

ALTERNATIVE TO RETURN POLICIES

POLICY BRIEF

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Gül Ince-Bego and Maurizio Ambrosini



EXECUTIVE SUMMARY

This Policy Brief formulates policy suggestions for EU+ countries hosting large numbers of irregular migrants, focusing on a particular sphere where no return occurs, and irregularity persists. In formulating these policy recommendations, three aspects were taken into account. First, each recommendation considers *mutual benefit*. That is, in every formulation and proposal, consideration is given to how policies can be mutually beneficial to irregular migrants as well as to the societies that host them. Second, each suggestion pays attention to the fluidity of migrants' status and the importance of *status sustainability*. Third, we took into consideration the aspect of *vulnerability* since some irregular migrants are more vulnerable and exposed to exploitation than others. In these cases, we suggest target-specific policies and practices.

ABOUT THE FAIR PROJECT

The Finding Agreement in Return (FAiR) project aims to strengthen the governance of return migration in the EU, addressing legitimacy issues around return migration policies and alternatives. The project contributes to generating new insights into the factors and processes that either foster or impede the legitimacy and effectiveness of related policies. The initiative places the perspectives of non-EU realities centre stage and brings together multidisciplinary expertise from academic, policy research, governmental, and migrant advocacy organisations across Europe, Africa, and the Middle East. This policy brief is based on data collected by the research team of the University of Milan and the Work Package partners (MPG, University of Rotterdam, ICMPD and PICUM) through desk-research-based policy analysis and focus groups with experts in eleven EU+ countries (Austria, Sweden, France, The Netherlands, Switzerland, Germany, Italy, Greece, Spain, The UK and Poland).



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INTRODUCTION

Although European policies identify return (especially voluntary one) as the preferred policy response to irregularity, return is not always the first choice of irregular immigrants. Indeed, according to official statistics, **less than 30 percent of all non-European nationals with an expulsion order return voluntarily or are deported.** Additionally, (enforcing) return is not always feasible for states due to legal or practical obstacles and conflicting interests in various intervention areas. That is, in the implementation of return migration policies, contrasting interests, in particular between political will and labour market needs, often overlap. Moreover, **return, in particular the one imposed by states, also may result in re-immigration experiences, creating a vicious circle of irregularity.** Thus, as a presumably effective solution to irregular migration, return – in its various forms – seems to produce mostly unsatisfactory results, detrimental to both migrants as well as host societies. This becomes, for instance, apparent in emerging grey zones where irregular **migrants may live in limbo situations for long times, often characterised by a continuous transition between states of regularity and irregularity.** Irregularity has consequences both for migrants and societies, especially given the restricted access to services, which reproduces vulnerability and long-term precariousness.

Furthermore, when exploring narratives on irregular immigration, significant differences appear between official and political discourse on the one hand and lived experiences on the other hand. Irregularity is embedded in complex networks at all stages. Indeed, while states criminalize irregularity, the direct experience of migrants also reflects on bonds, relationships, and aspirations. These ambiguities also exist in policy-making, where alternative policies to return are either explicitly or implicitly in place. Indeed, **alternatives to return policies are not always implemented explicitly.** Some silent policies (such as institutional abandonment) are designed to deter and make returns happen without state intervention. However, **they often increase vulnerability without achieving the desired objectives.**

Another crucial aspect is that in host countries, **not all irregular migrants are treated equally.** Some are more easily accepted (European-look-like women, for example), while others are more exposed to deportation (non-European-look-like young men). Across Europe, those who do not return are given limited opportunities to regularise their stay, as states fear that regularisation will attract future irregular migrants and will not be supported by the electorate. Furthermore, in the political discourse, irregularity is often connected with arrivals from the sea, while many



irregulars are overstayers who arrived regularly and later entered the non-formal labour market in the country of settlement.

In light of what is This Policy Brief makes a number of recommendations based on the research conducted within the FAIR project.

