this study in the context of indicating where further consideration by policy- and decision-makers might be placed. There is general agreement that (Assisted) Voluntary Return is by far the preferred option, both for the Member State and for the returnee, particularly if it includes re-integration support in the country of return. However, given the wide variation in the use of terms and their understanding, and the difficulties in obtaining data, there may be scope (and added value) in developing a more consistent, comparative approach to collecting data at Member State level. There is also a need for more information on the sustainability of the voluntary return programmes in particular. Such knowledge would be needed if it was considered appropriate to develop further voluntary return actions, either at Member State and/or EU-level.

1. Introduction

This Synthesis Report aims to summarise and compare, within a European perspective, the findings from eleven National Contact Points (**Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and the **United Kingdom**) of the European Migration Network (EMN), on the policy and practice of return migration. This Synthesis Report, and the Country Study reports upon which it is based, are primarily intended for policy-makers, particularly at national and European levels, as well as relevant administrative bodies in the area of return. Given the nature of a Synthesis Report, more detailed information can be found in each Country Study, and it is strongly recommended to consult these also in order to have a comprehensive overview of the situation in a particular Member State.

Broadly speaking, return is considered to be any action that facilitates the passage of a non-EU/EEA (i.e. third country) national migrant to their country of origin or another country outside the EU. Return migrants are a heterogeneous group that includes *inter alia* failed asylum seekers, migrants protected under temporary schemes, refugees after the termination of their asylum status, illegal immigrants, migrants with an expired temporary work permit, and legal migrants who wish to return to their country of origin. National authorities issue Forced Return decisions and implement the necessary actions in accordance with established procedures, while Voluntary Return procedures are mainly assisted by organisations like the International Organisation of Migration (IOM) with/or by NGOs (and primarily funded by national authorities and/or the Community's European Refugee or Return Funds). It is important to note, however, that there is no clear boundary between Voluntary and Forced Return, since there are different understandings of these terms by the Member States and it sometimes depends on the legal status of a returnee (legal or illegal resident). Whether return can truly be considered as voluntary, if the consequence of not returning this way is for the returnee to then be subjected to Forced Return procedures, is another consideration.

Previous quantitative and qualitative studies dealing with this issue have been produced by the IOM

(2004)([1]) and by Hailbronner and Gehrke (2005)([2]), providing a wide-ranging overview on the issue of return. The main objectives of this EMN study, in the context of its objective to support policy- and decision-making, are to reach a better informed understanding of the different state approaches towards dealing with return in the Member States and in the European Union at large; to provide policy- and decision- makers with more detailed and up-to-date knowledge about return policies; and to develop, to the extent possible, comparable and reliable data on return measures and programmes.

Regarding the development of EU return policy, the most relevant (after entry into force of the Amsterdam Treaty) are two Council Directives, as well as two Council Decisions, namely:

- Council Directive 2001/40/EC([3]) on the mutual recognition of decisions on the expulsion of third country nationals, which, as of December 2006, had been transposed in **Austria, Belgium,** Finland, France, **Germany, Greece, Italy,** Portugal, **The Netherlands,** Spain, **Sweden**, and the **United Kingdom**. **Ireland** and Luxembourg have not yet transposed this directive, whilst Denmark has opted out. The EU-10 (and more recently EU-2) Member States are not required to transpose this directive before the date at which the Schengen Acquis will be fully applicable to them.

- Council Directive 2003/110/EC([4]) on assistance in cases of transit for the purposes of removal by air which, as of December 2006, had been transposed in **Austria**, Czech Republic, Finland, Hungary, **Latvia**, Lithuania, Poland, **The Netherlands** and **Sweden. Belgium** and **Estonia** have partially transposed this directive, whilst Bulgaria, Cyprus, France, **Germany, Greece, Italy**, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia and Spain have not yet done so. Denmark, **Ireland** and the **United Kingdom** have opted out of this directive.

- Council Decision 2004/191/EC([5]) on the setting out of criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals.

- Council Decision 2004/573/EC([6]) on the organisation of joint flights for removals from the territory of two or more Member States of third country nationals who are subjects of individual removal orders.

Currently, the European Council and the European Parliament are discussing a proposal for a directive on common procedures for returning illegally resident third country nationals([7]) which aims to provide common standards and procedures to be applied in Member States for returning illegally staying third country nationals, in accordance with fundamental rights as general principles of Community law, as well as international law, including refugee protection and human rights obligations. This directive proposes favouring Voluntary Return as the first step in any return process and if this then fails, by Forced Return. Other recent policy initiatives in the context of Migration and Development([8]) have also been launched, where return, also in the context of circular migration, is seen as an important component in the development of a comprehensive, global approach to migration management.

Re-admission Agreements are also of relevance in this context. The Treaty of Amsterdam, which entered

([1]) International Organization for Migration (IOM)(2004): Return Migration. Policies and Practices in Europe, Geneva, available from www.ch.iom.int/fileadmin/media/pdf/publikationen/return_migration.pdf.
([2]) "Refugee Status in EU Member States and Return policies" – Hailbronner and Gehrke (European Parliament, 2005)
([3]) Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:149:0034:0036:EN:PDF.
([4]) Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:321:0026:0031:EN:PDF.
([5]) Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004D0191:EN:NOT.
([6]) Available from http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_261/l_26120040806en00280035.pdf.
([7]) COM(2005)391final, available from http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0391en01.pdf.
([8]) COM(2005)390final(availablefromhttp://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0390en01.pdf) and COM(2006)735final (available from http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0735en01.pdf)

into force on 1st May 1999, conferred explicit powers for the negotiation of such agreements with third countries to the European Community. Previously it was a competence of each Member State. As of May 2007, the European Union has signed re-admission agreements (which are now in force) with the following countries: Albania (since 1st May 2006), Hong Kong (since 1st March 2004), Macao (since 1st June 2004) and Sri Lanka (since 1st May 2005). A re-admission agreement with Russia will enter into force on 1st June 2007. Negotiations have also been completed with Ukraine (awaits Council Decision for finalisation); are ongoing with Morocco, Pakistan, and Turkey and are yet to commence with Algeria and China. Mandates from the European Council were agreed for the Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Bosnia and Herzegovina (in November 2006) and Moldova (in December 2006). Agreements with these countries are now agreed in principle and await a Council decision for their conclusion.

Such re-admission agreements cover the reciprocal obligations on the Community and the third country, giving the detailed administrative and operational procedures in order to facilitate the return and transit of illegally residing persons. According to EU law, the regulations contained in these treaties take precedence over any bi-lateral treaties that an individual Member State (except for Denmark which has exercised its right to opt-out) has entered into. The **United Kingdom** can also exercise its right to opt-out, but to date has declared its intention to be a signatory to these agreements. **Ireland** too has the possibility to opt-out and indeed has done so for the adoption of Council decisions regarding the conclusion of re-admission agreements with Albania, Macao and Sri Lanka. This means that **Ireland** is not bound by these agreements, but nevertheless it is not excluded from their scope of application. This has resulted in a legalistic contradiction which has still to be resolved.

Also of relevance is that all Member States are signatories to the European Convention on Human Rights([9]) though not necessarily having adopted all protocols. Additionally, the Committee of Ministers of the Council of Europe adopted twenty basic principles of Forced Return([10]) to ensure that such procedures are consistent with international human rights. This is the first text at a European level in which all stages of the Forced Return process are dealt with, although this does not mean that it has been adopted by EU Member States. Return is also a component within the EU's European Neighbourhood Policy([11]); in the Inter-Governmental Consultations (IGC) on Asylum, Migration and Refugee Policies([12]); and the Migration, Asylum, Refugees Regional Initiative (MARRI)([13]) which is part of the Stability Pact and aims to enhance state and human security, and initiate, facilitate and coordinate developments in the fields of asylum, migration, visa, border management and sustainability of return, meeting international and European standards in South-Eastern Europe.

In terms of funding initiatives, the European Return Fund for the years 2008 to 2013([14]), which builds on the successful preparatory RETURN([15]) action, will have a total budget of €676M. The general objective of the Fund is to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, taking account of Community legislation in the field of migration and asylum.

Overall, each Country Study shows that return is becoming an increasingly important component of a comprehensive migration policy, but that knowledge of the different actions which exist in the different Member States is still somewhat limited. Given that some Member States (e.g. **Greece, Ireland, Italy**) have only recently, in the past decade or so, become countries of net immigration, the need for effective return actions is becoming increasingly important.

The Methodology, including definitions used and general characteristics of returnees, follows. An overview of the political and legal framework in

([9]) Available from http://conventions.coe.int/treaty/en/Treaties/Html/005.htm.
([10]) See http://www.coe.int/t/e/legal_affairs/legal_co-operation/foreigners_and_citizens/asylum,_refugees_and_stateless_persons/texts_and_documents/2005/Twenty%20Guidelines%20on%20forced%20return%202005.pdf.
([11]) See http://ec.europa.eu/world/enp/index_en.htm.
([12]) See http://www.igc.ch
([13]) See http://www.stabilitypact.org/marri/default.asp
([14]) COM(2005)123final, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005PC0123(04):EN:HTML.
([15]) See http://ec.europa.eu/justice_home/funding/return/funding_return_en.htm, also for details of funded projects.

the Member States is then given, after which both Voluntary and Forced Return actions are described. Any existing bi- and multi-lateral agreements are also outlined, followed by Concluding Remarks. Note that in this Synthesis Report, reference to "Member States" is specifically only for those contributing to this study and, as mentioned previously, more detailed information on any contributing Member State may be obtained directly from the respective Country Study.

