



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. Neither the European Union nor the granting authority can be held responsible for them.

Co-funded by



UK Research
and Innovation

Coordinator

UNIVERSITAT DE BARCELONA, Spain

Partners

UNIVERSITA CA' FOSCARI VENEZIA, Italy

UNIVERSITE LIBRE DE BRUXELLES, Belgium

PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS ASBL, Belgium

MIROVNI INSTITUT, Slovenia

KMOP – KENTRO MERIMNAS OIKOGENEIAS KAI PAIDIOU, Greece

RED BARNET, Denmark

LINKOPINGS UNIVERSITET, Sweden

GEORG-AUGUST-UNIVERSITAT GOTTINGEN STIFTUNG OFFENTLICHEN RECHTS, Germany

CENTRE FOR EUROPEAN POLICY STUDIES, Belgium

Associated Partners

THE CHANCELLOR, MASTERS AND SCHOLARS OF THE UNIVERSITY OF OXFORD, United Kingdom

Authors

Davide Colombi, CEPS

Chiara Catelli, PICUM

Michele Levoy, PICUM

CITE THIS POLICY BRIEF: Colombi, D., Catelli, C., Levoy, M. (2026). Beyond return: Rethinking effectiveness and fairness in the EU Return Regulation. MORE Project. DOI: 10.5281/zenodo.21453744

PROJECT COORDINATOR



PARTNERS



Executive summary

The [Return Regulation](#) seeks to replace the 2008 Return Directive and establish a Common European System for Returns applying directly across Member States. Its central aim is to raise the EU's return rate – the share of return orders that end in actual removal.

Evidence from the MORE project shows that the effectiveness of return policy cannot be judged by removal rates alone. It must be assessed against the documented harms of detention and deportation, the limits of coercive approaches, and the accountability gaps opened by externalisation. Less harmful and more proportionate rights-compliant alternatives are already in use across Europe. On this evidence, the Regulation – concluded at speed, without meaningful consultation of civil society and implementing actors, and without a comprehensive impact assessment – intensifies an enforcement model the evidence does not support.

MORE's findings converge on five points:

1. Expanded and prolonged immigration detention is neither proportionate nor effective;
2. Coercion does not produce genuine cooperation, and access to fundamental rights should not be conditional on it;
3. Externalising return would displace harms and weaken accountability;
4. Enforcement-centred approaches trap non-removable people in prolonged legal and social limbo;
5. Regularisation and regular pathways are a more durable and fair response to irregular migration than removal.

The brief puts forward three recommendations:

- i. Ground the Regulation's implementation, review, and future legislative proposals in independent evidence and frontline experience;
- ii. Contain the coercion and externalisation in the Regulation through national discretion and strategic litigation;
- iii. Invest in regularisation, mobility, firewalls, and case management as the effective response to irregularity.

1. Introduction

On 17 June 2026, the European Parliament [approved](#) the Return Regulation, endorsing the text provisionally [agreed](#) with the Council on 1 June. Formal adoption by the Council and publication in the Official Journal remain outstanding.

The Return Regulation would replace the 2008 [Return Directive](#) and seeks to establish a [Common European System for Returns](#), with a single set of rules binding participating EU Member States and Schengen-associated countries. Its declared purpose is to raise the [EU's return rate](#) – the share of return orders that end in actual removal, which in recent years has sat between roughly 15 % and 30 %. EU policy progressively narrowed 'effectiveness' to this single metric ([Slavnic & Jubany 2024](#); see also [Carrera & Allsopp 2018](#); [Stutz & Trauner 2020](#)), even though a substantial share of removal orders cannot lawfully be enforced due to humanitarian, legal, and technical obstacles ([Carrera et al. 2025](#); [Catelli & Levoy 2025](#)).

Evidence from the [MORE project](#) shows that the effectiveness of return policy cannot be assessed through removal rates, deterrence, or enforcement capacity alone. It must also be assessed against the documented harms of detention and deportation, the limits of coercive approaches, and the risks attached to externalising return. Less harmful and more proportionate and rights-compliant alternatives are already available across Europe.

On this basis, the Return Regulation intensifies an enforcement model that the evidence does not support, without meaningful consultation with civil society and implementing actors, and without a comprehensive impact assessment (see [MORE Statement 2026](#)).

