Return and readmission[1]

10

26. The European Council calls for assistance to countries of origin and transit to be developed in order to promote voluntary return as well as to help the authorities of those countries to strengthen their ability to combat effectively trafficking in human beings and to cope with their readmission obligations towards the Union and the Member States.

27. The Amsterdam Treaty conferred powers on the Community in the field of readmission. The European Council invites the Council to conclude readmission agreements or to include standard clauses in other agreements between the European Community and relevant third countries or groups of countries. Consideration should also be given to rules on internal readmission.

PART 1: ASSESSMENT OF THE CURRENT SITUATION

A. Return

Returning those third-country nationals (TCNs) who do not fulfil the conditions for entry, stay or residence in the EU is an element of crucial importance of the EU common migration and asylum policy. The Return Directive 2008/115/EC was adopted to provide common standards and procedures to be applied by member states to return migrants in an irregular situation, including the issuing of return decisions and enforcement of removals, the use of pre-removal detention as well as procedural safeguards. It integrates a set of principles stemming from international law[2] and EU law into the EU return policy, including the case-law of the European Court of Human Rights (ECtHR)[3] and the EU Charter of Fundamental Rights (the Charter).

In the initial evaluation report on the application of the Return Directive, the European Commission observed that the flexibility of the Directive and the member states' implementation of its provisions had positively influenced the situation regarding voluntary departure and effective forced return monitoring. They also contributed to achieving more convergence on detention practices, including the overall reduction of pre-removal detention periods with wider implementation of alternatives to detention across the EU.[4]

As per the effectiveness of returns, the number of implemented returns in 2017 decreased by almost 20% compared to the previous year: from 226,150 in 2016 to 188,920 in 2017. Throughout the EU, this translates into a drop in the total number of return decisions issued per year from 45.8% in 2016 to merely 36.6% in 2017.[5] According to the Commission, low return rates undermine the credibility of the EU return system for the public and increase incentives for irregular migration and secondary movements. Challenges to effective returns include difficulties in identification and obtaining travel documents, the absconding of returnees, non-cooperation of returnees and countries of origin, improper national implementation of the EU return *acquis*, and more.[6]

Since the adoption of the European Agenda on Migration in May 2015,[7] the objective of increasing the EU return policy's effectiveness, measured primarily by the enforcement rate of return decisions, has been gradually gaining prominence. In March 2017, the European Commission adopted a renewed Action Plan on returns[8] accompanied by a Recommendation,[9] which included a set of measures for member states to make returns more effective. A number of these recommendations are based on the findings of the Schengen evaluation mechanism, which assesses the conformity of the return systems and practices of the member states with the EU return *acquis*.

The European Council conclusions of 28 June 2018 highlighted the need to step up effective returns and welcomed the Commission's intention to make legislative proposals for a more effective and coherent European

return policy.[10] In May 2018, the European Parliament called on member states to ensure swift and effective return procedures. At the same time, it emphasised the requirement of full respect for fundamental rights, and humane and dignified conditions when carrying out returns.[11] In September 2018, the Commission proposed a targeted recast of the Return Directive.[12] As of December 2019, negotiations are ongoing in both the Council and the Parliament. A partial general agreement was reached at the Justice and Home Affairs Council of 7 June 2019, except for the border procedure.[13]

Since the adoption of the European Agenda on Migration in May 2015, the objective of increasing the EU return policy's effectiveness, measured primarily by the enforcement rate of return decisions, has been gradually gaining prominence.

The Court of Justice of the EU (CJEU) has delivered 27 rulings which interpret the Return Directive.[14] This shows the need for a careful balance between competing interests: member states' legitimate interests to return migrants in an irregular situation, on the one hand, and the fundamental rights of the persons concerned, on the other. In its rulings, the CJEU draws on from a large body of ECtHR jurisprudence relevant to the subject matter of the Directive, thereby reflecting Article 52(3) of the Charter.

The CJEU has delivered 27 rulings which interpret the Return Directive. This shows the need for a careful balance between competing interests: member states' legitimate interests to return migrants in an irregular situation, on the one hand, and the fundamental rights of the persons concerned, on the other.