2. Methodology, Definitions and Characteristics of Returnees

2.1. Methodology

The EMN does not engage in primary research *per se*, but instead draws together, evaluates and makes previously collected data and information accessible. Research sources include national and European legislation, parliamentary debates, public information (newspapers, internet), academic publications and other reports, governmental statistics, and information from NGOs and other organisations (e.g. IOM, Eurostat). Interviews were conducted with and/or questionnaires sent to relevant authorities (e.g. Ministry Departments, Border Guards, National Statistical Offices), other relevant institutions (IOM, NGOs), as well as legal and research experts. **Italy** involved an ad hoc Scientific Committee, drawn from various relevant interested parties to advise on the content of their study. **Austria, Germany, Latvia, The Netherlands** and the **United Kingdom** arranged expert meetings with relevant institutions working in the field of return.

Some Member States (e.g. **Austria, Greece, Estonia, Latvia**) mentioned that many aspects of return are not adequately documented and, therefore, that data collection was rather difficult. With regard to Voluntary Return, **Austria, Belgium, Ireland, Italy** and the **United Kingdom**, for example, have demographic information on returnees, but only for those who used the IOM's Assisted Voluntary Return Programmes, sometimes because this is the only agency which administers this type of return (**United Kingdom**). Some NGOs active in the field of return counselling, such as *Caritas* and *Verein Menschenrechte* (Association for Human Rights) (**Austria**) and the Estonian Migration Foundation (**Estonia**), also collect their own data. For Forced Return, demographic data are collected and made available upon request in **The Netherlands** and **United Kingdom**, but are not published in **Austria**. Consequently, evaluation of national return actions is currently somewhat limited, which highlights the need to collect relevant data in a more consistent and centralised manner, as well as to have EU comparative data on returns.

2.2. Clarification of Concepts and Definitions

Both the European Community and the IOM

(**Austria, Belgium, Italy, Sweden**) have specifically addressed the need for common definitions in the field of migration([16]). However, many Member States still use unique or variant definitions. For example, in **Estonia**, the term "precept to leave" (meaning that an order to leave voluntarily is given, which, if it is not acted upon, results in forced return measures being undertaken) exists in its national legislation but does not easily lend itself to be directly comparable with any existing legislation in other Member States. In the statistics, **Ireland** defines removal as a specific type of Forced Return, distinct from deportation, for people refused permission to enter the territory, which in the **United Kingdom**, is referred to as "refused entry at port and subsequently removed", and in **Belgium,** for example, it is called non-entry or refoulement. For **The Netherlands** Country Study, return is regarded as a collective name for the terms departure and remigration([17]).

Explicit difficulties concerning the term "Voluntary Return" are mentioned for **Greece** and **Estonia**, where such terms have been implemented in practice, but are not yet defined in legislation. Also, in **Germany** and **The Netherlands**, "voluntary return" is not defined in national legislation. In addition for **The Netherlands**, because of the question of whether it can actually be considered as voluntary return if a returnee does not possess and/or cannot obtain the right of lawful residence, its Country Study does not use the term "voluntary return". Instead, the term "independent departure" is used, following the Aliens Act implementation guidelines.

In order to strive towards some degree of comparability, and for the purpose of this Synthesis Report, the definitions given below are used. Note, for the reasons outlined above, that these definitions might not be directly applicable in all Member States, and it is recommended to clarify the definitions used in the relevant Country Study report when studying the situation in a specific Member State.

- Country of Return refers to a third country (country of origin, transit or other). In most cases, it is the country of origin to which a return is made, but this definition is used here in order to indicate other (possible) destinations([18]).
- Returnee refers to a non-EU/EEA (i.e. third country) national migrant who moves to a Country of Return, whether voluntarily or forced.
- Forced Return is defined as per the IOM's 2004 Glossary of Migration, i.e. "the compulsory return of an individual to the country of origin, transit or third country [country of return], on the basis of an administrative or juridical act"([19]).
- Removal is defined as the enforcement of a Forced Return decision.
- Return Decision means an administrative or judicial decision or act, stating or declaring the stay of a third country national to be illegal and imposing an obligation to return.
- Removal order means an administrative or judicial decision or act ordering the removal.
- Re-entry ban means an administrative or judicial decision or act preventing re-entry into the territory of the Member States.
- Voluntary Return is defined as per the IOM's 2004 Glossary of Migration, i.e. "the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee".
- Assisted Voluntary Return refers specifically to the provision of (logistical, financial and/or other material) assistance to a returnee for the return, of their own free will, to their country of origin, transit or other third country.

([16]) e.g. Article 3, Chapter 1 of the Directive on common standards and procedures in Member States for returning illegally residing third country nationals (COM(2005)391)

([17]) Departure is "when a foreign national departs, whether absconding or not, from **The Netherlands** either at his own volition or under compulsion" (Aliens Act implementation guidelines). This largely concerns foreign nationals who do not or no longer have lawful residence in The Netherlands, and are therefore legally required to leave. Remigration is "to establish one's home outside the Kingdom of the Netherlands, in the country of origin" (Remigration Act), and is used in respect of Dutch nationals or foreign nationals residing lawfully in The Netherlands.

([18]) **Sweden** lists a number of examples in this respect. For example, it was found that in 2004, some 250 of 520 individuals born in Iraq indicated Iraq as their country of destination upon leaving Sweden.

([19]) Migrants subject to Forced Return include asylum applicants whose application has been rejected or whose status has been withdrawn; illegal immigrants who have entered a Member State without permission or who have overstayed the term of their residence and/or work permit, including victims of trafficking and smuggling; and migrants whose behaviour is regarded as a threat to public or national security.

It is clear, however, that no universal definition exists in order to include the full range of various forms of return which may be considered voluntary, with instead categories such as, for example, "Independent Return" and "Accompanied Voluntary Return".

More Member State specific terms for return and repatriation are given in the respective Country Study, such as deportation, detention, escort, expulsion, removal, remigration, re-entry ban. In **Belgium**, besides special abbreviations([20]) used in the administration procedures, the term "deportation" is generally not used, also by **The Netherlands**, because there are too many (negative) connotations linked to this term.

2.3 General Characteristics of Returnees

Where data on age (**Estonia, Germany, Ireland, The Netherlands, United Kingdom**) and gender (**Austria, Estonia, Germany, Greece, Ireland, Latvia, The Netherlands, United Kingdom**) are available, the majority of returnees are aged 25 to 40 years and are predominantly male([21]). For example, 84% of returnees under the IOM VARP in **Ireland** were adults aged 18 years or more and 73% were male, while in **Germany** almost 80% of all removed persons were male. To some extent, this reflects the composition of migrants entering the Member States. The **United Kingdom** has suggested, although research is limited, that the reasons for the lower proportion of women among returnees might be safety concerns, lack of experience in the labour market, or that they arrive and leave primarily as part of a family, and their family may have closer ties to the receiving Member State as a result of, for example, their children attending school.

Despite the caveats to the data, and whilst it is not the purpose of this Synthesis Report to present again the available data, the following Table 1 aims to provide at least an indication of the scale of both Voluntary and Forced Return actions, as well as the origin, nationality and destination of returnees. One should focus on the relative magnitudes as an indication or illustration of the situation in a particular Member State and how it compares to others.

For **Estonia, Latvia, Italy** and **Greece**, migrants come primarily from neighbouring countries, either Russia or the Balkan region. Overall, the main countries of origin were from the former Yugoslavia plus Eastern and South-Eastern European countries (Turkey, Romania, Bulgaria, Moldova), as well as Iraq, Iran, Afghanistan, Pakistan, China, Myanmar (Burma), Bangladesh, Somalia, Nigeria and Sudan. Latin America is not often cited, although there are a number of Brazilians removed from **Ireland** and **Belgium**, and Chileans from **Sweden**. For **The Netherlands**, in 2005, most returnees subjected to Forced Return belonging to the category removals were Turkish nationals, whilst for Voluntary Return, except for the supervised departure of the self-reporter category, most were Angolan nationals. For **Germany**, in both cases Serbia-Montenegro and Turkey were the most important country of returnees, and for the **United Kingdom**([22]) nationals of countries in the Americas, Asia and Africa made up 75% of the total forced returnees, whilst for Assisted Voluntary Return, the largest proportion (29%) were nationals of Middle Eastern countries. In fact, for the **United Kingdom**, there is a distinction in that the top countries for Forced Return are mainly its Commonwealth countries, whilst for Voluntary Return it is more linked to countries with recent conflict.

Information on the spatial or regional concentration of where returnees resided in a Member State is also available, which tends to mirror that of migrant communities. For example, in **Estonia**, the majority of assisted voluntary returnees resided in the capital Tallinn (ca. 30%) and its surrounding area (ca. 10%), or in the North-East of the country, where there is the biggest concentration of foreign population (ca. 25%). For **Belgium** and the **United Kingdom**,

([20]) e.g. "**Depos**" (deported persons), "**Depus**" (deported person unaccompanied) and "**Depas**" (deported person accompanied), **INAD** (people who may not enter the territory and do not seek asylum, **ANAD** (person who is escorted, either by airline or the federal police).

([21]) An exception exists in **The Netherlands** for (Dutch) remigrants who are almost all aged 50 years or more, and **Estonia**, where nearly half of the assisted voluntary returnees are of retirement age.

([22]) The figures presented form part of the National Statistics. In line with National Statistics guidelines, the figures are all provisional for 12 months and are rounded to the nearest five. Data includes persons refused entry at port and subsequently removed, those removed as a result of enforcement action, and those departing 'voluntarily' after enforcement action had been initiated against them.