2. Methodology

This policy brief builds on [MORE](#)'s research and fieldwork conducted between 2023 and 2025 across seven EU Member States (Spain, Italy, Belgium, Greece, Slovenia, Sweden, and Germany), the United Kingdom, and six countries outside the EU (Albania, Ethiopia, Georgia, Iraq, Niger, and Senegal).

It draws on interviews and fieldwork across the project: 71 lawmakers and legal experts across the EU, UK, and third countries; 124 enforcement agents (police officers, border guards, judges, prosecutors, and detention personnel); 150 supporting agents (civil society actors, frontline service providers, and stakeholders engaged in return and readmission, some of whom were themselves, or had previously been, at risk of deportation); 129 people at risk of deportation; and 347 people subjected to return procedures and their communities.

The policy brief also integrates insights from closed-door meetings with EU policymakers in March 2025 and February 2026, as well as a policy [roundtable](#) convened by the UN OHCHR, Amnesty International, PICUM, CEPS, and the MORE project on 3 March 2026 in Brussels.

3. Key findings

3.1 Expanded immigration detention and punitive deportation are neither proportionate nor effective

The Return Regulation expands the enforcement logic of return. It permits immigration detention on broadly defined grounds – including risk of absconding, obstruction of return, security risk, identity verification, and specified forms of non-cooperation – for 12 months, extendable to 24 months and, under specific circumstances, by a further six months. A new detention period may begin where the person moves to another Member State, and their conduct constitutes a detention ground. For people considered to pose a security risk, additional periods beyond these limits may be ordered by a court, with no maximum period of detention laid down in legislation. In practice, this creates a risk of indefinite detention.

Furthermore, the Regulation recasts ‘alternatives to detention’ (ATDs) as an expanded set of quasi-custodial controls, including reporting obligations, designated residence, financial guarantees, and electronic monitoring (Articles 23 and 23c). This marks a departure from the 2008 Directive, where alternatives to detention were conceived as ‘less coercive’ measures that should be assessed before detention is imposed. Under the new framework, they may instead be applied to anyone in a return procedure for the purpose of ensuring their cooperation and ‘effective return’, and continue to apply after the maximum permissible detention period has expired, with no specified time limits in the Regulation.

MORE evidence shows that detention produces severe and lasting harm to physical and mental health. That harm is inherent to the deprivation of liberty, the prolonged uncertainty and the isolation it entails, and is not remediable through improved detention conditions ([Cimino & Perocco 2025](#)). Substantial evidence beyond MORE supports this showing that immigration detention damages mental health, that the severity of distress increases with the length of detention, and that suicidal ideation and self-harm are common ([von Werthern et al. 2018](#); [Filges et al. 2024](#)).

A detention worker in one Member State described being reprimanded for authorising the release of detainees in medical emergencies: ***‘My phone would ring at 3:00 AM to authorise lifting the barrier, letting in a doctor; [...] in urgent cases, he’d show up at 3:00 AM, sign the papers, and the detainee would be released. Then, the next day, of course, came the reprimands: “How dare you? That’s one less. He could have stayed. They’re all just putting on a show.” Well, no, not exactly. These were people who had sewn their lips shut, stitched their own eyes, broken their own legs’*** (Detention worker, EU Member State).

People subject to return procedures described administrative detention as worse than imprisonment on account of its indefinite duration, the absence of any rehabilitative purpose and the uncertainty as to when it will end ([Cimino & Perocco 2025](#); [Carles et al. 2025](#)). That indefiniteness is compounded where there is no maximum time limit on immigration detention, as in the UK, where people – including those with serious mental-health conditions – are held for months or years without clarity on removal or release ([Carles et al. 2025](#)).

Some of the actors who apply these measures regard detention as ineffective and disproportionate. In the words of one judge: *‘from the perspective of a human rights-based legal framework [...] there is no substantial or material legal justification for deportation as an administrative sanction for a mere irregularity’*. Judges interviewed also cautioned that statutory language such as ‘restriction of movement’ can operate as a euphemism obscuring what is in substance a deprivation of liberty ([Carles et al. 2025](#)).

Deportation is increasingly deployed to sanction non-criminal or disorderly conduct, normalising removal as a form of punishment without due process. Many frontline agents regard detention and deportation as exceptional measures at best, and disproportionate even where criminal conduct is involved. They consider that expanding investment in them would be counterproductive, entailing high administrative and financial costs while producing additional irregularity.

