D3.2 – WP3 CONTRIBUTIONS TO D9.4 AND D9.5: POLICY BRIEF: BEYOND THE SIGNATURE: NEGOTIATING LEGITIMATE RETURN COOPERATION

D3.2

25 October 2026

FAiR
Finding Agreement in Return

FAiR is funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Research Executive Agency (REA). Neither the European Union nor the granting authority can be held responsible for them. Grant Agreement 101094828

Project Title	FAiR: Finding Agreement in Return
Project Acronym	FAiR
Grant Agreement No	101094828
Start Date of Project	01.05.2023
Duration of Project	42 months
Project Coordinator	Leerkes, Arjen, Erasmus University Rotterdam (EUR)
Title of Deliverable	Policy Brief on Negotiation Dynamics, Effectiveness and Impact
Deliverable Number	D3.2 – WP3 contributions to d9.4 and d9.5
Dissemination Level	PU – Public
Type of Document	R – Document Report
Work Package	WP3 – Intergovernmental Return Frameworks
Version	1.0
Expected Delivery Date	31 October 2026
Authors	Dalkıran, Müge, Koç University (KU) Kılınçarslan, Pelin, Koç University (KU)
Filename	FAiR_D3.2_negotiation dynamics, effectiveness and impact

Funded by the European Union

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Research Executive Agency (REA). Neither the European Union nor the granting authority can be held responsible for them. Grant Agreement 101094828

This deliverable contains original unpublished work except where clearly indicated otherwise. Acknowledgement of previously published material and of the work of others has been made through appropriate citation, quotation or both.

Version	Date	Change	Page
1.0	25 October 2026	Completion first draft policy brief based on internal review	1-7

ACKNOWLEDGMENTS

We would like to acknowledge the valuable contributions of our colleagues and partner organisations, whose support and expertise informed the development of this policy brief. We are grateful to our FAiR colleagues at ICMPD, UNIMI, UNIGE, and INP PAN for conducting the expert interviews that informed this study. We also thank the Migration Policy Group (MPG) and the FAiR country experts for developing the inventory of Intergovernmental Return Frameworks, which provided an important empirical basis for our analysis. Finally, we thank Frowin Rausis (UNIGE) for his constructive feedback as the internal reviewer of this policy brief.

EXECUTIVE SUMMARY

Increasingly, Intergovernmental Return Frameworks (IRFs) have become an important instrument for the return and readmission cooperation between EU+ countries and non-EU countries. While some negotiations lead to conclude an IRF relatively quickly, others take years or remain unresolved. These differences raise questions about success and effectiveness of negotiation processes. Alongside the conditions shaping the conclusion of IRFs, it is also important to assess the legitimacy of their negotiation processes and outcomes.

Building on the analysis presented in the accompanying FAiR working paper, this policy brief draws on four constellations of negotiating factors: interest asymmetry and insufficient reciprocal incentives (EU-Nigeria), converging interests and credible issue linkage (EU-Georgia), political urgency and reciprocal dependence (the March 2016 EU-Türkiye Statement), and institutional trust and pragmatic cooperation (Poland-Ukraine and Switzerland-Nigeria). These constellations illustrate how different combinations of factors shape the conclusion and legitimacy of IRFs and provide the basis for the policy recommendations presented in this brief. These constellations demonstrate how different combinations of factors can facilitate or constrain agreement, while also raising questions about whose interests are represented in negotiations (input legitimacy), the transparency and accountability of negotiation processes (throughput legitimacy), the effectiveness and acceptability of cooperation outcomes (output legitimacy), and compliance with applicable legal standards (legal legitimacy). They also show that there is no single pathway to conclusion and that reaching an agreement does not necessarily ensure its legitimacy.

The policy brief argues that the success of return diplomacy should be assessed by considering both the conclusion and legitimacy of IRFs, as the factors shaping these outcomes are closely interconnected. This requires greater attention to the interests and expectations of negotiating partners, the credibility of commitments, and the institutional relationships reinforcing cooperation, meaningful representation of affected stakeholders, legal safeguards and transparency of agreed decisions. By considering these dimensions together, policymakers can move beyond the conclusion of agreements as the primary measure of success and develop a more comprehensive approach to return diplomacy.

ABOUT THE FAIR PROJECT

The Finding Agreement in Return (FAiR) project aims to strengthen the governance of return migration in the EU, addressing the 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.

