
Information Sheets on Policies on Return and Alternatives to Return: the case of Italy, Germany, Poland and Switzerland

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ITALY

INTRODUCTION¹

Italy represents one of the main routes of entry for migrants in the European Union, ranking fourth among Member States in terms of asylum applications in 2023 (136,000). It is seen both as a destination country for migrants travelling through the Central Mediterranean route (UNHCR, 2022) and a transit country for those who aim to reach Northern European countries to find better conditions of life. Italy is considered a ‘thin enforcement regime’ with limited interest and capacity to return migrants (Leerkes & Van Houte, 2020), and faces several challenges in meeting return targets and ensuring humane conditions and monitoring in detention centres. Italy’s return policies include the so-called Assisted Voluntary Return and Reintegration (AVRR) programs primarily funded by EU funds, and forced return procedures including detention, which often have limited effectiveness (Garante Nazionale, 2023b). The country heavily relies on migrants in the informal labour market and often does not impose formal requirements on employers to check employees’ immigration status. Alternatives to return such as regularisation programmes, informal tolerated stays, and forms of temporary and humanitarian protection are therefore adopted and implemented, although they are based on ad hoc instruments and exceptional circumstances.

RETURN POLICIES IN THE COUNTRY

Assisted Voluntary Return and Reintegration (AVRR): The AVRR schemes structurally include reintegration support initiatives (Caselli et al., 2022: 423) and primarily rely on EU funds (European Return Fund/EU Solid programming and AMIF), with a limited national budget mainly allocated for the reception of asylum seekers. AVRR projects in Italy, overseen by the Ministry of Interior's Department for Civil Liberties and Immigration, involve various public entities, NGOs, and international organizations (Pontieri, 2021). The Ministry currently [lists](#) six recent and active AVRR projects managed by NGOs. Eligible participants are third-country nationals legally residing in Italy or those without residency rights, and those who have not yet received a final response to their protection or residency applications (Caselli et al., 2022: 442). EU citizens and nationals of visa-exempt countries are not eligible for these programmes (Caselli et al., 2022). To access AVRR procedures, individuals must request information from public entities, NGOs, hotlines, or counselling in reception facilities. They then submit a formal application with the assistance of the implementing body. NGOs evaluate return feasibility and health concerns, especially for beneficiaries of international protection (IOM Italy, 2020). Once eligibility is established, participants can receive counselling, financial and administrative support for documentation and travel, healthcare assistance, and financial aid for initial accommodation and reintegration (Caselli et al., 2022: 423). AVRR in Italy is governed by Immigration regulations, in particular Article 14-ter of the Law n. 129/2011, which aligns with the EU Return Directive (Pontieri, 2021). The REVITA Project facilitated 774 returns from 2014 to 2020 with individual reintegration plans for all those who accepted the option (IOM Italy, 2019). Yet, data do not indicate how many individuals decided to undertake the AVRR procedure in the first place. AMIF-

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funded transfers returned 2,183 individuals from 2018-2021, falling short of the initial 9,500 target (Corte dei Conti, 2022: 65).

Forced Return and Detention: Forced return follows the non-fulfilment of an expulsion order (Corte dei Conti, 2022). Exceptions are made for minors, stateless individuals and individuals at risk of refoulement. The majority of forced returns in 2019-2021 involved migrants from Tunisia, Morocco, Albania, Nigeria, Egypt, and Senegal (Italian Court of Auditors, 2022), with an estimated forced return rate of 4.2% for 2013-2017 (Leerkes & Van Houte, 2019). To guarantee the respect of migrants' rights, the National Guarantor monitors forced return practices in Italy and conducts inspections on selected forced return operations. Forced returns that are not carried out with a police escort are reported by the Ministry of the Interior more sporadically with aggregated data of conducted operations over a fixed amount of time (Garante Nazionale, 2023). Systematic monitoring is desirable due to the lack of a well-defined legal framework at the national level, with EU legislation providing general principles,² thereby leaving implementation modalities to discretion at the national level (Garante Nazionale, 2023a).

Detention of irregular migrants is widespread in Centres of Permanence for Repatriation, which are reported to be in worrying conditions with a lack of adequate support and facilities (ASGI, 2022; Actionaid and Openpolis, 2022). The effectiveness of detention in facilitating returns remains low, with less than half of detainees returned in 2022 (Garante Nazionale, 2023b: 194). The current government extended migrant detention to 18 months with decree n.124 of September 19, 2023. This latest development represents a major step back for the protection of migrants and it now aligns with the maximum detention duration envisioned in the EU acquis.