Table 1: Indicative overview of Voluntary and Forced Return Actions (not including Dublin II transfers[a] and for the Year 2005, unless indicated otherwise)

Member State	Number of Voluntary returns	Top five countries (or nationality[b]) of Voluntary Return(ees) (highest proportion of returnees first)	Number of Forced Returns	Top five countries (or nationality[b]) of Forced Return(ees) (highest proportion of returnees first)
Austria	1.406[c]	Serbia & Montenegro (306), Georgia (131), Turkey (99), Belarus (92), Moldova (92)	6.172[d]	In 2001: Romania (3.794), Poland (1.223), Serbia & Montenegro (914), Moldova (780), Bulgaria (525)
Belgium	3.741	Brazil (714), Slovakia (679), Ukraine (346), Russia (210), Armenia (193)	6.565[e]	Romania (1.364), Bulgaria (1.180), Poland (872), Brazil (482), Morocco (275)
Estonia	219[f]	Russia, Belarusian, Ukraine	75[g]	Russia, Georgia, Azerbaijan, Finland, Ukraine
Germany	7.465	Serbia & Montenegro (1.970), Turkey (743), Iraq (688), Iran (410), Russia (399)	23.697[h]	Serbia & Montenegro (3.493), Turkey (3.302), Ukraine (1.613), Russian Federation (1.199), Romania (1.070)
Greece	Not Available	Not Available	21.238[i]	Albania (13.945), Bulgaria (1.889), Egypt (797), Georgia (461), Romania (1.603)[j]
Ireland	335	Croatian (79), Romanian (45), Nigerian (40), Chinese (24), Moldovan (23)	396[k]	Nigerian (135), Romanian (122), Chinese (18), Croatian (17), South African (17)
Italy	7.223 (1991-2006)	Albania (2.995), Kosovo (1.105), Romania (561), Serbia-Montenegro (481), Bosnia Herzegovina (395)	26.985	Romania (9.477), Albania (2.584), Morocco (2.198), Iraq (1.418), Tunisia (855)
Latvia	192 (1998-2002)	1998-2002: Russia (47), Armenia (37), Azerbaijan (23), Georgia (16), Ukraine (14)	190	2000-2005: Russia (476), Lithuania (346), Ukraine (206), Belarus (128), Estonia (68)
Sweden	6.900[l]	Serbia and Montenegro, Bulgaria, Russia, Iraq, Azerbaijan	2.200[l]	Serbia and Montenegro, Azerbaijan, Bosnia, Russia, Bolivia
The Netherlands[m]	5.966	Angolan (12%), Afghan (8%), Serbian & Montenegrin (8%), Ukrainian (8%), Iranian (5%)	20.274	Asylum: Turkish (10%), Iraqi (6%), Serbian & Montenegrin (6%), Nigerian (5%), Chinese (5%) Non-asylum: Turkish (15%), Bulgarian (12%), Moroccan (7%), Romanian (5%), Nigerian (5%)
United Kingdom	3.655	Iraqi (760), Serbian & Montenegrin (585), Afghan (430), Sri Lankan (275), Iranian (240)	54.560[n]	Nigerian (3.880), Romanian (2.315), Pakistani (2.205), Indian (2.055), Jamaican (1.975)

Notes:

a Unless mentioned below, these data exclude Dublin II transfers to another Member State, i.e. nominally they refer only to returns to a third country.

b For **Ireland, The Netherlands, United Kingdom**, data is only available on the nationality of returnees.

c **Austria**: This comprises the number of persons who returned voluntarily with the assistance of the IOM. In general, the IOM assists most of the voluntary returnees in Austria. However, in a small number of cases, voluntary return is also organised by NGOs without IOM support. These cases are not included in the number presented here. More detailed data on this issue is given in the Country Study, including also Assisted Voluntary Return data of the NGOs Caritas and Verein Menschenrechte Österreich.

d **Austria**: This is the total of Removal (deportation) plus Forcible Return only.

e **Belgium**: Excludes also refoulements (forced removal of non-entrants).

f **Estonia**: This refers to the number of Assisted Voluntary Return cases only.

g **Estonia**: This figure represents the number of persons who have stayed in an expulsion centre in the period 2003-2006.

h **Germany**: This is the total of Forcible Return ("Zurückschiebung") and Removal ("Abschiebung").

i **Greece**: This figure represents the number of expulsions decisions executed. In 2005, 19.411 expulsion decisions were not executed for various reasons.

j **Greece**: For all the countries listed here, these data represent the number actually returned.

k **Ireland**: In 2005, some 1.899 deportation orders were signed, thus 21% were actually effected.

l **Sweden**: Figures given include Dublin II transfers to other Member States.

m **The Netherlands**: As explained previously, "independent departure" is used rather than Voluntary Return. Numbers provided include both asylum and non-asylum. The number provided under Voluntary Return (5.966) includes both departure through IOM (3.210 of which 1.741 were asylum and 1.469 non-asylum) and supervised departure of the self-reporter (2.756 of which 216 were asylum and 2.540 non-asylum). The top five countries of voluntary return refer only to *departure through IOM* (and not to *supervised departure of the self-reporter*). Forced Departure (20.274) includes 4 categories: removal (8.912), handover after MTV (Mobile Supervision of Foreigners) check at national borders (1.084), removal of foreign national following refused residence (4.284) and departure under supervision of MTV (5.994). The top five countries of forced return refer only to the category *removal (and not to the other 3 categories)*.

n **United Kingdom**: This figure includes persons refused entry at port and subsequently removed, those removed as a result of enforcement action, and those departing 'voluntarily' after enforcement action had been initiated against them.

there tends to be a concentration of returnees in large cities, which may, to a certain extent, be due to easy access to jobs in the irregular economy (or black market) and existing diasporas connections in these areas and, for the **United Kingdom**, particularly in London and the South-East, which are likely to be areas of arrival for new migrants travelling through mainland Europe. **The Netherlands** finds a concentration of illegal immigrants in the four major cities and close to internal and external (seaports and airports) border locations, where illegal immigrants are being held for forced departure.

3. The Political and Legal Framework

With EU-15 Member States, in particular, experiencing increased migration flows, and as part of the development of a comprehensive migration policy (including border integrity and asylum processes), an effective return policy is considered an important aim. This often starts with Voluntary Return programmes, because they are considered more cost-effective and more politically acceptable. In **The Netherlands**, the increasing priority placed by the government on return led to the setting up of an organisation separate from the Immigration and Naturalisation Service, namely the Repatriation and Departure Service (R&DS), which became operational in 2007. This organisation will deal only with the return of migrants to better ensure the effective implementation of Dutch return policy.

Although some NGOs contest the very concept of (assisted) Voluntary Return (in **Germany** and in the case of **The Netherlands** because of the aspect previously mentioned in Section 2.2 of whether it can actually be considered as voluntarily return), public debates surrounding this issue are generally very limited. Criticism is more widespread on Forced Return, referring mostly to new or future legislation reforms. There exists in most Member States (**Austria, Belgium, Germany, Greece, Ireland, Italy, Sweden, The Netherlands, United Kingdom**) protest and solidarity movements for specific campaigns and demonstrations initiated both by NGOs and by concerned migrants. These protests and demonstrations occur for a variety of reasons: closed centres (**Belgium, Germany, Italy**); detention and removal procedures relating to individual cases (**Austria, Germany, Ireland, The Netherlands**); or to a specific group of asylum seekers who have exhausted all legal remedies (**The Netherlands**([23])); or for return to specific countries (**United Kingdom**). In **The Netherlands**, there was much discussion in both the media and the House of Representatives following problems in implementing the return policy. This did not lead to the return policy itself being reviewed, but did lead to supplementary measures in the return process and to the setting up of a Return Supervisory Committee. The Vermeersch

([23]) This group is known as the 'Group of 26,000' and consists of asylum seekers who have exhausted all legal remedies and who submitted their initial application for asylum in The Netherlands prior to 1 April 2001, under the Old Aliens Act of 1994. This group is the target group of the so-called Return Project.

Commission([24]) in **Belgium** was set up to review national return policies following the death of a young Nigerian rejected asylum applicant during her forced return (Vermeersch I, 1998-1999) and the conviction of some police officers who were adjudged to be responsible for this (Vermeersch II, 2003-2004). In its final report, this Commission gave recommendations concerning the strengthening of legal protection, the prevention of the use of violence, the communication between relevant services, and better protection for concerned individuals.

For **Estonia** and **Latvia**, there are no known protests or solidarity movements, nor resistance among returnees, although the total number is generally significantly lower than for the EU-15 Member States. **Estonia** has, however, had two cases in which detainees have escaped from an expulsion centre.

With regards to the legal framework, national legislation generally regulates Forced Return in **Austria, Belgium, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and **United Kingdom**, specifying the responsibilities and proceedings on illegal immigration, border control measures, removal orders, detention, expulsion, custody by police and re-entry bans. Furthermore, each Member State has a number of readmission agreements and police co-operation with third countries, outlined in Section 6. With regards to Voluntary Return, for some Member States (**Germany, Greece, Ireland**) legislative provisions do not exist; for **Austria**, legislation foresees basic provisions with regard to Assisted Voluntary Return only; whilst for **Belgium, Estonia, The Netherlands,** and the **United Kingdom**, the proceedings are either sufficiently, or to some extent, regulated by legal acts. For example, the legal basis for Assisted Voluntary Return in the **United Kingdom** is sections 58 and 59 of the Nationality, Immigration and Asylum Act (2002).

([24]) The two Vermeersch Commissions had the task of evaluating the instructions concerning removals (the first Commission) and to adopt guidelines to ensure that the removals are being carried out in a more humane manner in the eyes of the removed persons, while ensuring, at the same time, the safety of the police officers and specifying their judicial situation (for the second Commission). In its final report, the second Commission formulates no less than 34 recommendations for the different actors in the removal procedure.

3.1. Influence of European Legislation

EU return policy has been outlined in the Introduction (Section 1). In this section, an overview of whether (and if so, how) policy decisions at EU level have had an impact at Member State level is given.

