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Reflection paper

Longer detention, fewer safeguards. Inside the EU's new Return Regulation

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A harder return system

With today's vote, the European Parliament (EP) has given its final approval to the EU's new Return Regulation. Formal EU Council adoption and publication in the Official Journal will follow, but the substance is settled.

MPG evidence points to a clear conclusion: the EU is building a faster return system, but not a fairer one. Our [Migrant Return Policy Index \(MIREX\)](#), which assesses return policies across 9 EU countries, Switzerland and the UK against 53 human-rights based indicators, shows that the gaps the regulation deepens are already among the weakest points in Europe's return system. The regulation indeed prioritises enforcement over human rights compliance. It narrows the space for voluntary return, extends detention periods to up to 30 months, allows for the detention of children, opens the door to return hubs and offers no solution for regularisation.

Voluntary return under pressure

A credible return system should prioritise voluntary return, giving people time, information and practical support before and after departure. The regulation, however, moves in the opposite direction. It removes the minimum seven-day period before enforcement can begin, and strictly links assistance to cooperation and compliance. By doing so, the provision of support to returnees risks becoming a coercive tool of pressure.

MIREX shows that policies on voluntary return score 70 out of 100 points overall, but time limits for departure score only 41 and reintegration support for vulnerable groups just 25. The aspects of voluntary return that are already the weakest in practice are also the ones the regulation makes even harder to deliver.

Detention can reach 30 months

The most worrying element of the new regulation concerns detention. The regulation sets a maximum detention period of 24 months, up from 18 months under the previous 2008 Return Directive. It also allows an additional period of up to six months, in cases where there is a risk of absconding and new circumstances indicate a reasonable prospect of removal. This can bring the overall ceiling to 30 months. However, Article 32 states that if a person moves to another EU country and "his conduct constitutes a ground for detention", "a new period of detention shall apply." This provision implies that previous detention periods are not counted and a new cycle begins from scratch, which could potentially prolong detention far beyond the stated maximum. The regulation also expands the grounds on which detention can be ordered and weakens the requirement to prioritise less coercive alternatives.

Children are also not exempt. The regulation allows the detention of unaccompanied minors and families with minors, provided this is used as a measure of last resort and for the shortest appropriate period. In doing so, it treats child detention as a regulated possibility rather than a prohibited practice, a position that stands in direct tension with the growing body of international human rights standards and guidance.

MIREX already identifies detention as one of the most controversial areas in European return policy: most countries offer only limited humane alternatives to detention (score 45), the maximum duration dimension scores just 32 and the best interests of the child only 38. The regulation risks consolidating these weaknesses rather than correcting them.

Intrusive investigative measures

The regulation also introduces new investigative measures, including searches of homes and personal premises, seizure of electronic devices and personal belongings, and coercive collection of biometric data, that can be carried out without the consent of the person concerned. These measures extend the coercive reach of enforcement into the private sphere of individuals.

MIREX already shows that enforced return is among the most hostile dimensions in European return policy (average score 41), with all countries assessed requiring employers to verify migration status and authorising police checks on individuals suspected of irregular stay. The new investigative powers risk expanding the coercive tools available to national authorities towards migrants, while fundamental safeguards and oversight mechanisms remain severely overlooked.

Return hubs and the accountability gap

The regulation provides the legal grounds for setting up agreements or arrangements on return hubs, allowing people to be returned to third countries where they may never have set foot. It requires respect for human rights and non-refoulement (which guarantees no one is returned to a country they may be harmed), and provides for independent monitoring. These safeguards matter, but it is unlikely they will actually be implemented. This is because once a person is transferred outside EU territory, the monitoring of conditions, ensuring access to remedies, assessing risks of onward return, and tracing responsibility become much harder. Moreover, the agreements the EU enters in may include conditions for

detention in the third country. Notably, only unaccompanied minors are excluded from return hubs, while families with minors may be transferred under these arrangements.

MIREX shows that accountability and monitoring is already weak. Human rights monitoring across forced-return procedures scores 42 and none of the countries analysed have mechanisms in place to monitor the situation once the individual has been handed over to authorities in their country of origin. Stakeholder involvement is the lowest-scoring dimension at 31, with civil society, migrant organisations and countries of return largely excluded from how return policy is designed, implemented and monitored. Return hubs widen the distance between EU decisions and their human consequences, and that distance makes rights harder to protect.

What comes next

The regulation is built around removal, but not everyone subject to a return decision can be actually returned. In practice, many cannot be returned because of protection concerns, health conditions, statelessness, or the lack of documentation. For these individuals, enforcement alone does not solve irregularity, but it merely prolongs it. Yet pathways for addressing non-returnability remain largely underdeveloped. MIREX scores alternatives to return at only 37, highlighting the need for better solutions for people who cannot be returned. Without them, the regulation risks expanding the number of people trapped in legal limbo and undermining the effectiveness and credibility of return policies.

Implementation will now determine the regulation's real impact on people's lives. EU countries should not use the new framework to lower safeguards to the minimum. Instead, they should use every bit of discretion they have to protect rights, expand lawful and safe alternatives to detention, establish regularisation pathways and ensure that return procedures remain legitimate, dignified and sustainable. MIREX has already documented significant structural weaknesses in Europe's return systems. These are not emerging risks but existing realities. The responsibility now is to prevent these shortcomings from being further exacerbated and normalised in future policies and practices.

Migration Policy Group

The Migration Policy Group is an independent Brussels-based think-and-do tank. We conduct evidence-based projects, research and campaigns in the areas of integration, migration and anti-discrimination.

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