ALTERNATIVE TO RETURN POLICIES IN THE COUNTRY

Regularisation Programmes: With a significant population of irregular migrants constituting 9% of the total migrant population (ISMU, 2021), Italy has a history of implementing regularisation efforts, granting the largest number of regularisations in the EU through amnesties and other covert methods (Ambrosini, 2012: 361). However, these efforts lack systematic implementation mechanisms or a long-term strategy, and they often take place in form of ad hoc *amnesties*. Italy adopted a two-track regularisation programme in 2020. The first track allowed employers to formalize contracts with foreign nationals or declare existing irregular employment, while the second track enabled undocumented workers in agri-food and domestic sectors to apply for a six-month residence permit themselves (Human Rights Watch, 2020). The criteria to enjoy the programmes were very strict and did not match the lived reality of many undocumented workers in the sector. Despite granting access to services and long-term residence, this programme has been criticised for leading to exploitation of migrants by employers (PICUM, 2022).

Informal Tolerated Stay: As certain economic sectors in Italy *de facto* rely on irregular labour, notably in domestic care, housekeeping, and agriculture, Italy allows for individual regularisation based on exceptional circumstances such as employer referral or sponsorship (Ambrosini, 2015).

² 2004/573/EC: Council Decision of 29 April 2004 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. OJ L 261, 6.8.2004, p. 28–35

Temporary and Humanitarian Protection: The humanitarian protection regime was abolished in 2018 and partially substituted by a form of "special protection", which has undergone several reforms and covers instances of *non-refoulement*, humanitarian grounds, family ties and integration merits. In 2022, 10,865 individuals were granted a Special Protection status (ECRE, 2022).

Temporary protection, operationalised in response to the Ukrainian crisis, has seen Italy host 159,020 Ukrainian beneficiaries as of August 2023, ranking it as the 6th largest recipient of temporary protected Ukrainians in the EU (Eurostat, 2023). The broadening of the scope to include other migrants beyond those fleeing Ukraine seems unlikely.

GERMANY

INTRODUCTION

Germany is as a federal republic consisting of 16 federal states (Länder) and since the 1970s has experienced a rising influx of migrants, consolidating its position as a popular destination within Europe. In 2023, the country received 334,000 asylum applications, the highest figure registered among all European Member States and accounting for approximately 29% of all applications³. Decisions regarding asylum, returns and stay are primarily handled by administrative bodies at the municipal, state and federal level although temporary political determinations can also be made by political governmental agencies at state and federal level (Kirchhoff et al., 2018).

In the present scenario, Germany is generally considered to be a ‘targeted regime’ with a strong capacity to enforce return, that is in practice implemented in a very selective way, because of a combination of different cultural, historical and economic interests (Leerkes et al, 2020). Recently, following the surge in irregular arrivals registered in Germany in 2023, Scholz’ cabinet approved in October a new package of measures that would allegedly facilitate the implementation of returns, making these more efficient. The draft legislation has been however deemed by many as controversial, due to the increase in the maximum duration of pre-deportation detention (from 10 to 28 days) and the heightened power of the police provided for.

RETURN POLICIES IN THE COUNTRY

Assisted Voluntary Return and Reintegration (AVRR): Originally introduced in 1979 under the Reintegration and Emigration Programme for Asylum-Seekers (REAG), Assisted Voluntary Return activities in Germany are now predominantly conducted through the REAG/GARP initiative. Managed by the International Organization for Migration (IOM) on behalf of various federal and regional entities, this program receives funds from the EU and benefits from the support of a range of stakeholders, including local authorities, NGOs and the UNHCR (Caselli, et al., 2022; IOM, 2014). Eligibility for AVR encompasses non-EU citizens seeking asylum, those awaiting asylum decisions, individuals with rejected applications, holders of specific residence permits, and victims of trafficking or forced prostitution regardless of citizenship. Minors are also eligible, with unaccompanied minors requiring consent from legal guardians in both Germany and the destination country.

Individuals with an interest in AVR initiatives have access to a number of entities and platforms for information dissemination. These include IOM, which shares informational materials and convenes regular meetings, and the recently established MiRA (Migrant Registration Application) platform, through which information requests can be sent. The counselling centres present on the territory serve as additional channels, providing opportunities not only for acquiring information but also for submitting applications for AVR and reintegration programs.