The transposition of the Council Directive regarding mutual recognition of decisions concerning the expulsion of third country nationals (2001/40/EC) has been completed for all Member States involved in this study, except for **Ireland**, which has not yet transposed this directive, and **Estonia** and **Latvia** which are not required to transpose this directive before the date at which the Schengen Acquis will be fully applicable to them. The Directive has been implemented in the Aliens' Police Act in **Austria**, with the reservation of primacy of national decisions, whilst in **Greece** it is considered to have influenced national return policy and practice. The transposition of this directive in the **United Kingdom** did not require any changes to domestic legislation, as the current primary and secondary legislation is sufficiently flexible to implement the provisions contained within the directive. In cases of a previously rejected asylum claim from another Member State, the **United Kingdom**, like for other signatory Member States, will seek to transfer the applicant under the terms of the Dublin II Regulation.

Despite widespread transposition, there has been little or no experience in its implementation. **Belgium** did not apply the directive either in 2005 or in 2006. The reasons given for this are firstly because it is not necessarily aware (or informed in a systematic way) of any expulsion decisions from other Member States (this is cited by **The Netherlands** also) and when it does know about such decisions, it is considered faster and less complicated to expel a returnee to another Member State than to a country of origin for which travel documents have to be secured. Secondly, it is reported to be quite a daunting task to obtain financial compensation for implementing any return, rather than sending them to another Member State. Another reason, given by **The Netherlands**, is that

the proposal for a directive on common procedures for returning illegally resident third country nationals (COM(2005)391), described previously in Section 1, includes revoking directive 2001/40/EC and partly replacing it by Article 16 of this proposed return directive. There is thus some reluctance to develop procedures for the implementation of 2001/40/EC whilst negotiations for the return directive (COM(2005)391) are ongoing.

Similarly, and perhaps related to the as yet limited extent of its transposition, Council Directive 2003/110/EC, on assistance in cases of transit for removal by air, and the related Council Decision 2004/573/EC, on the organisation of joint flights for removal of third country nationals who are subject to removal orders from the territory of two or more Member States, is yet to attain a significant level of effectiveness. In fact, few (**Austria, Ireland, Latvia, United Kingdom**) to no (**Estonia, Greece, Sweden**) operations have actually occurred. **Belgium, The Netherlands** and the **United Kingdom** mention slightly more activity in this respect, with **Belgium** involved in the organisation or involvement of a total of nine flights in recent years, including from before the Council decision. There is close co-operation between **Ireland** and the **United Kingdom** in using a charter flight to Albania every week. **Germany** and **The Netherlands** also organised joint flights on a bi- or tri-lateral basis before the decision, with the former increasing its involvement since with ten flights in 2005 alone. Furthermore, **Germany** and **The Netherlands**, amongst and in co-operation with some other Member States, are involved in joint flights with some co-financing under the Community's RETURN Preparatory Action.

With regards to Voluntary Return, currently there is no legally binding framework and no *acquis communautaire* at the European level. Therefore, Member States implement national programmes, albeit often co-financed by EU initiatives.

EU-wide re-admission agreements, plus the European Convention for the Protection of Human Rights and Fundamental Freedoms, have generally had positive effects at the national level. Only isolated cases have been mentioned for **Austria** and **Belgium** with regards to a breach of human rights. With regards to the EU enlargement in 2004, important effects are highlighted, namely the widened scope of Voluntary Return in **Greece** and the decreased numbers in the asylum caseload and of removals in **Ireland**, since the largest proportion were from the EU-10 Member States.

4. Return Actions

4.1. Overview

Each Member State undertakes both Forced and Voluntary Return activities to different degrees, and details of the procedures and the governmental and non-governmental institutions responsible for return may be found in each Country Study. A comparative overview, therefore, is given here.

There is a tendency towards increasing the number of returnees via Voluntary Return actions in the Member States, due mainly to the fact that such programmes have only recently been established. **Germany** is an exception to this trend: it has had voluntary return programmes since 1979, but numbers of voluntary returns have decreased in recent years. In **The Netherlands** in 2005, the number of registered Forced Returns was higher than the number of registered Voluntary Returns but, due to changes in definitions and registration, no comparison can be made with respect to previous years. With regards to Forced Return, some Member States explicitly mention a decrease (**Austria**([25])**, Germany, Greece, Italy**). In **Greece**, for example, this decrease in 2001-2002 was due to the implementation of a new Aliens Law that automatically extended all expired or expiring residence permits.

With regards to Forced Return, the procedure is generally the same in each Member State. The procedure is first implemented by the authorities concerned (e.g. Ministry of Public Order, Ministry of the Interior, Ministry of Foreign Affairs, local or specialised aliens authority) in co-operation with the Border Police and other police authorities or, in the case of the **United Kingdom**, by private contractors acting on behalf of the Secretary of State. Voluntary Return programmes are mainly implemented by the IOM working together with state authorities, such as the Ministry of Social Integration in **Belgium** or the Migration Board in **Sweden**, and sometimes NGOs. The use of such programmes which often, but not always, concentrate on particular countries of origin like Afghanistan, Iraq or Kosovo, are steadily increasing in all Member States, with the exception of **Germany**. For example, in **Austria**, a Memorandum

([25]) Comparing the trends of the period between January to May 2006 with the same period in 2005, the number of removals from Austria has not substantially increased.

of Understanding for the implementation of voluntary return was signed in 2000 by the IOM and the Ministry of the Interior, focusing on (rejected) asylum seekers and illegally resident migrants.

Systematic and comprehensive evaluations of national return actions within the Member States are, in some cases, still minor (**Ireland**) or entirely lacking (**Greece**). In **Austria**, however, the NGO *Verein Menschenrechte* undertakes monitoring activities related to their clients; **Belgium** has had its (previously described) Vermeersch Commission; in **Germany** there are at least evaluations of return programmes financed under the European Refugee Fund (ERF); and in the **United Kingdom**, an annual evaluation of its main Voluntary Assisted Return and Reintegration Programme (VARRP), which is also co-funded by the ERF, is undertaken. In **The Netherlands**, return policy has been evaluated as part of the evaluation of the Aliens Act of 2000 by the independent Aliens Act 2000 Evaluation Committee.

There is general agreement that Assisted Voluntary Return is by far the preferred option, both for the Member State and for the returnee. It is considered not only a more dignified way for the migrant to return, but also as much less expensive and expected to be more sustainable than Forced Return, as the following examples illustrate. According to the Association of National Municipalities (ANCI) in **Italy**, Forced Return costs are on average four times higher than for Assisted Voluntary Return. Provisional data for the **United Kingdom** indicates that in their financial year 2003/2004, Assisted Voluntary Returns were approximately 10-15% of the cost of Forced Return, with the cost of its VARRP in the financial year 2004/2005 being £8.768 million (approx. €13 million). Other positive aspects include the prevention of forced measures, controlled migration management and a comprehensive approach to return.

4.2 Voluntary Return

Voluntary Return actions exist in **Austria, Belgium, Estonia, Germany, Ireland, Italy, Sweden, The Netherlands** and the **United Kingdom**, whilst **Greece** and **Latvia** mention only limited experience. In **Belgium, Germany** and **The Netherlands**, the programme on Return and Emigration of Asylum Seekers (REAB, REAG and REAN, respectively) is of special importance. All programmes, implemented mainly by IOM in co-operation with state authorities and sometimes NGOs as well, have existed for more than ten years (indeed since 1979 in **Germany**), often involving the IOM offices in both the Member State and, to provide assistance in reintegration, in the country of return also. Generally, the target groups for Voluntary Return are both legally and illegally resident non-EU/EEA nationals, although in **Italy**, illegal migrants are currently excluded from this measure. In **Germany**([26]), these measures are mainly targeted at migrants with a legal obligation to leave, whilst in the **United Kingdom**, two specific programmes related to promoting Voluntary Return to Afghanistan([27]) exist, in addition to the generic voluntary return programme (VARRP), which is also open to Afghan nationals if they are asylum applicants and satisfy other eligibility criteria. In fact, despite these specific programmes, anecdotal evidence suggests that an increase in the VARRP reintegration assistance in 2006 resulted in the VARRP becoming more attractive to eligible Afghan nationals. An Assisted Voluntary Return programme, specifically aimed at illegal migrants (AVRIM), also exists in the **United Kingdom**.

With regards to the provision of (financial or reintegration) assistance for Voluntary Return, **Belgium** drafted a law in 2006 which gave asylum applicants access to new Voluntary Return programmes and to financial support. In **The Netherlands**, in addition to the usual Voluntary Return programmes (REAN), a reintegration contribution was introduced to a specific group of (former) asylum seekers who had submitted their asylum applications under the old Aliens Act (before 1 April 2001), resulting in a significant number opting for independent departure. Due to this success, it has been decided to make the reintegration contribution available to a bigger target

([26]) In **Germany** in 2005, almost 80% of these persons were rejected asylum applicants.

([27]) 'Return to Afghanistan Programme' provides travel assistance and resettlement cash grants, plus the "Explore and Prepare Programme (Afghanistan)", which allows an Afghan national with limited leave to remain (recognised refugee or those with temporary protection) and currently residing in the **United Kingdom**, to remain in Afghanistan for up to one year to assess the situation and explore the possibility to make a permanent return.

group([28]). In the **United Kingdom**, reintegration assistance of up to £2500 (approx. €3700), of which £1500 could be taken as either 'in-kind' assistance or phased cash payments, plus a £500 (approx. €700) cash grant on departure was available for those who applied for VARRP between 1st Jan 2006 and 31st Sept 2006 and returned before 31st Dec 2006. There was a substantial increase in numbers during this period, although it is not yet clear whether this increase was due to the increased amount of reintegration assistance (£1000 of 'in-kind' assistance was offered in 2005).