Other secondary EU legal instruments related to return, which are not discussed here due to length constraints, include the directive on mutual recognition of expulsion decisions 2001/40/EC, the decision on the compensation of financial imbalances resulting from the mutual recognition of expulsion decisions 2004/191/EC, the directive for transit operations in removals by air 2003/110/EC, the decision on removals by joint flights 2004/573/EC, the recast regulation on the creation of a European network of immigration liaison officers 2019/1240, Annex 39 of the Schengen Handbook, the regulation establishing the European Border and Coast Guard 2016/1624, the regulation establishing a European travel document for return 2016/1953, the revised Code of Conduct for Return Operations and Return Interventions coordinated or organised by Frontex, and the regulation on the use of the second-generation Schengen Information System (SIS II) for the return of irregular migrants 2018/1860.

An increasingly important EU actor in the area of return is the European Border and Coast Guard Agency (Frontex), which has been supporting member states in the field of return since its creation. Return is one component of European integrated border management. Over the years, Frontex activities in the field of return have expanded,[15] leading to the creation of the European Centre for Returns (ECRET). The number of people removed with the support of Frontex surpassed 13,000 in 2017.[16] The new 2019 regulation revamping and strengthening Frontex expands its return-related mandate and tools at its disposal. Frontex may provide technical and operational assistance to support member states' return systems. This may include

support on consular cooperation for the identification of TCNs; the acquisition of travel documents; providing return monitors, escorts and specialists; and organising joint and collecting return operations.

Funds for EU return policy were first allocated within the ARGO programme (2002-06) before being replaced by the European Return Fund (2008-13), allocating €676 million for the second cycle.[17] This EU fund, together with two other migration solidarity funds, were then merged into the Asylum, Migration and Integration Fund (AMIF, 2014-20). AMIF allocated €3.137 billion altogether, and one of its objectives is to enhance return strategies in the member states with an emphasis on the sustainability of return and effective readmission in the countries of origin[18] (€800 million were devoted to return until 2020 via national programmes).[19]

Different projects of practical or operational cooperation between member states and with third countries have been launched to make returns more effective. These include the AMIF-funded deployment of EU Return Liaison Officers, besides member states' immigration liaison officers, in a number of strategically key third countries; the European Integrated Return Management Initiative (EURINT) which aims to develop and share best practices in the field of forced return; and the European Return and Reintegration Network (ERRIN), established to facilitate return-related cooperation between migration authorities in the member states and countries of return.

IT tools have also been developed to enhance cooperation and coordination between national return-enforcing authorities, such as the Irregular Migration Management Application (IRMA) for return-related operational data collection; and RECAMAS, an EU-wide return case management IT system which is managed by Frontex and still under construction.

B. Readmission

Carrying out successful returns is impossible without the close cooperation of countries of origin and transit. Central instruments of this external dimension are EU Readmission Agreements (EURAs) concluded with third countries, which provide for the readmission of own nationals and TCNs coming to the EU irregularly through their territory.

Between 1999 and 2019, EURAs have been concluded with 18 countries – 17 of those have entered into force, with Turkey and Cape Verde being the latest.[20] 'Readmission clauses' have also been incorporated into a series of broader agreements concluded by the EU with third countries (e.g. EU partnership, association and cooperation agreements). New types of agreements that help to implement return policy goals are equally appearing on the horizon (e.g. with Albania, Serbia). In addition, informal arrangements on return and readmission are also in place with five countries of origin (i.e. Afghanistan, Ethiopia, Ghana, Niger, Nigeria).[21] These are becoming the Commission's preferred option as of late to achieve fast and operational returns when the swift conclusion of a EURA is not possible. These informal arrangements are not under the scrutiny of the European Parliament and face less scrutiny from the Council, hence tilting the EU institutional balance as well as raising questions of accountability and transparency.

In 2011, the Commission evaluated the functioning of the common readmission

policy.[22] As a result, the Council adopted conclusions defining the Union's renewed and coherent strategy on readmission. These, among others, defined guidelines for the future as follows:[23]

1. The EU readmission policy should be more embedded in the EU's overall external relations policy.

2. Member states should take necessary measures to improve the rate of approved readmission requests and effective returns further.

3. With regard to the future mandates on readmission, the migration pressure from a third country concerned on a particular member state or on the EU as a whole, the cooperation on return by the third country concerned, and the geographical position of the third country concerned situated at a migration route towards Europe should be considered to be the most important criteria.

Carrying out successful returns is impossible without the close cooperation of countries of origin and transit.

4. Clauses on the readmission of TCNs and rules on accelerated procedure and transit operations should be incorporated in future agreements.