INTRODUCTION

Intergovernmental Return Frameworks (IRFs) have become an increasingly important instrument of EU migration governance. Despite the proliferation of agreements and arrangements, reaching an agreement is not always straightforward, as negotiating parties may have different interests, political priorities, and expectations. While some negotiations remain unresolved for years, others lead to the conclusion of a framework under different political, institutional, and diplomatic circumstances. These variations raise important questions about the conditions under which IRFs are concluded and the extent to which their negotiation processes and outcomes can be considered legitimate.

The conclusion of IRFs is shaped by several factors, including the interests and priorities of negotiating parties, issue linkage and reciprocal incentives, bargaining power, negotiation architecture, diplomatic agency and trust, as well as political timing and windows of opportunity. Rather than operating independently, these factors interact in ways that help explain different negotiation outcomes. More importantly, differences in interests do not necessarily correspond to differences in bargaining power. Even where one party holds greater leverage, negotiations may remain unresolved if the proposed commitments do not adequately address the other party's priorities. The legal form and scope of cooperation also matter, as binding and non-binding instruments, as well as readmission-specific and broader migration partnerships, involve different commitments and institutional arrangements.

However, while some factors may secure the conclusion of an agreement, they do not necessarily ensure its implementation. Understanding the legitimacy of the negotiation process and of the resulting commitments is key to explaining why some frameworks work and others do not. Legitimacy can influence cooperation across different phases, from negotiation and conclusion of an IRF to its implementation. When a framework is not perceived as legitimate by the actors involved, it can undermine subsequent cooperation.

Legitimacy can be approached through four dimensions: **Input legitimacy** concerns whose interests and perspectives are represented in negotiations, while **throughput legitimacy** relates to the fairness, transparency and accountability of decision-making. **Legal legitimacy** concerns the compatibility of negotiated commitments and procedures with applicable legal obligations, including human rights standards. Finally, **output legitimacy** concerns whether the resulting commitments and anticipated benefits are considered acceptable and responsive to the interests of the parties involved.

Examining the interaction between these factors and dimensions of legitimacy drawing on the empirical data collected within the FAiR project, four recurring configurations of negotiation dynamics can be identified:

1. **Persistent deadlock under unresolved bargaining differences**, where divergent interests and insufficiently attractive incentives delay agreement.
2. **Agreement through strategic alignment and issue linkage**, where shared strategic priorities and broader policy incentives help bridge differences between negotiating parties.
3. **Crisis-driven convergence and accelerated agreement**, where a temporary window of political opportunity encourages rapid agreement, although the resulting cooperation may remain vulnerable to changing circumstances.
4. **Pragmatic cooperation through trust**, where established diplomatic relationships and institutional contacts facilitate negotiations, even when broader structural or political constraints persist.

These four constellations illustrate how different combinations of factors can shape negotiation outcomes and raise distinct questions of legitimacy. They also demonstrate that reaching an agreement does not necessarily resolve underlying disagreements or ensure that the resulting commitments are perceived as legitimate by all relevant actors.

METHODOLOGY

The recommendations presented in this Policy Brief are based primarily on interviews with representatives of EU institutions and stakeholders in Switzerland, Nigeria, Georgia, Poland, and Türkiye, as well as document analysis covering policy papers, European Commission reports, and press statements. The interviews were conducted between June 2024 and December 2025 and included semi-structured interviews with government representatives involved in IRF negotiations, representatives of international organisations, and migration experts from the selected countries. The data were collected by research teams at the University of Geneva, the University of Milano, the Institute of Law Studies of the Polish Academy of Sciences, the International Centre for Migration Policy Development, and the Migration Research Center at Koç University.

Given the uneven distribution of empirical evidence across the selected cases, particularly the limited representation of partner-country perspectives and affected populations, the analysis adopts a factor-mapping approach rather than a systematic comparative case study. This approach allows us to identify recurring patterns and examine how different political, institutional, and diplomatic factors interact in shaping negotiation outcomes and their legitimacy implications. The four configurations emerging from this analysis should therefore be understood as interpretive rather than causal explanations, taking into account the specific circumstances of each case.

KEY FINDINGS

1. Conclusion and legitimacy are closely interconnected dimensions of negotiation success.

Perceptions of legitimacy, particularly among partner-country governments, can influence their willingness to conclude a framework, depending on whether the negotiation process and proposed commitments are considered fair and acceptable. At the same time, reaching an agreement does not necessarily mean that the negotiation process was inclusive, or that the resulting commitments are regarded as legitimate by other affected actors. On the contrary, the absence of a concluded framework does not necessarily indicate the end of diplomatic dialogue. Assessing negotiation success therefore cannot be limited to whether a framework is concluded. It should also be evaluated how perceptions of legitimacy influence the negotiations and whether the resulting commitments are considered acceptable.