The sustainability of Voluntary Return programmes is the essential criteria of their success, and several factors in the country of return influence sustainability, namely socio-economic factors (such as employment and housing), as well as political and legal factors (such as access to justice). In **Sweden**, evaluations have recommended that, in the future, cultural factors are taken into account, such as how migrants have changed during their stay abroad, and their ability to adapt to new circumstances in their country of return. Although there are certainly different interpretations, the outcome as to the sustainability of Voluntary Return migration programmes is, on the whole, positive. Best practice examples, which are considered to contribute to sustainability, include a reintegration payment to all returnees on the Assisted Voluntary Return programme in **Ireland** in 2006; similarly in the **United Kingdom** with its 'in-kind' reintegration assistance providing help with setting up a business or education/apprenticeship; and some NGOs in **Germany** offer so-called environment programmes in the Balkans to ease reintegration. To enhance sustainability, importance is also attributed to the return counselling process and, in particular, if perspectives in the country of return and their realisation are discussed (e.g. Caritas **Austria**). Suggestions to improve sustainability include the strengthening of reintegration support, education and vocational training([29]) opportunities in both the Member States and country of return, as well as adequate local development aid. More research, however, is needed to understand the various factors identified as influencing sustainability more, including any possible (undesirable) relations between them.

4.2.1 Information Campaigns

Information Campaigns are an important aspect of Voluntary Return, and are generally uniform in their approach to different groups of returnees. There are a variety of ways of promoting Voluntary Return. The national IOM missions provide concrete information through informative meetings, newsletters, etc, and regularly visit other institutions. In addition, information is distributed through leaflets, booklets, posters and the internet, which is generally available in various languages and aimed at the relevant migrant groups, authorities and institutions, such as the local governments, municipalities, the police, initial reception centres, NGOs and migrants' communities and associations. Some public institutions and service providers also supply information themselves, for example, by including information on voluntary return in asylum refusal letters and establishing contact via the Gangmasters' Licensing Authority([30]) (**United Kingdom**), which is in regular contact with illegal migrants and hence likely to come across potential returnees. In **Austria**, return counselling organisations partially disseminate their own information material, which is available in several languages, to relevant offices and institutions. The NGO *Verein Menschenrechte* attributes special importance to native-speakers as counsellors, as information on successfully conducted return procedures would then be spread more easily in the respective communities. In a similar way, projects in **Sweden** aiming at facilitating return are often implemented by nationals coming from those countries on which the project(s) are focusing. In **The Netherlands**, the IOM also uses native-speakers as counsellors in the so-called Randstad Return Initiative Project.

In **Estonia** and **Latvia**, no information campaigns about Voluntary Return directed at potential returnees have occurred, although in the former, there have been

([28]) All foreign nationals who have submitted an initial application for an asylum residence permit prior to 15 June 2006 and whose departure period has not expired.

([29]) Some concerns have been expressed (e.g. in the **United Kingdom**) that vocational training may enhance the skills to work in the Member State, but might not necessarily be appropriate training for the country of return.

([30]) A Non Departmental Public Body (NDPB) established by the Gangmasters (Licensing) Authority Regulations 2005 to curb the exploitation of workers in the agriculture, horticulture, shellfish gathering and associated processing and packaging industries, see http://www.gla.gov.uk/.

information campaigns amongst organisations (e.g. Citizenship and Migration Board, local government, social rehabilitation institutions) working with migrants. Although there have been some organised events in **Estonia** on migration, integration and asylum, refugees and illegal migrants have rarely been the focus. The information on assistance for voluntary return is available on the webpage of the Estonian Migration Foundation([31]), as well as in information folders provided to organisations working with migrants. It is also possible to receive information via email and phone. Difficulties identified in **Belgium** and **Estonia** relate to the fact that many organisations and relevant professionals (e.g. police officers) are still unaware of the programmes. Some initiatives come from concerned migrant groups as well, for example in **Sweden**, where individual refugees originating from ten non-EU/EEA countries initiated contact with the Migration Board to ask for information and counselling on return migration. In **Italy**, these campaigns are designed only for specific return programmes and only last for the duration of that programme.

4.2.2 Incentives to Voluntary Return

Financial or other material support is most frequently provided to facilitate Voluntary Return, and generally includes travel costs and the payment of reintegration assistance grants or 'in-kind' reintegration assistance (**Belgium, Estonia**([32])**, Germany, Ireland, Italy, The Netherlands, United Kingdom**). In **Sweden**, this is only true for repatriation, with some financial aid also available for family members. Exceptionally, during a temporary law, there have been incentives in the case of Voluntary Return, when temporary residence permits have ceased. Immigrants receiving social support in the context of their asylum procedures in **Belgium** may keep drawing these benefits during the Voluntary Return process, with several changes to the regulations now restricting the right of illegally resident persons to receive any such social support. This principle must, however, be combined with the right to an effective remedy. Overall, Member States lack concrete information on the impact of such financial support, but generally it is not considered as the main motivator for return. Instead, it is considered to be a supportive supplement to the decision made because of other reasons. The size of the grant does not create the incentive to return, but it constitutes an important source of financial or other support for migrants who consider return as a possibility, but lack sufficient resources (**Germany, Sweden, Estonia**). Further incentives refer to the avoidance of a removal order, no endorsement on the passport, no re-entry ban, tailor-made returns, help to obtain travel documents, assistance with medical problems, vocational and educational training. In **The Netherlands** and the **United Kingdom**, some groups of vulnerable migrants (unaccompanied minors, victims of human trafficking and individuals with medical and/or psychological problems) are given extra assistance during travel and for their reintegration.

Among the most important motives identified for return were the current poor economic conditions of the returnee in their Member State of residence, an improved political situation in their country of return, personal or family reasons, no perspective on their current situation, insecurity in their status, as well as the length of asylum procedure causing too much stress. Obstacles to Voluntary Return include a lack of financial resources, detention, difficulties in obtaining national identification, lack of economic and/or political stability in the country of return, and the length of time living in the receiving Member State. One potential downside to reintegration assistance cited by the **United Kingdom** is that a reintegration grant could support a more sophisticated business than those already in existence in the country of return, which would then provide the returnee with an economic advantage, possibly causing other established business(es) in the same area to fail or, conversely, for the returnee's business to fail owing to reliance on the local community. Among the younger generation in **Sweden**, the interest in Voluntary Return is very low. In **Germany, Sweden** (for repatriation only) and **The Netherlands**, it is considered that return assistance programmes must start earlier before settlement leads to further integration. Many Member States wish to widen the field of Voluntary Return and offer the target group incentives other than money in order to encourage their return.

([31]) See http://www.migfond.ee/

([32]) Basic support, plus additional support for a minor, pensioner, for buying property, reimbursement of personal property transport costs.

4.3 Forced Return

The procedure for Forced Return in the Member States usually begins with a return decision (defined in Section 2.2), sometimes distinguishing between rejection and expulsion, as in **Sweden, Estonia** (which issues a "precept to leave") or **Italy**, or sometimes as part of a decision with multiple consequences in which a residence permit application is rejected, as in **The Netherlands**. The administrative removal process in the **United Kingdom** follows three distinct stages: Notice of intention to remove; Removal order; Removal directions.

In general, the resulting removal order contains certain obligatory information, such as a given time period to leave the Member State, and the consequences that will occur if the removal is not obeyed. Generally, the order must be provided in a language understood by the potential returnee. A removal order also results in the registration of the expelled migrant into the re-entry ban record at both national and European level([33]).

Measures are then taken to ensure the returnee's removal and the removal order is required to be executed within the shortest possible period. In cases where a migrant fails to leave the Member State within a given time period and has not made an appeal against the decision, some national authorities might detain the returnee pending removal, as explained in Section 4.3.3.

According to legislation in **Belgium, Estonia, Greece**, and **Latvia**, the possibility exists to withdraw an issued removal order or decision on the ground of humanitarian considerations or regarding the principle of non-refoulement. After suspending the execution of removal, a decision regarding a legalisation of residence can be issued. In **Germany,** after suspending the execution of removal, an exceptional leave to remain (*Duldung*) can be issued. If there are reasons to postpone the Forced Return, a statement will be placed in the returnee's passport, giving the duration of the postponement, with a validity of up to six months (**The Netherlands**).

The main problems with Forced Return are similar among Member States and include such problems as the unwillingness of returnees to co-operate by not stating their true identity, inadequate administrative capacity or lack of willingness of countries of return or residence in issuing travel documents necessary for the return, and the lack of re-admission agreements with the countries of return. Further problems include resistance on the part of the returnee, by means of a hunger strike, self-injury or through an act of violence. Owing to the geopolitical position of some Member States (**Greece, Italy, Latvia**), return migration is considered inefficient, as many returnees can easily re-enter the Member State illegally. For **Greece**, it is considered that there is inadequate infrastructure and experience to carry out Forced Return according to other Member States' standards.

Deterrence measures for failing to comply with a removal order range from preventive measures, such as limited supervision or detention, to penalty payments or to stop all government provisions. The main reasons for the lack of enforcement of removal orders are generally owing to the lack of travel documents, the state of health of a returnee (**Estonia**), or because migrants often go into hiding (**Germany, Ireland, The Netherlands**). It may also be on the basis of legislation, namely the principle of non-refoulement.

4.3.1 Identification

Within the processing of return activities, the identification of a potential returnee's nationality and country of origin is considered as one of the most challenging aspects in enforcement of immigration controls, and the main reason for the failure to execute a removal order. A detailed description of the particular investigations carried out by the national authorities is given by each Member State, and is considered to be both costly and time consuming. **Belgium** even created a new operational service (for illegal aliens convicted for common law offences) within the Immigration Service to work on this aspect. In **The Netherlands**, this aspect will, from 2007 onwards, be centralised by the Repatriation and Departure Service. Obtaining passports for 13 'problem states' in **Germany** is centralised by the

([33]) An exception exists in the **United Kingdom** where those subject to a Removal Order are free to re-apply for a visa at anytime, whilst those subject to a Deportation Order will have a re-entry ban.