MORE evidence indicates that an enforcement-centred model does not deliver the deterrence attributed to it. Across six countries outside the EU, the most frequently expressed intention among returnees with direct experience of European enforcement was to migrate again at the earliest opportunity ([Tapies & Ockenden 2026](#)). In Albania and Georgia, where visa-free access allows repeated regular entry, cycles of departure, deportation, and return have become normalised. Enforcement pressure can push people to leave Europe once they are there, but it does not deter them from trying again. Decisions to migrate are shaped more fundamentally by other life factors: *‘We know we can die. We prefer dying than the difficult conditions of life’* (female community youth, non-EU country).

MORE further shows that substantially reducing, and in many cases eliminating, the use of immigration detention is feasible: less punitive alternatives able to achieve compliance without deprivation of liberty – case management, community-based approaches, passport withdrawal – are already available but underutilised in most EU legal frameworks, though some continue to operate within a punitive logic ([Catelli & Levoy 2025](#); [Carrera & Póczy 2025](#)).

3.2 Coercion does not produce cooperation, and access to rights should not be conditional on it

The Regulation imposes extensive cooperation obligations on third country nationals throughout the return process. These obligations include: providing documents or copies they have (or are ‘presumed’ to have); biometric data; information on travel routes or countries where they might have a connection; and contact details including an address and remaining reachable by the authorities (Article 21). The Regulation attaches escalating consequences to non-compliance, including: refusal or reduction of certain benefits and allowances, subject to basic-needs protection; refusal or withdrawal of work permits; refusal or reduction of return and reintegration assistance; financial penalties; criminal sanctions such as imprisonment; and ‘other measures under national law’ (Articles 23b and 29). The Regulation also allows for immigration detention to be used following non-compliance, including lack of cooperation in obtaining travel documents (Article 29).

These cooperation obligations should also be read in the context of a broader shift towards forced returns. The Regulation removes the minimum voluntary departure period of seven

days in the 2008 Directive and introduces a framework in which forced return (removal) becomes mandatory in a wider range of circumstances, including non-cooperation, absconding, failure to depart within the deadline, and security risks. While the Return Directive treated voluntary departure as the default, subject only to limited exceptions, the new Regulation gives Member States greater discretion to determine whether and for how long such a period is granted. This risks making coercive removal the practical default option once a return decision becomes enforceable, rather than a measure of last resort following a failure to depart voluntarily (Articles 7, 12, 13, and 16).

In this context, **cooperation extracted through detention is coercion, not consent**. Where deprivation of liberty is used to intensify pressure and secure compliance, it raises serious fundamental-rights concerns and may, in severe cases, engage the prohibition of inhuman or degrading treatment under Article 3 ECHR and Article 4 of the Charter of Fundamental Rights.

MORE documents this dynamic in the form of **‘forced’ voluntary return**, where detention and enforcement pressure are used to induce people to ‘choose’ to leave ([Carles et al. 2025](#)). Legal representatives interviewed described detention decisions being taken with the aim of pushing individuals to declare that they will leave voluntarily.

In the words of a legal representative: ***‘And sometimes I can see that, everybody can see that decisions [on detention] are being made in order to try to push an individual to say, okay, I will voluntarily leave the country. But normally one could not do that’***. Or in the words of a judge: ***‘The Immigration Office always makes people sign declarations of voluntary return: I’m not sure people always understand what it means...’***

‘Conditionality’ – making services available in exchange for following certain rules – is itself an underlying problem. Essential services and support – healthcare, education, housing, and the means of a dignified existence – are matters of fundamental rights, not incentives to be traded for cooperation with enforcement. Making access to them contingent on cooperation undermines human dignity and makes formal rights unusable in practice ([Carrera et al. 2025](#); [PICUM & Médecins du Monde 2025](#)).

3.3 Externalising return would amplify existing harms and open accountability gaps

The Regulation creates a legal basis for returning people to a third country under an agreement or arrangement, including a country that is not the person’s country of origin or transit. The independent monitoring under Article 17(2a)(d) only extends to the ‘effective application of the agreement or arrangement’ and does not explicitly cover fundamental rights. It is required only where the arrangement provides for onward return – that is, removal from the third country to a further country, which the text does not limit to the person’s country of origin. Agreements or arrangements that do not provide for onward return appear to remain outside the independent-monitoring requirement.