Forced Return and Detention: Germany can be classified as a ‘targeted regime’ with robust capabilities for enforcing repatriation, which in practice is executed in a highly selective manner due to a blend of varying cultural, historical, and economic interests (Leerkes et al, 2020). In this context, detention – which

³ Latest Asylum Trends 2023 - Annual analysis. (2024, February 28). European Union Agency for Asylum. <https://euaa.europa.eu/publications/latest-asylum-trends-2023-annual-analysis>

applies to all individuals who reside in the country without permission – can be of two types: the preparation and secure detention. The first type of detention order is issued when a person is subject to an entry ban and present ‘a significant danger to their own or others’ lives, or to ‘internal security’ or has been convicted for criminal offences, including asylum seekers (AIDA, 2023). A judge may instead issue a secure detention if there is a risk of absconding and on condition that deportation can be implemented within three months. According to the Asylum Information Database (AIDA, 2023), there has been an increase in detention facilities over the last years occurred in parallel with rising numbers of detentions since 2017.

ALTERNATIVE TO RETURN POLICIES IN THE COUNTRY

Regularisation programmes: Starting from 2000, Germany introduced a number of regularisation programmes, which however largely excluded undocumented migrants. With respect to regularisation mechanisms, today temporary residence permits can be granted under certain conditions, such as holding a tolerated status for over 18 months and having an unlikely enforceable deportation in the near future. Tolerated individuals may also receive a residence permit based on a hardship clause, known as "Leave to remain," applicable to those who arrived in Germany under the age of 14, attended school for at least six years, and obtained a degree in the country. Other circumstances, such as being a victim of criminal offenses or demonstrating exceptional reasons, can also lead to temporary residence.

Another mechanism targets "qualified" individuals, requiring continuous employment history matching their qualifications over the past two or three years. Migrants undergoing a three-year vocational training program may have their deportation temporarily suspended under the *Ausbildungsduldung* tolerated status, receiving a two-year residence permit for related jobs. Those whose return has been suspended for at least twelve months and have worked lawfully for at least eighteen months may qualify for the *Beschäftigungsduldung* status, granting access to a 30-month permission, extendable upon meeting specific requirements.

Temporary Protection and Humanitarian Protection: Following the EU Council activation of the Temporary Protection Directive in March 2022, Germany adopted the “Ukraine-Residence-Transitional Regulation” (AIDA, 2022). This regulation extends temporary protection to Ukrainian nationals residing in Ukraine before 24th February 2022, as well as stateless individuals and foreign citizens who obtained international protection in Ukraine and family members of these groups (AIDA, 2022). Additionally, temporary protection is provided to Ukrainians holding any type of residence permit in Germany or those whose stay was previously tolerated.

Informal of tolerated stay based on exceptional circumstances: The legal provision of *Duldung*, denoting the entitlement to remain for individuals holding toleration status, was instituted in Germany in 2006. This status represents a state of *limbo*, wherein deportation is suspended for a limited period and the individual is provided with some benefits, including healthcare. *Duldung* serves as a practical mechanism to address the non-deportability of specific migrants, de facto acknowledging their presence within the national context but without conferring formal legalization upon them. Individuals willing to apply for temporary residence need to have resided at least six years in Germany with a minor, have adequate accommodation and proficiency in German, prove children’s attendance in school, show absence of deceit, no affiliation with extremist groups and no conviction in Germany. Additionally, temporary residence may be extended to asylum seekers or individuals with humanitarian status who have resided in Germany for at least six years during their minority and exhibit signs of integration into the German society. Recent

legislation also grants a "right of residency" to foreigners with short-term permits after five years, allowing access to the labour market and paving the way for long-term residency (InfoMigrants, 2022). These measures signal a shift towards more permanent residency solutions compared to ad hoc regularization programs (Leerkes et al., 2020; Brick, 2011).

POLAND

INTRODUCTION

Situated on the external border of the European Union, Poland has been traditionally a country of emigration and transit, emerging only recently as a country of final destination for immigration. In 2023, it ranked fifteenth among EU+ countries with the highest number of asylum applications, with a total of 9,519 lodged.⁴ Having ratified the Geneva Convention in 1991 and adopted the Common European Asylum System upon its accession to the EU in 2004, Poland has established frameworks for handling asylum seekers. Within this context, the application procedure for asylum seekers can result in four distinct outcomes: migrants can have their refugee status recognized, receive international protection, face application rejection or have it interrupted in case they leave the country. Those whose claims are rejected have the option to appeal to the Refugee Board and are not immediately required to leave, as the process for a return decision starts only subsequent to a rejection.