The two major challenges of the EU return policy are internal difficulties and obstacles encountered by the member states within their own countries in successfully enforcing return decisions; and cooperating with countries of origin to enable actual removals.

Typically, the practical implementation of the agreements creates imbalances: the formal reciprocity covers an asymmetric distribution of responsibilities, since the rate of irregular migration from EU member states to the partner countries is negligible, while the third country concerned is usually a significant source of irregular migration as a country of origin or transit. Hence, EURAs can place a sizable political and economic burden on the countries of origin or of transit (e.g. due to the volume of remittances). A set of administrative and practical obstacles have also hindered the successful implementation of EURAs.[24]

Negotiations for a EURA with Belarus have recently been finalised, whereas readmission negotiations are still ongoing – or stalled – with Morocco, Algeria, Tunisia, Nigeria and Jordan. Talks with China have not yet even started since the mandate given in 2002.

PART 2: IDEAS AND SUGGESTIONS FOR THE FUTURE

A. Legislative measures

According to the European Commission, the two major challenges of the EU return policy are:[25]

- internal difficulties and obstacles encountered by the member states within their own countries in successfully enforcing return decisions (internal dimension); and

- cooperating with countries of origin to enable actual removals (e.g. in identifying, re-documenting and readmitting their own nationals) (external dimension).

Internally, it is vital to carefully balance between ensuring swift and effective return procedures on the one hand; and fully respecting fundamental rights as well as humane and dignified conditions when carrying out returns, with adequate built-in safeguards, on the other hand. Ensuring respect for fundamental rights in return procedures not only safeguards the rights of the returnees but also serves the interests of national authorities, as well as the effectiveness and overall credibility of the EU return policy. It prevents situations where fundamental rights violations during the return procedure lead to challenges at a later stage, resulting in delays in removal operations, prolonged detention and interventions of (inter)national courts, as well as reputational damage to the member states.

1. STRENGTHENING FUNDAMENTAL RIGHTS SAFEGUARDS

A number of changes envisaged in the recast Return Directive proposal of 2018[26] raise fundamental rights concerns. The EU Agency for Fundamental Rights' Opinion to the European Parliament[27] and the European Parliamentary Research Service's Substitute Impact Assessment[28] highlighted a number of issues and problematic provisions.

INITIAL SUGGESTIONS AND IDEAS:

1. Upholding the primacy of voluntary departure over forced returns, which is an underlying, horizontal principle under the Return Directive. The CJEU has also stressed their preference for voluntary departure numerous times. From a practical perspective, it is also easier to manage with third countries.

2. Limiting undesirable consequences of combining decisions on the end of legal stay and returns. This approach is not unlawful per se but does require clear safeguards to protect the right to asylum, the principle of non-refoulement and the right to an effective remedy. Contrary to the principle of individual assessment of every case, there seem to be practices of automatically delivering a return decision after the rejection of an asylum claim, even if this entails fundamental rights violations. A precise checklist should be established on the basis of a study done by experts in order

to help the officials in charge of return to individualise the cases they have to deal with.

3. Inserting adequate safeguards concerning returnees' duty to cooperate. For instance, the duty to request a travel document from the authorities of the country of origin, if implemented against persons who sought asylum and whose application is not yet decided in the final instance, creates a risk of violating the right to asylum and the principle of non-refoulement.

4. Avoiding entry bans without a return decision. The 2018 proposal indicates that issuing entry bans without a return decision would allow issuing entry bans in a more expedited manner. This could foreseeably lead to decisions on entry bans that are issued swiftly, without adhering to procedural requirements stemming from the right to good administration. Any measure issued under the Return Directive that negatively affects individuals must comply with the formal requirements and procedural safeguards (Artsicles 12-13) and the right to good administration.

5. Dropping the open-ended list of criteria to establish the existence of a 'risk of absconding' while assessing all circumstances of the individual case, including counter-indicators; and doing away with the rebuttable presumption of a risk of absconding to not shift the burden of proof to the TCN, nor to absolve the national authorities from conducting an individual assessment of the circumstances of the case.

6. Ensuring that pre-removal detention remains a measure of last resort. The proposal unduly broadens the scope of interpretation of what constitutes the lawful, proportionate and necessary use of pre-removal detention. It thus moves away from the principle of detention as a measure of last resort (i.e. ultima ratio).