Significant risks have been set out by the [UN Special Rapporteur on the human rights of migrants](#) and the [Council of Europe Commissioner for Human Rights](#), both of whom find that return to a country with which an individual has no links weakens accountability and

heightens the risk of direct and indirect *refoulement*. A coalition of over [200 civil-society organisations](#) called for the proposal concerning return hubs to be rejected, describing them as potential prison-like detention centres raising significant human rights issues, including automatic arbitrary detention, direct and indirect *refoulement*, and denial of access to legal and procedural safeguards.

MORE did not study return hubs, which do not yet formally exist. Its fieldwork nonetheless contains cases that prefigure their logic: removals not to a person's country of origin but to a transit or third country with which they had no connection ([Tapies & Ockenden 2026](#)). In one case, a man from Niger, who was stopped after a car accident, was sent to Ghana because the authorities had no information about him: *'When the police arrived at the scene, they took me away even though I had no papers on me. After questioning me, they took me to a migrant centre where I was held for a month... As they had no information about me, they sent me back to Ghana with other nationals'*.

Others were returned from one Member State to another. A young returnee from Niger was deported to Spain and left without support – *'When I was deported, instead of being sent directly back to Niger, I was sent back to Spain. Once there, it was very difficult for me to find myself in a country where I did not understand the language and had no connections. I found myself begging on the street without even realising it until I was able to take a boat to Senegal. From there, I was finally able to contact my family, who sent me money for my return home'*.

These cases reveal what externalised return arrangements risk institutionalising: misidentification, lack of connection, destitution, unsafe onward movement, and blurred responsibility. Rather than resolving a person's situation, removal may transfer them elsewhere and trigger further displacement or, in some cases, destitution due to the lack of social networks and support.

These risks would also be compounded by the conditions that follow 'regular' return. Across the six examined outside the EU (Albania, Ethiopia, Georgia, Iraq, Niger, and Senegal), return is widely experienced as failure and stigma. Returnees described being treated as immigrants in their own country, and reported that promised reintegration support frequently failed to materialise ([Tapies & Ockenden 2026](#)). They also report severe mental-health deterioration, social withdrawal, and, in some cases, suicidal ideation.

The implementation of return hubs and, more broadly, the externalisation of return procedures would lead to fundamental rights violations and weaken accountability for EU Member States and implementing agents.

3.4 Enforcement-centred approaches produce prolonged precarity and undermine case resolution

The Regulation acknowledges minimum safeguards where removal is postponed and requires that information on rights, obligations, and remedies be provided. Member States must provide information about the postponement, also orally, in a language people understand or are 'presumed' to understand, including through standardised or machine-

assisted translation. This reduces information rights to a formal requirement rather than a guarantee of genuine understanding. Similarly to the 2008 Directive, Member States must ‘take into account’ the conditions of the person, including: basic needs, family unity, emergency health care, access to basic education, and special needs of vulnerable persons (Articles 7, 12, 14, and 24).

The Regulation also allows a return decision to be issued and left standing even where removal is barred by the risk of *refoulement*, with enforcement merely postponed (Articles 7(4b) and 14(1)(a)), so the return decision may remain in place even while removal to the identified country is legally barred.

MORE shows that, for those who cannot be returned, **the practical effect of return policy is prolonged limbo**. Across all countries studied, people at risk of return are held in prolonged legal and social precarity, with limited or ineffective access to healthcare, housing, education, employment, justice, and clear information about their rights ([Cimino & Perocco 2025](#)), even where these rights are explicitly protected by legislation (Article 14 of the Return Directive). This everyday condition of deportability structures the whole of a person’s life, not merely the prospect of removal (*ibid.*; see also [De Genova 2002](#); [Sigona & van Liempt 2025](#)).

MORE characterises the condition as a ‘**multi-dimensional**’ **limbo** – administrative, juridical, existential, and psychological – extending over years or decades and placing every aspect of a person’s life on hold ([Cimino & Perocco 2025](#)). Migrants at risk of return described lives organised around the endless waiting for documents and authorities’ decisions, unable to plan housing, work, or personal lives. Where authorities can neither remove nor regularise, support workers describe people trapped between a return that cannot be enforced and the lack of prospects for regularisation. **This condition does not make return policy more effective. It deepens exclusion and displaces people further from any durable resolution of their status.**

Many of the grounds that preclude return – *non-refoulement*, the best interests of the child, and family, private, and health-related considerations – are binding obligations under the Charter of Fundamental Rights and the European Convention on Human Rights (ECHR), to be assessed by the authorities rather than treated as discretionary ‘obstacles’ to effective return ([Carrera et al. 2025](#); [Carrera & Pócze 2025](#)).