In the context of return policies, Poland's voluntary return programmes provide substantial aid to those choosing to return voluntarily, with EU-funded projects notably providing reintegration support. Despite this, a significant proportion of voluntary returns occur without formal assistance, particularly among Ukrainian nationals. With regards to forced returns, amidst the Belarusian-Polish border crisis, Poland has implemented stricter border measures, including immediate removal orders. While the number of AVR initiatives recorded is high, forced returns remain relatively uncommon due to a host of logistical, legal, and economic obstacles.

RETURN POLICIES IN THE COUNTRY

Assisted Voluntary Return (AVR): Poland's voluntary return initiatives, regulated under the Foreigners Act and the 2005 cooperation agreement with the International Organization for Migration, provide significant support to the individuals who opt to return voluntarily. Those eligible for assistance -namely, who withdraw their application for international protection - benefit from personalized counselling, financial aid to cover travel expenses and administrative requirements and, when necessary, medical support. Particularly noteworthy are the AVR projects co-financed by the EU since 2019, under which returnees are additionally granted financial and logistical support for reintegration in the destination country. However, the majority of voluntary returns are implemented without assistance, as many of the issued return decisions concern individuals who are already autonomously choosing to return (Klaus & Szulecka, 2022).

Forced Return and Detention: Following the Belarusian-Polish border crisis, Poland introduced new harsher border procedures entailing the possibility for the Polish Border Guard to issue immediate removal orders. Contrary to ordinary EU return procedures, these orders have immediate effect, and despite the possibility of appeal, there is no suspensive effect. No public reports on monitoring the implementation of forced returns are available in the country (FRA). While the levels of autonomous voluntary return and secondary onward movements by migrants residing in Poland towards other EU countries remain high, that

⁴ Latest Asylum Trends 2023 - Annual analysis. (2024, February 28). European Union Agency for Asylum. <https://euaa.europa.eu/publications/latest-asylum-trends-2023-annual-analysis>

of forced return appears to be rather low, mostly due to the high economic costs and the legal, logistical and political obstacles they imply (Klaus & Szulecka, 2022).

ALTERNATIVE TO RETURN POLICIES IN THE COUNTRY

Regularisation programmes and mechanisms: To a moderate extent, the Polish case represents a pragmatic and positive approach to migrant regularization (Reichel, 2014). Around 8400 migrants were regularized in the country as a result of three regularization programmes conducted between 2003 and 2012. Due to the multiple requirements demanded, the first two waves were characterized by a low number of applicants but high regularization rates. Implemented in the context of Poland's integration into the Schengen area, the third programme instead presented almost no requirements and permitted asylum seekers whose applications had been denied and who had resided in Poland since 2010 to also submit applications.

Temporary Protection and Humanitarian protection: In 2023, as a result of the Russian invasion of Ukraine, Poland hosts approximately 950,000 Ukrainian temporary protected beneficiaries, ranking second among receiving European countries after Germany (Eurostat, 2023).

Informal form of tolerated stay based on exceptional circumstances: The regulatory framework in Poland lacks specific guidelines on the permanence of irregular migrants and often mentions them only in relation to the issuance of a return decision. Within the Polish legal system, two types of tolerated stays are recognised: one granted for humanitarian reasons to safeguard individuals who cannot return because the risk they face of human rights violations; the second one, known as “tolerated stay”, provided to applicants whose return cannot be implemented because of various other reasons, including logistical obstacles and safety concerns in the returnee's home country. Both permits are valid for two years, subject to renewal under certain conditions, and allow for employment opportunities but not access to refugee-related services. Individuals with criminal backgrounds or deemed security risks may be ineligible for humanitarian permits, potentially qualifying for permits for tolerated stay instead. Notably, while the humanitarian permit facilitates cross-border mobility, the tolerated stay permit does not offer such provisions.

SWITZERLAND

INTRODUCTION

Switzerland is a federalist state where the decision-making process is shared between the municipal/communal level, the cantonal level, and the federal/national level. Migration policy is typically under the competence of the federal state, but cantons have some powers in the implementation of migration laws (CCSI, 2017). The country is generally considered to have a restrictive immigration policy, especially for third-country nationals who seek to obtain a work permit for a ‘low-skilled’ job. In addition, the access of undocumented migrants to basic services is different at the local level depending on where they live in Switzerland. According to the State Secretariat for Migration (SEM), 30,223 people applied for asylum in Switzerland over the course of 2023, which is the highest number since 2016.⁵

Switzerland's return policies focus on Assisted Voluntary Return, while forced return applies to rejected asylum seekers and irregular migrants who refuse voluntary return, with detention used to enforce deportations. Alternatives to return include time-limited regularization programs for migrants, humanitarian permits, and temporary protection during conflicts.