CHALLENGES AND POLICY RECOMMENDATIONS

FOR CIVIL SOCIETY ORGANIZATIONS

HIGHLIGHT MUTUAL BENEFITS

Moving from irregularity to regularity is a win-win situation. Indeed, regularisation can increase labour supply, raise tax revenues, reduce emergency service use, improve public and urban order, and provide a more dignified life for immigrants. This fact needs to be emphasized more by campaigns run by NGOs or CSOs to increase political awareness.

INCREASE THE VISIBILITY OF SUCCESS STORIES

Particularly in Southern Europe, irregularity is almost a constituent of the migration experience. This condition is not always an obstacle to achieving goals that benefit migrants and the local communities in which they are embedded. Any success stories of former irregular migrants must be made visible to public opinion. This would help to highlight the contrast and distance between the political/official discourse of irregularity and its experience.

(RE)WRITE NARRATIVES OF IRREGULARITY

Contrary to what is portrayed in the media and political debate, irregular migration is not only a sphere representing criminal networks and employers; rather, it crosses various interests, values, and actors well inserted and publicly accepted in receiving societies. This interconnectedness must be made more visible to the public. To explain the importance of inclusive alternatives to return policies, it is essential to give immigrants themselves a voice



(through trade unions, associations) to illustrate the dynamics of irregularity and how it is systematically reproduced. This helps to make visible the relationship between labour market needs (especially cheap labour) and irregular migration, deconstructing the official discourse that often links irregularity to crime.

FOR POLICY MAKERS

SHIFT TO MORE ACCESSIBLE AND SIMPLE PROCEDURES

Employment-based large-scale regularisations often resemble slow, bureaucratic machines with complex and expensive procedures. Furthermore, they often turn into precarious residence permits. Also, for this reason, the established quotas are not filled. There is a need for accessible mechanisms and channels for the submission of applications to adequately meet current labour needs. Within this, proper legal and administrative assistance is essential. On the other hand, one-off regularisations can be complemented by permanent programmes for those who qualify (family reasons, social ties, etc.). Regularity is mutually beneficial, and it is essential to have diversified access to it.

NO WAY TO DEPORTATION FEAR

Obtaining identity documents is often a requirement to access regularisation. Identification may increase the perception of “deportability” among irregular migrants. Migrants must have some form of guarantee that when they cooperate with the authorities and apply for regularisation, they are not at the same time subject to potential deportation.

CONSIDER FAMILY AND SOCIAL TIES

Enforced return policy contributes to the downgrading of irregular migrants' living conditions, particularly those having family ties. In some cases, irregular minors become sponsors of regularisation for other family members, but in other cases, the parents' irregularity and criminal record prevent regularisation for their children as well. Children should not be held responsible for their parents' irregularity. On the other hand, the assessment of family ties in family-related regularisations must also take into account non-European family values and relationships. Minors should not be returned to countries (even if it is the country of “origin”) where they cannot rely on any family or social network.



PROMOTE REGULAR AND STABLE STATUS

The need for mass regularisations, which many politicians see as a magnet for irregular migration, stems from the fluidity of regular and irregular status to which many migrants are subjected. By issuing temporary residence permits on an individual basis (job seeking, family ties, etc.), which can then be converted into more permanent ones upon meeting certain conditions (e.g., employment), there would be less need for continuous and large-scale regularisations. Furthermore, previous experiences have confirmed that simplified regularisations offering relatively stable statuses are not a pull factor and are beneficial for both migrants and societies (e.g., Operation Papyrus in Switzerland). This needs to be acknowledged.

ACCOUNT FOR HUMAN TIME

The length of time spent is highly related to migrants' integration and to their potential contribution to society through employment and participation. Time also matters for irregular migrants. As the policies themselves show (e.g., the 20-year rule in the UK), irregularity can last a long time in very precarious conditions. A long-term stay makes deportation unreasonable and unjust because, in the meantime, people create lives, albeit irregularly. Regularisation pathways should account for these time-related issues. The longer irregular immigrants are tolerated by the host state, the more this factor should be in the irregular migrants' favour and facilitate their regularisation.

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