MORE identifies practices that mitigate this limbo: clear, accessible information and firewalls separating service providers from immigration enforcement, so that people can access healthcare, housing, and education without fear that doing so will trigger removal – as municipal and civil-society practice already demonstrates (Hess et al. forthcoming; [Cimino & Perocco 2025](#)). Where return is permanently impossible, EU and national law should establish a corresponding duty to grant a residence permit, together with adequate, effective, and decent – not merely ‘basic’ – socio-economic rights.

3.5 Regularisation and regular pathways are a more effective response to irregularity

The Regulation frames irregular stay almost exclusively through enforcement: removal (Articles 7 and 12), mutual recognition of return decisions (Article 9), EU-wide entry bans (Article 10), and the prevention of onward movement, without building stable regularisation pathways into the return framework.

The Regulation does not replicate the Return Directive's provision allowing Member States 'to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons', with the mandatory non-issuance, withdrawal, or suspension of the return decision where such a permit is granted (Article 6(4) Return Directive). Although Article 8 protects people holding a valid residence permit, long-stay visa, or other right to stay issued by another Member State, the Regulation does not clearly establish a general obligation to withdraw a pre-existing return decision when status is granted. However, even if not stated in legislation, access to national permits remains possible under national law.

While the Regulation lets Member States recognise and enforce one another's return decisions and entry bans across the Union through the Schengen Information System (SIS), it provides no equivalent mechanism for the mutual recognition of residence permits or grounds to stay.

Many frontline enforcement agents consider that deportation is not the solution for the majority of people living in Europe without regular status, and regard regularisation as the more durable response ([Jubany et al. 2026](#), [Carles et al. 2025](#)). Research participants identified the absence of regular pathways, and of status-resolution pathways when a residence permit ends, as the single most important driver of irregular migration. In the words of one police officer: *'We're talking about a problem that has no solution from us. They need to be regularised. That's the key! [...] The solution is not a police matter; it's a political one'* ([MORE Statement 2026](#)).

Furthermore, evidence shows that **regularisation can facilitate return rather than obstruct it**. Once people acquire secure status and the ability to move between the country of residence and country of origin, many travel back and forth through regulated forms of circular migration. Those who remain in an irregular situation are less likely to leave even where voluntary programmes exist and conditions are hard (Hess et al. forthcoming; [Cimino & Perocco 2025](#)).

Across the countries studied, regularisations and suspensions of removal frequently equal or outweigh enforced returns, and **some practitioners regard non-enforcement as the most effective response in practice** (Hess et al. forthcoming; [Carrera & Pócze 2025](#)). The evidence also undercuts the 'pull-factor' objection: regularisation reduces irregularity and the labour exploitation that irregular status enables, and strengthens access to fundamental rights ([Baldwin-Edwards & Kraler 2009](#); [Ahrens et al. 2025](#)) **without evidence of a pull effect** ([Gu & Kraler 2025](#); [Cyrus & Kraler 2025](#)).

Member States already operate a range of alternatives to return. Spain's *arraigo* provides a permanent, individually accessible regularisation pathway, through which over 1.17 million people acquired status between 2013 and 2023, against roughly 48 000 deportations in the same period ([Tunaboylu et al. 2026](#)). Other schemes grant residence to those who cannot be removed – Greece's 2023 renewable [residence-and-work permit](#) for undocumented migrants, Italy's [special-protection](#) permit – while job-linked permits are used in conditions of labour shortage. These differ from mere toleration: the German *Duldung* suspends removal without conferring status, and its 'tolerated' limbo illustrates the model to be avoided (Hess et al. forthcoming; [Catelli & Levoy 2025](#)).

The recent Spanish regularisation illustrates the possibility of a broader approach. By [Royal Decree 316/2026](#), in force from April 2026, Spain opened its first extraordinary regularisation since 2005, offering a one-year, renewable residence-and-work permit with immediate access to work, healthcare, and social security. Expected to reach around 500 000 people, it drew [more than one million](#) applications by June 2026. The scheme also carries limitations: it is exceptional and time-limited; conversion to an ordinary permit after one year requires an employment contract or sufficient means, with a discretionary one-year extension on more flexible terms where those conditions cannot be met; and its eligibility requirements can exclude the most marginalised ([Garcés-Mascreñas 2026](#)).