7. Avoiding the inappropriate use of public policy, public security or national security concepts as additional grounds for detention of TCNs in the return procedures. As a limitation to the right to liberty, detention on these grounds must meet the requirements of the Charter, including the principle of proportionality. The CJEU ruled that such concepts, necessarily constituting an exception from the general rule, had to be interpreted in EU immigration and asylum legislation restrictively, similarly to their narrow interpretation in EU free movement legislation.

8. Refraining from setting a bottom limit to maximum detention periods (i.e. three months). The length of the maximum period of detention included in national law does not seem to impact on the effectiveness of returns. Among the member states with the lowest return rate, some apply shorter detention periods as well as those taking advantage of the maximum detention periods permitted under the Return Directive. Some of the member states with the shortest maximum permitted detention periods actually show an above-average return rate. To gather more evidence, a study based on statistics should be prepared to evaluate the success of removal in comparison with the length of detention in order to see if this minimum period is necessary. Also, setting such a bottom limit could be wrongly perceived in practice, suggesting that three months of detention is automatically allowed.

9. Establishing reasonable time limits for seeking a remedy against a return decision in line with CJEU and ECtHR case law. The proposed deadline of maximum five days would be the lowest in place in EU law for a comparable type of proceedings in the field of migration and asylum, and would undermine the right to an effective remedy which must be available and accessible in practice. It would also severely affect the effective access to legal assistance, as well as interpretation and translation – particularly when the individual is deprived of liberty for removal.

10. Avoiding undue restriction of the suspensive effect of appeals. Limiting the availability of the suspensive effect of appeals is at odds with the right to an effective remedy and interferes with member states' procedural autonomy.

11. The framing of national return management systems must be in full compliance with European data protection law and the EU asylum acquis. According to the proposal, the national return systems –, which need to be interconnected and automatically communicate data to a central system operated by Frontex – would store the personal data of returnees. The objective of increasing synergies between the asylum and return procedures should not result in undermining the confidentiality of asylum information (e.g. information collected during personal interviews as part of the Asylum Procedures Directive 2013/32/EU should under no circumstances be used for return purposes).

12. Better reflecting the duty to protect stateless persons in the context of returns (e.g. avoid arbitrary and prolonged immigration detention), especially by injecting such provisions into the Return Directive.

13. Allocating sufficient funds under the new Asylum and Migration Fund (2021-27) to finance return-related actions that are essential to ensure the practical implementation of fundamental rights safeguards, as required by the Return Directive (e.g. effective alternatives to detention; measures targeting vulnerable persons with special needs; effective forced return monitoring; provision of legal aid, interpretation and translation).

14. Postponing the discussion on the border return procedure given the interdependence between the proposed border procedure and the asylum procedure, until a final agreement on the Asylum Procedures Regulation is reached.

Ensuring respect for fundamental rights in return procedures not only safeguards the rights of the returnees but also serves the interests of national authorities, as well as the effectiveness and overall credibility of the EU return policy.

2. STRENGTHENING THE EU-WIDE DIMENSION OF RETURN-RELATED MEASURES FURTHER

15. Submitting a proposal for EU legislation on the EU-wide recognition of return decisions, accompanied by all the necessary safeguards to enable access to effective remedies in the implementing member states as well.

16. Strengthening the EU and domestic legal frameworks applicable to non-removable returnees – those who fall under Article 14 of the Return Directive (e.g. by properly implementing and applying all safeguards set out in Article

14) –, including the written confirmation on the postponement of removal. New policies should also be carefully assessed so as not to have the unintended effect of increasing the group of people who are non-removable and simultaneously remain in legal limbo.

B. Policy actions

17. Moving towards a broader assessment of the effectiveness of the EU return policy,[29] not only through the lenses of return rate but also considering the impact of returns on individuals, communities and the countries of return; and given the longer-term sustainability of return policies. The latter also requires building real ownership of countries of origin in reintegration.

18. Comprehensively addressing low return rates,[30] including convincing some third countries unwilling to cooperate by offering incentives (e.g. legal migration channels, trade, investment, energy) and envisaging sanctions (i.e. 'stick and carrot' approach). In this spirit, the existing EU Partnership Framework[31] should be extended to further strategic third countries. All of this should culminate in the development of a true EU return diplomacy.