Federal Police and the federal states have established clearing offices for questions relating to this problem. As mentioned previously, general problems refer to the unwillingness of the immigrants to co-operate with the authorities by not disclosing their true identity and nationality or by declaring a false nationality. Possible and actual agreements for European and/or international co-operation with respect to identification and controlling documentation, for example, through Interpol and foreign embassies, are mentioned by all Member States. The **United Kingdom** issues either an Emergency Travel Document; an "EU Letter"([34]), which serves as a quasi-travel document and guarantees that the returnee will be accepted back if the receiving government will not admit them; as well as Chicago Convention Documents([35]). There are cases of countries of return fully co-operating with the Member State authorities, responding willingly and promptly by issuing the required travel documents, or by accepting the relevant *laissez-passer*. **Belgium**, however, reports that authorities from some other countries of return show a lack of willingness to co-operate. Several non-EU countries also refuse to issue visas to returnees who do not provide a written statement of their willingness to return voluntarily to their countries of origin. As a consequence, further problems, such as detained migrants having to be released (as reported by, for example, **Belgium, Germany**) result. Migrants absconding to avoid enforcement of removal orders (reported by, for example, **Germany, Sweden, The Netherlands**) is another problem (without any direct relation to the refusal to issue visas).

Possibilities to search for information regarding the identification of the potential returnee includes the use of an interpreter and language analysis (although there are no specific language tests in **Belgium, Estonia** or **Ireland**), and the use of fingerprint databases at national (**Estonia, Germany, Sweden, The Netherlands, United Kingdom**) and at European level (i.e. Eurodac([36])). In **Belgium**, a legal basis is available for developing a database featuring biometric records, and the administration should be in a position in late 2007 or early 2008 to launch a biometrical database on illegal immigrants. If the returnee for whom a return decision has been made cannot receive a travel document, then, as mentioned above for the **United Kingdom,** an EU Letter is issued.

4.3.2 Procedures of Forced Return: ending of illegal stay and removal order

Standardised procedures provided by law are followed in all Member States. Most Member States first offer eligible returnees the possibility of Voluntary Return, which, if not agreed to after a period of time, then results in the returnee becoming subject to Forced Return procedures (**Belgium, Estonia, Germany, Ireland, Latvia, The Netherlands, United Kingdom**).

Once the removal decision is issued, the institutions responsible for its execution: for example, Immigration Service (**Belgium**); Citizenship and Migration Board (**Estonia**); Aliens Authority (**Germany**); Office of Citizenship and Migration Affairs (**Latvia**); Migration Board (**Sweden**); Repatriation and Departure Service (**The Netherlands**); as well as the Border Guard and the National Police([37]) (private contractors in the **United Kingdom**), take control. Other authorities involved include the First Instance Administrative Court in the case of appeal against the removal decision (**Greece**), or diplomatic and consular representations (**Latvia**) in the case of requesting travel documents or issuing re-entry bans. Certain NGOs in the Member States may also provide legal advice and exert political pressure in certain cases of removal of returnees belonging to particular vulnerable groups.

The period of validity of removal orders differs between the Member States. In **Estonia**, legislation requires that removal must be completed within

([34]) Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third country nationals (OJ C 274 of 19 September 1996), available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0919(06):EN:HTML.

([35]) Details available from http://www.icao.int/icaonet/dcs/7300.html

([36]) The Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention. It enables Member States to identify asylum seekers and persons who have crossed an external frontier of the Community in an irregular manner. By comparing fingerprints, Member States can determine whether an asylum seeker or a foreign national found illegally present within a Member State has previously claimed asylum in another Member State. See: http://europa.eu/scadplus/leg/en/lvb/l33081.htm.

([37]) For example, in **The Netherlands**, The Royal Netherlands Military Constabulary is responsible for the actual execution of the departure of a foreigner.

48 hours after the returnee is detained([38]). In **Italy**, the time period for rejection is two weeks. In **Sweden**, a migrant whose application for a residence permit is rejected (*rejection decision*) has two weeks to leave the country, whilst for expulsion, where the permit has subsequently been withdrawn, the time period for expulsion is about four weeks (*expulsion order*). In **Greece**, the removal order can last up to three months from the time of its issue. However, in **Austria**, in case of non-refoulement or other reasons for non-enforcement of removal orders([39]), removal can be postponed for a certain period of time, not exceeding a year (and this can be postponed as often as necessary). Removal orders in **Germany** are not limited to a specific time, whereas detention pending removal is possible for up to eighteen months. A removal order in **Ireland** remains valid until it is enforced. In **Belgium**, the period of detention starts from zero again if an alien has an opportunity to leave (on a flight, for example), but refuses to do so. The period of time before this refusal is then not counted, and thus the maximum period of time a returnee may be held in custody can become indefinitely extended. This policy is severely criticised by NGOs. However, this approach by the Ministry of the Interior was endorsed by the European Court of Human Rights in its judgement([40]) of June 2005. In **The Netherlands**, a separate removal order does not exist; there is only the decision with multiple consequences([41]).

According to the procedure, a returnee sometimes has the right to make a formal statement which can result in a deferred execution of the order. Important aspects in whether to defer a Forced Return can be either the consideration of the social ties the foreigner has (**Sweden**([42])); the consideration between the personal interests of the returnee and the public interests of the state (**Austria**); or the lodging and/or granting of provisional relief by a court, medical impediments or criminal offence proceedings([43]) (**The Netherlands**). Deferred execution is not an option for third country nationals who have committed a crime or who have been involved in activities that have threatened national security.

4.3.3 Detention

Although the measure of detention within the proceedings of Forced Return is not a common practice, it can occur under certain circumstances until the removal is carried out. Reasons for detention include *inter alia* illegal border-crossing or violating the immigration and residence procedures; the unknown identity of the migrant; the suspicion of posing a threat to national security or public order; ensuring that the return actually occurs; or, in the case of the **United Kingdom**, if the returnee is from a 'non-suspensive appeal'([44]) country and hence can be removed within two weeks. In **Ireland**, persons who receive a Dublin II Regulation Transfer Order to another Member State are generally detained pending removal, which is not the case in **Germany**. However, unsuccessful asylum applicants who receive a removal order are not generally detained in **Ireland**. The decision to place a person in detention is normally made by the relevant national authorities (**Belgium, United Kingdom**), law enforcement agencies (**Sweden, Estonia**), as well as by police authorities and Courts (e.g. **Austria, Ireland**). In **Germany**, the Aliens Authority applies for detention and the district court judge has to check the legitimacy of the application, but not the reasons for the expulsion or the need for the removal. It is an obligation

([38]) If it is not possible to complete removal within the 48 hours, the returnee shall, at the request of the governmental authority which applied for, or which is enforcing the removal order, and on the basis of a judgement of an administrative court judge, be placed in an expulsion centre until their removal, but for no longer than two months. If it is still impossible to enforce removal, an administrative court shall extend the term of detention in the expulsion centre by up to two months at a time until removal is undertaken. In practice some returnees have been waiting in the expulsion centre for months to be expelled. A few have stayed for several years.

([39]) Besides non-refoulement, a reason for non-enforcement of removal orders is the lack of travel documents due to undetermined identity.

([40]) Judgement 52467/99 of 2 June 2005 (Nancy Ntumba Kabongo versus Belgium).

([41]) Migrants whose lawful residence has ended must by law generally leave **The Netherlands** within a departure period of four weeks. The returnee will be expected to leave on their own accord during this period. The underlying principle of the return policy is the personal responsibility of the migrant residing illegally to leave, and if there is a failure to comply with this obligation, they may be removed. In the case of a migrant who has never had lawful residence and who has thus gained access illegally, no departure period applies. These migrants must leave immediately and they will not receive a decision with multiple consequences in this respect.

([42]) Although this was only valid within the temporary amendments to the Aliens Act, between 15 November 2005 and 31 March 2006. The new Aliens Act (from 1 April 2006) does not take into account such considerations.

([43]) A suspension will also be granted if an indication or otherwise reveals that a foreign authority is requesting the detection (and arrest for extradition) of a foreign national, or if the foreign national in question has been arrested as the suspect of a criminal offence, or against whom criminal proceedings have been instituted in relation to a criminal offence, or who has been sentenced to a non-suspended prison sentence, or on whom a custodial measure has been imposed (Dutch Alien Act implementation guidelines A4/6.2).

([44]) This is used in cases where an asylum applicant is a national of a country on the **United Kingdom**'s 'safe third country list'.

to inform the returnee about the reasons for the detention and to give them a possibility to note their objection against this decision. In **The Netherlands**, the Aliens Police or the Royal Netherlands Military Constabulary decide on the imposition of a custodial measure on behalf of the Minister for Immigration and Integration. The Immigration and Naturalisation Service will then notify the court of this decision by the 28th day after the announcement of a decision to impose a custodial measure, except when the potential returnee lodges an appeal.

The locations of detention are mainly the offices of the Border Police, national or local police authorities or detention centres, although other locations exist. In **Austria**, as a general rule, detention pending removal must be implemented in specially designated rooms of the Aliens Police authority. Exceptions occur if such rooms are not available or detention pending removal is imposed directly after penal detention, in which case detention can be implemented in penitentiaries. Detention pending removal can also be implemented after an observation phase in so-called 'open stations'([45]). In **The Netherlands,** aliens are placed in detention in removal centres or in detention boats and are no longer placed in normal penal institutions. In **Germany**, it varies between federal states as to whether returnees are put in removal centres or normal prisons. The number of detention centres in **Greece** is considered to be insufficient.

Aside from the basic requirements for the humane treatment of the detainees (e.g. medical care, communication with a solicitor), the detention conditions for women, families, children, minors, etc. are of special concern in all Member States. In the **United Kingdom**, for example, families and children are held separately from the main detention population, as are single women from men. However, there is widespread opposition in all Member States from church leaders, NGOs and children's charities to detaining families and children, as it is considered that they are unlikely to abscond and because they are detained under the same criteria as others([46]). In **Italy**, there is a wide political debate regarding the existence of detention centres, because of the costs and frequent complaints. Consequently, the Ministry of Interior established the so-called De Mistura Committee, composed of governmental and non-governmental representatives, which was given the task of investigating living conditions in detention centres. The De Mistura Committee's final report was issued in February 2007 and one of its conclusions was that: "One of the main innovations for reducing the recourse to detainment at Temporary Residence Centres is arranged and assisted return, the goal of which is the promotion of the re-entry of irregular foreign citizens into their countries in exchange for economic support to carry out a life project in the country of origin". The Committee also concluded that it is necessary to adopt measures that could significantly reduce the presence of irregular immigrants.