RETURN POLICIES IN THE COUNTRY

Assisted Voluntary Return (AVR): According to [the Swiss government website](#), return assistance aims to encourage the return of asylum seekers and to help them reintegrate into their countries of origin. Eligible categories include asylum seekers, refugees, and victims of and witnesses to human trafficking, excluding convicted offenders or persons who have abused the asylum system. The main actors involved in the implementation of return assistance are the SEM, the Swiss Agency for Development and Cooperation, the IOM, the competent cantonal agencies, and relief organisations. Applications are accepted at the advisory centres in the cantons, the asylum centres and provisional federal centres, and the transit zones at Geneva and Zurich airports. Individual return assistance is only available to return to countries that require a visa and includes counselling, travel expense coverage, financial support for reintegration plans, individual supplementary assistance for special reintegration needs, and purchase of medicines and/or coverage of treatment following return.

According to the latest official data, in the first semester of 2023, 3467 persons have been already returned under the assisted voluntary return programme, in comparison with only 723 in the same period of 2022, representing an increase of 380%.

Forced Return and Detention: Forced return applies to rejected asylum seekers and ‘irregularly’ staying third-country nationals who refuse voluntary return. Cantons are responsible for implementing forced returns, which may involve police escort. Upon receiving a removal order, individuals have a specific timeframe to leave voluntarily. If they lack identity or travel documentation, cantons can request assistance from the SEM to establish their identity or obtain temporary travel documents.

The main actor that implements removal, expulsion and judicial expulsion orders is the SwissREPAT Section at the airports of Zurich-Kloten and Geneva-Cointrin, facilitating both voluntary and forced returns under migration and asylum laws. Enforcement levels, governed by the Use of Force Act and Use of Force

⁵ State Secretariat for Migration, 2023. [Foreign Resident Population](#).

Ordinance, vary based on case specifics and expected deportee behaviour, ranging from police escort to aircraft to police escort on a special flight.

Asylum seekers are generally not detained during the asylum process, but their movement is restricted, and they must make themselves available to authorities (UNHCR, 2022). Detention is frequently used to enforce deportations, including under the Dublin III Regulation. Algeria, Albania, Afghanistan, Morocco, and Tunisia are the most detained nationalities, with Eritreans often detained to compel cooperation with deportation despite concerns about legality and proportionality (ECRE, 2022). Other controversial practices include the detention of minors aged 15 to 18 and the detention of one parent to pressure families into cooperation.

ALTERNATIVE TO RETURN POLICIES IN THE COUNTRY

Regularization Programs and Mechanisms: Until 2002, seasonal workers were granted rights similar to guest workers, allowing them to upgrade to permanent residency and bring their families (D’Amato, 2011; CCSI, 2017). Across the referenda in 1983, 1994, 2004, Swiss voters have rejected legal proposals to facilitate the naturalization of children of immigrants.

Between February 2017 and December 2018, public authorities in Geneva implemented a regularization program called "Operation Papyrus" through which out of 8,000 to 12,000 individuals in an irregular situation in a city of half a million, over 2,800 obtained residence permits (PICUM, 2023). This programme had a beneficial effect on migrants' lives, including improved living and health conditions, and access to housing and jobs. The permit obtained consisted of a yearly residence and work permit with the possibility of extension and conversion to a more stable “settlement” permit, which grants the person full access to the labour market and the right to travel inside and outside the country (CCSI, 2017).

Humanitarian Cases: Rejected asylum seekers may be permitted to stay on humanitarian grounds if returning would provoke serious hardships for them (Kalin, 1994). While discretionary, this provision aims to protect individuals who are well-integrated into Swiss society and are at risk of social or economic suffering if returned and is often used for those waiting years for asylum decisions. This provision lacks the legal safeguards of the 1951 Convention and should not replace it. In 2022, only 142 out of 3,703 applications were accepted, with Afghanistan, Iran, and Syria being the most common countries of origin.

Temporary Protection: Swiss asylum law allows for granting temporary protection (S permit) during periods of serious general danger, such as war or civil war, which was recently activated for Ukrainians (ECRE, 2022). While offering short-term benefits, this provision may undermine the correct application of international protection under the 1951 Convention.

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