19. Harmonising, with more EU funding involved, the Assisted Voluntary Return and Reintegration (AVRR) packages across the EU (e.g. approximating the scope of beneficiaries, the amount of support, the preconditions to benefit from reintegration support etc.) while not making access to AVRR programmes conditional on the cooperation of returnees with authorities during the return process. More attractive and widely used AVRR schemes can provide an incentive to returnees and help overcome the reluctance of third countries to cooperate on return.

20. Improving the use of EU visa policy to facilitate negotiations on readmission (e.g. adopt restrictive visa measures against non-cooperative third countries on readmission) and using the visa suspension mechanism to monitor readmission obligations closely.

21. Based on conditionality, improving the enforcement of the existing multilateral agreements with third countries which contain a 'readmission clause' (e.g. the Cotonou Agreement with African, Caribbean and Pacific countries).[32]

22. Developing new EU readmission agreements with other third countries, with the mobilisation of a wider range of leverages from all EU relevant policy areas (more-for-more principle) – except for development aid –, and in close coordination with leverage at the member state level. Rethinking their current model (e.g. embedding them in a larger cooperation scheme) can help strengthen their legitimacy in the eyes of third countries.

C. Practical measures

23. Applying, as relevant, standards developed by Frontex for joint and collecting return operations to national operations it is financing.

24. Frontex ensuring adequate training for all members of the pool of forced return escorts, all staff to be deployed to antenna offices, cultural mediators and all other participants (potentially) involved in its return operations (e.g. medical staff, interpreters).

25. Frontex assessing how to strengthen the effectiveness and independence of the pool of forced return monitors (e.g. by involving the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in the monitoring of Frontex-coordinated joint return operations).

26. Adhering the processing of personal data through the RECAMAS – to be set up and operated by Frontex when communicating with member states' return management systems – to strict data protection safeguards at all times, in line with Regulation (EU) 2018/1725 and the Charter. Additionally, consulting the European Data Protection Supervisor in the process of setting up this new information exchange mechanism.

27. Improving the use of existing EU large-scale IT systems (e.g. SIS II, which will contain return decisions in future; the revised Visa Information System and Eurodac which will be both used for return purposes), to create an enabling environment for returns. This will include better information gathering, sharing and coordination among member states for return purposes.

28. Using the voluntary scheme under Annex 39 of the Schengen Handbook,[33] regarding the transit by land of returnees and the mutual recognition of return decisions, more widely in this scenario of voluntary departure through more than one member state. A similar scheme could be developed for the transit of returnees who leave the EU voluntarily by air.

29. Systematically collecting data on the duration of return procedures; the time spent in pre-removal detention; the number of non-removable returnees; and backlogs (including different stages of appeals), which will facilitate policymaking and performance evaluation. One way to proceed is by amending the Commission's proposal to revise the regulation on Community statistics on migration and international protection.[34]

30. Strengthening the fundamental rights component of the Schengen evaluation mechanism in the field of return and readmission by adjusting the Schengen Evaluation questionnaire and checklist accordingly. Performing more unannounced visits with the EU Agency for Fundamental Rights as an observer, with the Council and Commission monitoring more closely the effective implementation of the National Action Plans concerning return and readmission.

31. All member states operating an independent and effective forced return monitoring system which publishes reports regularly. The Forced-Return Monitoring III project,[35] coordinated by the International Centre for Migration Policy Development with the participation of 22 member states, can help exploit synergies and increase convergences between the forced return monitoring mechanisms via training and exchange of best practices. Similarly, a systematic and effective oversight of the implementation of EURAs should be put in place.

32. Putting in place post-return monitoring mechanisms, which can significantly contribute to sustainable return and reintegration. To be effective, such mechanisms should cover both the conditions and circumstances of the return process as well as the situation and individual circumstances after arrival.

33. Mapping and regular monitoring of national authorities' operational capacities and capabilities in the field of return, to better determine the operational support Frontex should deliver to member states.

34. Providing sufficient funding to support cooperation on readmission and reintegration of returnees between member states and third countries, notably under the Emergency Trust Fund for Africa and other EU financial programmes.

35. Creating an 'EU Coordination Mechanism for Returns',[36] which would allow member states facing difficulties in cooperating with third countries on readmission to channel their concerns to the Commission and the European External Action Service via an EU-wide coordination platform.

---

1. This note has brought together elements from discussions held in Brussels over the course of the spring and summer of 2019, and at the Tampere 2.0 conference in Helsinki on 24 and 25 October 2019. These discussions included academics, policymakers, and civil society and member state representatives. Special thanks are due to Tamás Molnár for his work and help in bringing these reflections together in this chapter.