2. Leverage is no substitute for shared interests:

Differences in negotiating parties' interests may remain unresolved even when one party has greater bargaining power. The EU-Nigeria case illustrates this dynamic, as the incentives offered by the EU have not sufficiently addressed Nigeria's priorities concerning legal mobility, reintegration, and the political and economic costs associated with readmission.

3. Negotiation architecture can influence the credibility of commitments and procedural legitimacy

The composition of negotiating teams, the distribution of responsibilities and the arrangements through which negotiations are conducted can influence how parties communicate their priorities and formulate proposals. Negotiations may become more complicated when proposed incentives or commitments concern

policy areas beyond the authority of the negotiating team, raising questions about whether these offers can be delivered. The involvement of relevant authorities and coordination across policy areas may help address such challenges. At the same time, the design of negotiations raises questions about whose interests and perspectives are represented and how decisions are made, with implications for input and throughput legitimacy.

4. Policy windows can create opportunities for conclusion

Changes in political circumstances and policy priorities may create opportunities to advance negotiations or conclude arrangements that were previously difficult to reach. However, the circumstances surrounding the IRFs may also rise important questions concerning the legitimacy of the resulting commitments. The opening of a policy window may therefore help explain the timing of an agreement without necessarily indicating that its negotiation process or outcome is regarded as legitimate.

5. Established diplomatic relationships can facilitate negotiations

Existing professional relationships and regular communication between negotiating parties may help build trust and facilitate compromises during negotiations. The 2017 Poland-Ukraine implementation protocol and the 2011 Switzerland-Nigeria Migration Partnership illustrate how established channels of cooperation can facilitate the cooperation processes.

6. Legitimacy involves different actors and multiple dimensions

The legitimacy of return frameworks may be perceived differently by the actors involved in or affected by their negotiation. While governmental acceptance can facilitate the conclusion of an agreement, it does not necessarily indicate that the process or resulting commitments are considered legitimate by parliaments, civil society, and affected communities. Legitimacy also extends beyond the legal form of an instrument: binding agreements are not necessarily legally compliant, just as non-binding arrangements are not inherently illegitimate. Assessing legitimacy therefore requires attention to whose interests are represented, how decisions are made, whether commitments comply with applicable legal obligations, including non-refoulement and relevant individual safeguards, and whether the anticipated outcomes are considered acceptable.

Drawing on evidence from the FAiR research, four analytical configurations illustrate how legitimacy and international cooperation on migration intersect in IRF negotiations. These configurations capture different patterns of negotiation dynamics rather than fixed country categories or generalisable explanations of negotiation outcomes.

1 | Interest asymmetry and weak incentives	Differences in negotiating priorities and insufficient reciprocal incentives can prolong negotiations, even when one party has greater bargaining power. In the EU-Nigeria case, the EU's emphasis on readmission did not sufficiently align with Nigerian priorities concerning legal migration, reintegration and the broader benefits of cooperation. After more than a decade of negotiations, the EU and Nigeria initialled a draft agreement in March 2026, but it has yet to be formally signed or enter into force. The case highlights how disagreements over the expected benefits of cooperation can affect both the prospects for conclusion and perceptions of output legitimacy.

2 | Strategic alignment and issue linkage	Linking readmission cooperation to broader strategic objectives can facilitate agreement, even where negotiating parties have unequal bargaining power. In the EU-Georgia case, the prospect of closer European integration, visa-related benefits and economic cooperation made readmission commitments more acceptable to Georgian governmental actors. While these anticipated benefits supported conclusion and governmental perceptions of output legitimacy, the negotiations remained largely concentrated among government institutions, raising questions about broader participation and procedural fairness.
3 | Political urgency and reciprocal dependence	Political urgency and reciprocal dependence can create a window of opportunity for concluding arrangements despite unresolved differences between negotiating parties. The March 2016 EU-Türkiye Statement illustrates how immediate political priorities facilitated a rapid understanding, distinct from the formal Readmission Agreement signed in 2013. However, the executive-centred process and the Statement's contested legal status raise important questions about accountability and legal safeguards.
4 | Institutional trust and pragmatic cooperation	Established diplomatic and administrative relationships can facilitate negotiations through direct communication and trust. In the 2017 Poland-Ukraine implementation protocol, cooperation between border authorities helped resolve practical issues, while the 2011 Switzerland-Nigeria Migration Partnership drew on diplomatic engagement and confidence-building measures. These cases illustrate how trust among negotiating officials can support procedural cooperation. However, such trust may remain concentrated within particular institutions.

