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Motivations, experiences and consequences of returns and readmissions policy: revealing and developing effective alternatives



Executive Summary

RR on the Ground: Implementation of the RR Policy, its Impact, and State Agents' Assessment and Perception

Case Study: **Belgium**

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Project Number: 101094107



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This document provides a concise summary of the key findings of RR on the Ground (WP4). For detailed analysis, evidence, and comprehensive insights, please refer to the full report. The information in this summary should not be considered complete or fully representative of the entire study.

How to cite:

Carles, I., Grevesse, M. & Henneon, V. (2025) *RR on the Ground: Implementation of the RR Policy, its Impact and State Agents' Assessment and Perception. Case study: Belgium (Executive Summary)*, More Project.

DOI: 10.5281/zenodo.15174830

Publication date:

April 2025

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Executive Summary – the case study of Belgium

1. Introduction

This study offers an analysis of the perceptions and experiences of actors implementing return and readmission policies in Belgium, based on a survey conducted between October 2024 and February 2025. Eighteen agents working at both local and federal level were interviewed. Among them were police officers, a judge, agents responsible for the implementation of migration policy, as well as agents responsible for the reception of asylum seekers and medical experts.

It aimed to gather information from stakeholders working in the field on how they approach their tasks. It also sought to identify the obstacles they may face in implementing return policies for third-country nationals residing illegally in the country. This is an ethnographic study carried out in Belgium, both in the capital - where the main asylum and migration authorities are located - and in medium-sized cities also involved in these policies.

2. Evidence and Analysis

The results of the ethnographic research show that the Belgian return policy, whose stated objective is to increase returns, is considered ineffective by many of the agents responsible for its implementation. The policy is presented as ‘voluntary’ at first, but will be enforced regardless if necessary. This policy creates a climate of anxiety and disorientation among irregular migrants, who fear being detained and deported, even though the actual number of detentions and deportations remains low in relation to return decisions issued.

The reasons for the policy's ineffectiveness can be traced back to several factors. First, there are the challenges inherent in organising returns to countries grappling with internal crises. Secondly, there is a conspicuous lack of cooperation from countries of origin in identifying and agreeing to the repatriation of their nationals.

Furthermore, police services have expressed frustration when it comes to the interception of undocumented migrants. They often view the process as futile, as it is both time-consuming and consistently fails to produce concrete results in terms of repatriation. According to them, transfers to administrative detention after an interception rarely happen because of how hard it is to establish people's actual identity. In some cases, the countries of origin may decline to accept the return of citizens whose identities have not been formally verified. Consequently, these individuals are routinely released following the conclusion of their custodial periods, despite a deportation order having been issued.

Moreover, some rejected asylum seekers cannot be sent back to their country of origin due to widespread violence in that country. These individuals can nonetheless be intercepted on multiple occasions, detained in a closed facility, only to be subsequently released with an order to leave the territory, this status leaving them with very limited rights. The implementation of this policy engenders a pervasive sense of fear and intimidation among undocumented migrants, thereby contributing to a general climate of terror.

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Those wishing to avoid involuntary repatriation may opt for voluntary return. It should be noted, however, that IOM, which has an agreement with the Belgian Immigration Office to offer this option from a detention centre, remains very vigilant as to how the provision is implemented. As a result, IOM agents demand that previously detained migrants be 'released' at the airport and allowed to decide until the last moment whether or not to board the plane.

Detainees retain the right to appeal both the initial detention decision and the return decision. The Royal Decree of 2 August 2002 on the operation of closed centres provides legal representation and the organisation of duty services to that end. While it was pointed out that immigration law is increasingly an area of focus for lawyers during their studies, the inexperience of some of them in the field of immigration law was also pointed out. A register has been set up to enable lawyers who wish to become involved in the defence of detained migrants at the Brussels Bar. It is noteworthy, however, that inclusion in this register does not require having any qualifications in the field of immigration law.

Pro bono lawyers often lack experience in immigration law, as it is complex and requires detailed knowledge of procedures. This affects the appeal possibilities available to migrants when they are subject to a deportation decision. Indeed, the deadlines for appealing are often very short, given the urgent need to intervene to prevent deportation or to have someone released. Consequently, time constraints are frequently exceeded, resulting in an extension of detention. Additionally, challenges related to communication were identified, although there is a consensus that access to interpreters is generally provided. However, some TCNs can exhibit a degree of distrust towards interpreters from countries with ethnic tensions, especially if the interpreter is from a different ethnic group than the detainees.