The duration of detention varies greatly between the Member States, but usually lasts from two weeks to several months. In **Latvia** and **Sweden**([47]), detention can last for up to two years and there is no maximum period of detention in the **United Kingdom**([48]). In **The Netherlands**, there is no statutory period for the duration of detention, but after six months of detention, court case law usually assumes that a returnee's interest in being released outweighs the interest of detaining them for the purpose of removal. In **Austria, Belgium, Estonia, Germany, Ireland, Sweden** and **The Netherlands**, regular revisions of the detention decision are made by court or other authorities, and no control measures are mentioned for **Greece**. Alternative or less coercive measures than detention are special surveillance measures, such as residing in a determined place of residence, regular reporting to local police stations, withdrawal, confiscation or endorsement of travel documents and identity documents, restrictive measures on the movement across the Member

([45]) This means that persons are no longer detained in prison cells, but in a separate part of the building where they can move around more freely.

([46]) In 2003, partly in response to these criticisms, the Minister for Her Majesty's Inspector of Prisons in the **United Kingdom** considered whether it was practical to impose a time limit for families in detention. However, this was deemed impractical by the Minister (Schuster & Bloch, 2005) and consequently these regulations are still in place. In practice, relatively few children are detained and the majority of these are detained for seven days or less. No children who left detention in 2005 were detained for longer than six months (Home Office, 2006).

([47]) For **Sweden**, detention is normally very short, with the average detention time in 2005 being ten days.

([48]) However, during 2005, just over half (14.000) of the persons who left detention were detained for seven days or less. Only 0.3% of adults (i.e. over 18 years old) were detained for one year or more.

State or penalty payments. Failure to comply with such obligations is generally an arrestable offence. However, for some Member States, such as **Greece**, these measures are not extensively used in practice and the standard detention procedure is followed, while for others, such as **Latvia**, there are no such alternative possibilities.

4.3.4 Transport and Removal Measures

The implementation of Forced Return takes different forms in the Member States. Transport may be by air, sea or land, depending on the destination, and returnees may be escorted or unaccompanied. Escorted transfer of forced returnees is mainly carried out by police authorities (Border Guard, national and local Police)([49]) and may involve some co-operation between Member States. Medical care is generally ensured and provided, especially if the returnee has known health problems. With regards to return by air – the most common mode of transport – boarding of the returnee(s) takes place before the other passengers arrive and the returnee's behaviour dictates the action taken by the Police/private contractors. In **Belgium**, police can encourage the returnee if they are hesitant about boarding the plane by giving a "slight push" or "briefly and gently tugging at the person's clothes". In **The Netherlands**, the Royal Netherlands Military Constabulary is permitted (by the Dutch Alien Act) to use certain coercive measures for returnees resisting removal. Strict conditions apply for the use of such measures.

Airlines are allowed to refuse escorts on board as a matter of principle. If the returnee offers so much resistance that it is impossible to use a regular flight for the removal, then they are expelled via a secured charter flight (**Austria, Belgium, Ireland, Italy, Germany, Sweden, The Netherlands**) or in co-operation with other Member States and with support from FRONTEX([50]). Charter flights offer the possibility to transport up to 40 returnees. There are, on the whole, good experiences in **Austria, Belgium, Estonia, Germany** and **Ireland** in the co-operation with national airlines in using scheduled flights, which is one of the cheapest and most common practices. Normally, no more than two or three returnees may be carried on the same (regularly scheduled national airline) flight.

Police Officers or, in the case of the **United Kingdom**, private contractor agents, responsible for Forced Return obtain regular training, such as general escort techniques, sessions on intercultural communication, first aid and conflict management (**Austria, Belgium, Estonia, Germany, Italy, The Netherlands, United Kingdom**). Sometimes training of the State Border Guard staff has taken place in other EU Member States (**Latvia**), particularly joint training organised by FRONTEX. Individual or collective resistance by returnees was found to be rare, although in the **United Kingdom**, about one-quarter of escorted returnees aim to disrupt removal. In such cases, reasonable force, which may include handcuffing, is sometimes used to secure compliance.

The methods of Forced Return are generally efficient in that, once begun, such operations are usually concluded. **Belgium** and **Germany**, however, have observed that a second or third attempt at removal is sometimes necessary. Forced return measures do not, however, guarantee the sustainability of return, as illegal re-entry is still a possibility.

4.3.5 Sustainability of Forced Return

The most effective and sustainable measure of Forced Return in most Member States is the re-entry ban, which can be either temporary or permanent. Returnees normally cannot return, but it may be possible under certain circumstances, if there are substantial humanitarian, public or private reasons, and if the returnee does not present a threat to national security. The temporary re-entry ban period differs among the Member States, but lasts in general for several years. In **Germany**, it is normally indefinite, although – like in **Estonia** and the **United Kingdom** – the returnee can apply in person in their country of return to have a re-entry ban lifted. In case of a returnee who has tried to re-enter after removal, the temporary re-entry ban period in **The Netherlands** can vary from two years, for the removal of a non-criminal migrant, to ten years, for a migrant who is a threat to national security. In

([49]) Or, as mentioned previously, by private contractors in the **United Kingdom**.

([50]) FRONTEX, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, was established by Council Regulation (EC) 2007/2004/ (26.10.2004, OJ L 349/25.11.2004), see http://www.frontex.europa.eu/.

the case of a migrant that is declared undesirable, the duration depends on an application for the lifting of the pronouncement of undesirability and the granting of this application. Those expelled with an administrative or judicial removal order in one of the Schengen States are recorded in the Schengen Information System and are not allowed to re-enter the Member State within the next five years (in **Italy**, ten years).

In some Member States, the re-entry ban can under no circumstances be prolonged (**Greece**), while in others, additional years of prohibition on re-entry can be added to the existing prohibition period, for example, if there is a case of illegal entry of the person to the Member State (**Estonia**). A shortening of the re-entry ban may be possible if the legal or actual circumstances have changed since the issue of the ban. In **Belgium**, the re-entry of nationals, who must apply for a visa following forced removal, is subject to repayment of previous removal costs.

Other forms of registration or recording of deported individuals, including detailed information and photographs, are or will soon be issued in **Austria, Belgium, Estonia**, and **Ireland** to increase the ability of border guards and other national authorities to enforce re-entry bans. **Latvia** and **Estonia** have a re-entry ban register. In general, a re-entry ban is considered efficient in the sense that those registered do not re-enter the Member State legally.

5. Return Assistance – Return Counselling

In all Member States, the use of Voluntary Return assistance is increasing, although in most Member States, there is no official guide or general policy on the provision of such services. There is, however, a general desire to widen this activity and to begin to offer returnees both financial and other incentives in order to encourage return. With regard to Forced Return, this is more limited. For example, in **Italy,** assistance and counselling is not provided to Forced Returnees. An exception exists in the **United Kingdom**, where asylum, community and immigration groups offer some country-specific help and assistance to those returnees who request it. These groups have the overall responsibility for return assistance and counselling in such cases.

Voluntary Return assistance can include financial support, 'in-kind' assistance, free advice and information, or standardised (legal) counselling and assistance procedures related to IOM return programmes. The IOM generally encourages all returnees to see a solicitor before making an application for Voluntary Return and to explore the reasons for considering return, although no advice is given on whether any person should return. In **Austria**, asylum seekers are offered return assistance and counselling in accordance with the Asylum Act of 2005 and the Basic Welfare Support Agreement. **Germany**'s Residence Act mentions the possibility of Voluntary Return counselling within departure centres.

For **Sweden**, although counselling takes place, it is an essential aim to create as favourable conditions as possible in the countries of return, in order to facilitate return and to co-operate with other authorities and organisations to improve the quality and efficiency of Voluntary Return Programmes. The government hesitated over giving direct financial assistance for return counselling. Instead, indirect support was provided through different projects, managed by NGOs with support also provided by the Migration Board, focusing on, for example, counselling and support, including preparations before returning, such as vocational training, and assistance upon arrival in the country of return.

Other relevant national governmental bodies offering support include FEDASIL in **Belgium**, the Central

Agency for the Reception of Asylum Seekers and the Netherlands Migration Institute (for remigration purposes) in **The Netherlands**, the Citizenship and Migration Board in **Estonia**, the Health Executive in **Ireland**, as well as several NGOs in **Austria**([51]), **Estonia**([52]), **Ireland**([53]), **The Netherlands**([54]) and the **United Kingdom**([55]). For some of these, there is sometimes co-operation with the National Border Guard and other police organisations.

In **Estonia**, assistance and counselling with voluntary return is mainly provided by the Estonian Migration Foundation (an NGO) although, prior to 2007, failed asylum seekers and refugees could not receive financial assistance. There have been a number of cases of voluntary return, but only in a few cases, in **Latvia** too, with the assistance of the IOM. In fact, owing to limited financial and human resources, the IOM's voluntary return activities in **Estonia** and **Latvia** had to be ceased. Organised programmes are rather scarce and not sufficiently developed in **Greece**, while there is a lack of any specific legislative framework. IOM Voluntary Return programmes do exist in **Greece**, and include pre-departure counselling services and information about reintegration possibilities. However, these services do not specifically address Albanian migrants who account for the overwhelming majority of migrants in Greece.