2. United Nations International Law Commission (2014), "Draft articles on the expulsion of aliens, with commentaries".

3. Council of Europe and European Court of Human Rights (2019), Guide on the case-law of the European Convention on Human Rights: Immigration.

4. European Commission (2014), Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM(2014) 199, Brussels.

5. European Commission (2018a), Communication from the Commission to the European Parliament, the European Council and the Council: Progress report on the Implementation of the European Agenda on Migration, COM(2018) 301 final, Brussels.

6. European Commission (2019), Communication from the Commission to the European Parliament, the European Council and the Council: Progress report on the Implementation of the European Agenda on Migration, COM(2019) 126 final, Brussels.

7. European Commission (2015), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration, COM(2015) 240 final, Brussels.

8. European Commission (2017a), Communication from the Commission to the European Parliament and the Council on a more effective return policy in the European Union – A renewed Action Plan, COM(2017) 200 final, Brussels.

9. European Commission (2017b), Commission Recommendation of 7.3.2017 on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council, C(2017) 1600 final, Brussels.

10. European Council (2018), European Council meeting (28 June 2018) – Conclusions, EUCO 9/18, Brussels.

[11] European Parliament (2018), Annual Report on the functioning of the Schengen Area, P8_TA(2018)0228, Strasbourg.

[12] European Commission (2018b), Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast): A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018, COM(2018) 634 final, Brussels.

[13] Council of the European Union (2019), Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) – Partial general approach, 9620/19, Brussels.

[14] See Groenendijk, Kees; Carolus Grütters and Helen Oosterom-Staples (2019), "Overview of CJEU judgment and pending cases: September 2019 Quarterly update", Radboud University of Nijmegen.

[15] *Frontex*, "Return" (accessed 15 November 2019).

[16] *Ibid*.

[17] European Parliament and Council of the European Union (2007), Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows', Art.13(1).

[18] *European Commission*, "Asylum, Migration and Integration Fund (AMIF)" (accessed 15 November 2019).

[19] Council of the European Union, Council conclusions on the future of return policy, 08 October 2015, para.4.

[20] *European Commission*, "Return & readmission" (accessed 15 November 2019).

[21] European Council on Refugees and Exiles (2019), "Return Policy: Desperately seeking evidence and balance. ECRE's assessment of latest developments in EU policy and law on returns", Brussels.

[22] European Commission (2011), Communication from the Commission to the European Parliament and the Council: Evaluation of EU Readmission Agreements, COM(2011) 76 final, Brussels.

[23] Council of the European Union (2011), Council Conclusions defining the European Union strategy on readmission, 11260/11, Brussels.

[24] Cortinovis, Roberto (2018), "Migration: EU Return Policy", Brussels: Research Social Platform on Migration and Asylum.

[25] European Commission (2018b), *op.cit.*

[26] *Ibid*.

[27] European Union Agency for Fundamental Rights (2019), The recast Return Directive and its fundamental rights implications: Opinion of the European Union Agency for Fundamental Rights, Vienna.

[28] Eisele, Katharina; Elise Muir; Caterina Molinari; Meena Fernandes and Anthea Galea (2019), The proposed Return Directive (recast): Substitute Impact Assessment, PE 631.727, Brussels: European Parliamentary Research Service.

[29] European Council on Refugees and Exiles (2019), *op.cit.*

[30] Mananashvili, Sergo (2017), "EU's Return Policy: Mission Accomplished in 2016? Reading between the lines of the latest EUROSTAT return statistics", Vienna: International Centre for Migration Policy Development.

[31] European Commission (2016), Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank on stablishing a Partnership Framework with Third Countries under the European Agenda on Migration, COM(2016) 385 final, Brussels.

[32] European Union (2000), Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000.

[33] Council of the European Union (2006), Commission Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons, 15010/06, Brussels, Annex 39.

[34] European Commission (2018c), Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection, 2018/0154 (COD), Brussels.

[35] See *International Centre for Migration Policy Development*, "Forced-Return Monitoring" (accessed 18 November 2019).

[36] See Finland's Presidency of the Council of the European Union, Informal meeting of Justice and Home Affairs Ministers, 18-19 July 2019, Helsinki: Working session II of Home Affairs Ministers on 18 July 2019.