Uncertainty and a perception of loss of control is further exacerbated by migrants only discovering at the last moment that they are to be transferred to the airport. In Belgium, an increased level of anxiety can be observed among detainees towards the end of the afternoon. This is because this is usually the time when they are taken to the airport for a scheduled departure the following day. This leads to a state of anticipatory anxiety, as detainees find themselves in a state of limbo, uncertain about the circumstances surrounding their imminent transfer.

It is widely acknowledged that living conditions in detention centres in Belgium are very challenging. These facilities, with their severe restrictions on mobility and autonomy, closely resemble prison environments. In fact, some of these centres were formerly used as prisons and are surrounded by three-meter-high double fences. Although access to health care is guaranteed - with a doctor and nurses, and a psychologist present in each centre - there is sometimes a notable distrust of the medical personnel. This can impede effective communication between detained migrants and medical staff.

Furthermore, detainees frequently experience significant social isolation, particularly in cases where their family members still live in their countries of origin. Visiting rights, when available, can serve as a source of social connection, albeit a limited one. As a result, migrants often experience severe physical and psychological distress due to extreme isolation, frustration and disorientation regarding their legal status. It is notable that some detained migrants resort to resistance

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strategies that can take a highly violent form, including hunger strikes and self-harm.

As Belgium has been repeatedly sanctioned for detaining families with minor children in administrative detention centres, families are now housed in specific units called ‘return houses’ (*maisons de retour*) spread throughout the country. In theory, the children are enrolled in school. However, it is not uncommon for them to face difficulties in attending school, particularly if they are moved to a return house during the school year which is situated a considerable distance from the first school to which the child was enrolled.

3. Developing Alternatives to Returns

Some implementers stated that, despite the existence of procedures for regularising residence on humanitarian or medical grounds, migrants are becoming less likely to have their status regularised due, among others, to the opaque processes used by the Immigration Office.

On the other hand, the Belgian authorities have developed alternatives to detention, the purpose of which is, in theory, to organise returns. However, the implementing authorities emphasise that these measures are also intended to examine the current situation of irregular migrants in order to see whether it is still possible to regularise their stay.

This is the case with the alternatives developed by the Immigration Department's Alternatives to Detention (ATD) unit. People who have received an order to leave the country are invited to meet with an ICAM coach from the ATD department in order to find “sustainable prospects” for their situation, in the terminology used by the Immigration Office, taking into account all aspects of the person's legal and administrative residence situation. The Immigration Office's 2023 report shows that of the 612 "sustainable future prospects" proposed by the ICAM agents, the possibility of staying in Belgium accounts for 214 cases. Families were the main beneficiaries, as of the 224 families monitored, 162 obtained the right to stay, including through regularisation, family reunification or obtaining a work permit. In terms of individual cases, the rate is lower, as only 44 out of 131 cases were granted the right to stay. Conceived by the legislator as a means of implementing a return policy, individual case management ultimately offers an alternative to detention for a group of migrants - who have received an order to leave the territory and are therefore at risk of deportation - and the hope of long-term residence in Belgium.

Concurrent with this arrangement, the federal organisation responsible for the reception of asylum seekers, Fedasil, has initiated the 'Reception and Orientation' project. This initiative is directed at homeless migrants who have been living in the country for a significant duration, albeit with no recognised legal status. The objective of this initiative is to provide accommodation in exchange for cooperation in identifying a long-term resolution to their residency status. This initiative is regarded as a substitute for detention, insofar as migrants enter the programme voluntarily and have the option to depart at any time. Indeed, the programme has already resulted in the regularisation of several undocumented migrants. A secondary benefit lies in the prioritised examination of these cases by the relevant bodies, thereby significantly accelerating their processing.

This approach is notable for its significant advantage in averting the detention of migrants and facilitating the regularisation of stays for a subset of individuals. Nevertheless, these mechanisms

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are implemented on a very restricted scale, and for those for whom no resolution has been found, result merely in an extension of their already unlawful status, with concomitant loss of rights and the persistent threat of deportation.

It is therefore recommended that these measures be extended to as many people in an irregular situation as possible, to avoid their detention and to offer them the possibility of regularising their stay, with regard, among other things, to their current family situation and the vulnerabilities they present, particularly in the area of health.

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