POLICY RECOMMENDATIONS

1 Assess negotiation success through both conclusion and legitimacy

For: *EU institutions; EU Member States; partner-country authorities; evaluators*

Reaching an agreement is an important diplomatic outcome, but it does not necessarily demonstrate that the negotiation process or resulting commitments are considered legitimate. Perceptions of legitimacy, particularly among negotiating governments, can influence different phases of return cooperation, from the willingness to conclude frameworks to the sustainability of cooperation in the long run.

2 Make reciprocal commitments relevant and deliverable

For: *European Commission; EU Member States; partner-country negotiating teams*

Differences in negotiating priorities cannot always be overcome through bargaining power alone. Reciprocal incentives are more likely to facilitate agreement when they address the interests and concerns of both parties and when the proposed commitments can realistically be delivered. Negotiating teams should therefore identify each party's priorities, political and economic costs, and expectations before developing a package of cooperation. Particular attention should be paid to whether proposed incentives, including those concerning visa policies, legal mobility, development

cooperation and reintegration, fall within the authority of the negotiating teams or require commitments from other institutions. Clarifying these responsibilities and ensuring coordination with the relevant authorities can strengthen the credibility of offers and help develop arrangements that are more acceptable to both parties.

3 Strengthen coordination and inclusiveness in negotiation processes

For: *Negotiating ministries; diplomatic services; relevant EU and national authorities; partner-country governments*

The composition of negotiating teams and the arrangements through which negotiations are conducted can influence both the credibility of commitments and perceptions of legitimacy. When proposed incentives concern policy areas beyond the authority of negotiating teams, coordination with relevant institutions may help ensure that commitments are realistic and deliverable. At the same time, negotiations concentrated among a limited number of governmental actors may leave insufficient room for other relevant perspectives. Where appropriate, negotiating authorities should establish opportunities to consult civil society organisations, migrant and returnee representatives, and other stakeholders who can provide insights into the potential implications of proposed commitments. Such consultations need not compromise the confidentiality of diplomatic negotiations but can help ensure that the concerns of affected populations are considered. Combining institutional coordination with meaningful opportunities for consultation can strengthen input legitimacy while supporting more informed and accountable negotiation processes.

4 Ensure public accessibility of return frameworks

For: *EU institutions; national governments; parliamentary and independent oversight bodies*

Return cooperation may take the form of legally binding agreements or informal, non-binding arrangements, each raising different questions of transparency and accountability. While a degree of confidentiality may be necessary during negotiations, the resulting commitments should, in principle, be publicly accessible, regardless of their legal form. Negotiating parties should make concluded frameworks available to the public, clarify their legal status and provide sufficient information about the commitments and responsibilities undertaken by each party. Greater accessibility can strengthen accountability and enable civil society organisations, legal practitioners and other interested actors to assess the commitments and their compatibility with applicable legal obligations, including relevant human rights safeguards.

5 Integrate legal safeguards and accountability mechanisms into negotiated frameworks

For: *EU and national legal authorities; partner-country negotiating teams; relevant oversight and monitoring bodies*

The legal legitimacy of return frameworks depends on their compatibility with applicable legal obligations, including international human rights and refugee law, rather than solely on their binding or non-binding character. Negotiating parties should therefore consider relevant legal safeguards and accountability mechanisms when designing cooperation arrangements. This includes clarifying the applicable legal obligations and responsibilities of each party, particularly regarding non-refoulement, individual assessment, procedural safeguards and access to effective remedies. Where appropriate, frameworks should also provide for independent monitoring and periodic reporting to facilitate scrutiny of how commitments are implemented. Diplomatic consultations and confidence-building activities can support cooperation between authorities. Incorporating these considerations during negotiations can help strengthen legal accountability and provide a clearer basis for assessing compliance during implementation.

FURTHER READING

Dalkıran, M., & Kılınçarslan, P. (2026). *Beyond conclusion: Success, failure and legitimacy in international return frameworks* (FAiR WP3 working paper).

Lavenex, S., & Rausis, F. (2026). Chessboard politics: The contested emergence of EU return and readmission norms. *Journal of Ethnic and Migration Studies, 52*(16), 4202–4222.

Rausis, F., & Lavenex, S. (2025). *Extra-European return diplomacy: A conceptual and empirical investigation* (FAiR working paper).

Torres-Chedraui, A. M., Leerkes, A., Ince Beqo, G., & Ambrosini, M. (2024). *Working paper on legitimate return and alternatives to return* (FAiR Working Paper D2.2).