Return advice is provided as early as possible and includes, besides the travel arrangements, information on the situation in the country of return. An important part of return counselling is the potential prospects for the returnees in their countries of return. In **Sweden**, **Germany** and **The Netherlands**, Voluntary Return projects also target refugees, and others deemed in need of protection who hold residence permits but nevertheless wish to return to their countries of origin. **Germany**'s Federal Office for Migration and Refugees set up a centralised information centre, the Central Agency for the Promotion of Return and Placement Information (ZIRF), to promote voluntary return.

Reintegration assistance has only recently become available in some Member States, primarily in connection with the IOM. In **Ireland** and the **United Kingdom**, for example, reintegration assistance is provided to all eligible returnees who return on the IOM's general Assisted Voluntary Return programme; in **The Netherlands**, a reintegration contribution (*herintegratieregeling terugkeer - HRT*) is issued by the IOM to a specific group of future voluntary returnees([56]); and in **Austria**, IOM Vienna has started to implement a return and reintegration project for voluntary returnees to Moldova, related to development policy.

([51]) e.g. Caritas Österreich; Verein Menschenrechte Österreich; Volkshilfe Oberösterreich; and the private enterprise European Homecare

([52]) Estonian Migration Foundation (EMF)

([53]) Refugee Legal Service, the Migrant Rights Centre or the Immigrant Council of Ireland, Health Boards, Aids Alliance and Women's Aid

([54]) Bureau Maatwerk bij Terugkeer (Bureau for Tailor-made solutions when returning to the Country of Origin), Stichting Wereldwijd (World Wide Foundation), Stichting HIT (Foundation HIT).

([55]) IOM plus its five implementing partners (currently Refugee Action; North of England Refugee Service; YMCA Glasgow; Safe Haven Yorkshire; and Wolverhampton Asylum and Refugee Services). Other NGOs across the United Kingdom also assist in promoting Assisted Voluntary Return.

([56]) All foreign nationals who have submitted an initial application for an asylum residence permit prior to 15 June 2006 and whose departure period has not expired.

6. Bi-lateral and Multi-lateral Co-operation

The main area in which Member States co-operate with third countries regarding return migration is re-admission, and the Introduction (Section 1) has previously outlined the current status with regard to the negotiation of re-admission agreements at EU-level. Most Member States have a number of bi-lateral re-admission and other types of agreements, summarised in the following Table 2, both with geographically contiguous third countries, as well as with third countries from which there are many resident (legal and illegal) migrants (e.g. Nigerians in **Ireland** or Congolese in **Belgium**). In **The Netherlands**, bi-lateral treaties often have a re-admission clause linking development or trade to co-operation in the return of third country nationals.

Re-admission is particularly important in the case of **Greece** and **Italy**, owing to their geographical location. Many third country nationals use **Greece** as a transit country through which they travel in order to enter other Member States. **Greece** not only has police co-operation agreements, but also nationally legislated re-admission agreements with a number of other non-EU Eastern European countries. **Italy** is also increasingly becoming a country of destination and has signed twenty-seven re-admission agreements, primarily with neighbouring non-EU countries.

The clear advantage of having any type of agreement with a third country is the ability to develop a co-operative partnership with the relevant authorities, thereby facilitating the return process. Likewise, the experiences a Member State(s) has had in its bi-lateral agreement with a third country could assist other Member States (and thus the EU as a whole) in the successful implementation of an EU re-admission agreement with the same third country. In some cases, however, it is considered that an EU re-admission agreement is not as favourable as the bi-lateral agreement it supersedes, owing to the scope of the latter being more extensive.

Table 2: Type and status of Member States' bi-lateral agreements with third countries

Member State	Type of Agreement and Third Country* concerned
Austria	Re-admission Agreement: Serbia, Montenegro, Tunisia
	Negotiating: Azerbaijan, Belarus, Bosnia & Herzegovina, Macedonia (FYROM), Nigeria, Colombia, Iran, Lebanon, Georgia
Belgium	Memorandum of Understanding: DR Congo, Russia, China
	Negotiating: Nepal, Niger, Guinea, Iran, Togo, Afghanistan, India, Algeria, Vietnam
	Benelux Framework: Albania, Croatia, Macedonia (FYROM), Bosnia & Herzegovina
	Other Benelux Framework under negotiation: Armenia, Moldavia, Azerbaijan, Georgia, Nigeria, Mali, Philippines, Mongolia
Estonia	Re-admission Agreement: Croatia
Germany	Re-admission Agreement: Albania, Algeria, Armenia, Bosnia & Herzegovina, Hong Kong, Croatia, Morocco, Macedonia, Serbia & Montenegro, South Korea, Vietnam
	Negotiating: Azerbaijan, Georgia, Ghana, Lebanon, Syria
	Transit Agreements (Forced Return): Albania, Macedonia
	Transit Agreements (Voluntary Return): Albania, Macedonia
Greece	Police Co-operation: Albania, Armenia, China, Croatia, Egypt, Iran, Israel, FYROM, Russia, Tunisia, Turkey, Ukraine, U.S.A
Ireland	Re-admission Agreement: Nigeria (awaits ratification by Nigeria)
Italy	Re-admission Agreement: Albania, Croatia, Macedonia (FYROM), Sri Lanka, Tunisia
	To be ratified: Algeria, Bosnia & Herzegovina, Georgia, Morocco, Moldova, Nigeria, Pakistan, Serbia & Montenegro
	Negotiating: Philippines, Ukraine
Latvia	Re-admission Agreement: Armenia, Croatia, Ukraine
	Negotiating (with other Baltic States): Albania, Azerbaijan, Georgia, Canada, Kazakhstan, Moldova, Serbia & Montenegro
Sweden	Return-related treaties: Bosnia & Herzegovina, Croatia, Serbia & Montenegro
	Co-operation Protocol: Belarus, Moldova, Russia, Ukraine
	Informal Contacts (for identification/travel documents): Ghana, Mongolia
The Netherlands	Memorandum of Understanding: Afghanistan, Angola, Armenia, China, DR Congo, Dubai, Guinea, Kosovo (UNMIK), Morocco, Mongolia, Sri Lanka
	Benelux Framework: as **Belgium**, see above
United Kingdom	Informal Arrangements: Afghanistan, Albania, Algeria, China, India, Somaliland, Sri Lanka, Turkey, Vietnam
	Bi-lateral Re-admission Agreement: Albania, Algeria (not yet ratified), Serbia & Montenegro (negotiations concluded)
	Pilot Projects: Bangladesh (identity documents), DR Congo (fast-track scheme), Vietnam (voluntary return for UASCs)

* Note that agreements with other Member States, notably between EU-15 and EU-10+2, other EEA States (Iceland, Liechtenstein, Norway) and Switzerland also exist, but are not listed here. Details of these other agreements may be found in the respective Country Study reports.

7. Concluding Remarks

The main objective of this EMN study on return migration was to reach a better informed understanding of the different state approaches towards dealing with return in the Member States and in the European Union at large; to provide policy- and decision- makers with more detailed and up-to-date knowledge about return policies; and to develop, as far as possible, comparable and reliable data on return measures and programmes. This study is considered important also in the context of developing further a comprehensive migration strategy which includes return actions as well as development policy. Clearly, such considerations are being addressed at both EU- and Member State level, such as, for example, the recent Commission policy initiatives in the context of migration and development mentioned in the Introduction, and at Member State level linking Assisted Voluntary Return programmes with development policy.

There is general agreement that (Assisted) Voluntary Return is by far the preferred option, both for the Member State and for the returnee, particularly if it includes re-integration support in the country of return. It is considered not only a more dignified way for the migrant to return, but also much less expensive and expected to be more sustainable than Forced Return. The difficulties associated with Forced Return (unwillingness of the persons to co-operate by not stating their true identity, inadequate administrative capacity or lack of willingness of countries of return or residence in issuing travel documents necessary for the return, lack of re-admission agreements, ease with which a returnee can re-enter a Member State illegally, and higher cost), also lead to a preference for voluntary return.

Whilst this study has presented an overview of the existing experience and knowledge of return actions, this, in turn, has identified certain aspects of voluntary return in particular, as outlined in the following paragraphs, for which there would be a need for more research and evaluation. Such knowledge would be needed if it was considered appropriate to develop further voluntary return actions, either at Member State and/or EU-level.

One aspect, which arose from this study was the wide variation in the use of terms and their understanding,

particularly with regard to Voluntary Return. Whilst the definitions used in this Synthesis Report enabled, as far as possible, comparability between Member States, it is important to be aware of such variations. The difficulties in obtaining data, which is either lacking or dispersed amongst different entities, is a related aspect. Despite this, and in light of the comparison of practices between Member States, there may be scope (and added value) in developing a more consistent, comparative approach to collecting data at Member State level, in order to be able to facilitate more detailed evaluation of return actions, as well as to have EU comparative data on returns, and thus to better support the development of policy. In this respect, it is considered worthwhile for responsible institutions to be made aware of their important role in national return proceedings with regard to data collection.

There is also a need for more information on the sustainability of the voluntary return programmes in particular. For example, it has been noted that in cases of removals to third countries whose nationals have no visa-obligations to re-enter a Member State, it is not currently possible to determine if a returnee is simply coming back. Consequently, it is not possible to assess the sustainability. Given that sustainability could be considered as one main criterion for assessing the effectiveness of any return programme, it would seem appropriate, therefore, that monitoring and impact mechanisms are routinely incorporated. The knowledge and experience of existing mechanisms, outlined in Section 4.2, could serve as a useful basis on which to determine what is/are the best approach(es), for which countries and with which particular interventions. This could also address understanding more the various factors identified as influencing sustainability, including any possible (undesirable) relations between such factors.

Finally, this study has served to demonstrate how the European Migration Network can bring together information on the current situation/policy/practice in the Member States on a particular topic, in a relatively succinct and comparative way. It is hoped that it goes some way to meet the objective to provide support for policy- and decision-makers in the EU, as well as for other relevant stakeholders.

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