More broadly, most existing regularisation mechanisms tie regular status to employment, narrowing regularisation to a test of 'deservingness' and institutionalising precarity rather than resolving it ([Chauvin, Garcés-Mascreñas & Kraler 2013](#); [Tunaboylu et al. 2026](#); [Ahrens et al. 2025](#)). The conclusion is not that any type of regularisation suffices. An effective response consists of stable, long-term pathways with procedural safeguards and access to services, justice, and employment, accessible to all independently rather than through employer sponsorship or narrow deservingness criteria ([PICUM 2023](#)).

4. Policy recommendations

4.1 Ground the Regulation's implementation, review, and future legislative proposals in independent evidence and the experience of implementing actors and affected communities

Effective legislative and policy choices should be grounded in the experience of the people who implement return policy on the ground, and informed by consultation with civil society.

The Regulation was concluded at speed and without a comprehensive impact assessment. While the Regulation proposal stated that it was 'informed by several EU-financed (ongoing) research projects in the field of return and irregular migration' – including [MORE and its sister projects](#) – the evidence those projects collected documents the ineffectiveness and human costs of the Regulation's enforcement-centred model.

At the EU level, the Commission should re-commit to independent impact assessments and structured consultation with practitioners, frontline agents, civil society, and affected

communities during the implementation of the Return Regulation, in the review of existing legislation, as well as for future legislative proposals in the field of EU migration policy, drawing explicitly on the findings of its own funded research and in compliance with the [Better Regulation Guidelines](#).

At the national level, Member States should ensure that the experience of frontline implementing actors – who administer detention, removal, and reporting obligations in practice – and the impacts on affected communities inform operational guidance during the implementation, instead of focusing exclusively on return-rate targets or other flawed measures of effectiveness. While the Regulation promotes a coercive and restrictive approach to immigration, several provisions still allow Member States to apply higher safeguards and more protective approaches.

4.2 Contain the coercion and externalisation in the Return Regulation through national discretion and litigation

The Return Regulation leaves broad margins of manoeuvre to Member States. Several provisions defer to national law, allowing Member States to add further removal and detention grounds, coercive measures, and sanctions. While protective options are more limited, willing national governments can still mitigate some of the harmful effects of the Regulation.

First, Member States should decline these additional restrictive options. Where the Regulation permits extra detention grounds, absconding criteria, removal grounds, or sanctions ‘where provided for in national law’, Member States should not legislate them at all, or, where they do, should legislate in terms clear enough to permit appeal, review, and regular democratic scrutiny.

Member States should **equally refrain from:**

- **concluding Article 17 return hub agreements or arrangements;**
- **using detention for immigration control purposes.**

Second, Member States can entrench the limited available protective options in national law:

- **Maintain access to national permits.** While the Return Regulation does not cover access to national residence permits, Member States retain the right to issue residence permits on grounds other than those spelled out in EU legislation. Therefore, in line with the [Return Border Procedure Regulation](#) (Recital 9), [Asylum Procedures Regulation](#) (Recital 9), and the amended [Victims’ Rights Directive](#) (Article 5a(7)), we recommend that Member States maintain access to national permits on humanitarian and other grounds.
- **Ensure access to basic rights and services.** Member States have an obligation (Article 14(6)) to take into account, where removal has been suspended, a specific set of needs and safeguards (basic needs, family unity, emergency health and essential treatment, access to education for children, special needs). In line with

MORE's previous recommendations, all third country nationals regardless of their status should have access to these rights to uphold human dignity and avoid destitution and hyper-precarity.

- **Make voluntary departure the rule.** Member States should legislate voluntary departure as the rule and immediate departure as the exception (Article 7(1a)) and introduce provisions to ensure there is no coercion in voluntary return.
- **Guarantee effective remedies.** Member States should provide automatic suspensive effect at first instance and extend it to further instances, as Article 28(3) permits. They should also prohibit removal while a request for suspension is awaiting determination. Member States whose law already provides 30-day appeal periods should retain them under the Article 27(1) derogation and calculate them from actual rather than deemed notification. They should guarantee free legal assistance without relying on the optional exclusions in Article 25(5), and extend it to the administrative procedure under Article 25(10).
- **Guarantee effective access to information.** Member States should ensure that information on return decisions, obligations, available remedies, and applicable deadlines is provided promptly and in a language the person actually understands, rather than one they are merely presumed to understand. Standardised and machine-assisted translations should not replace individual explanation or human verification where the information affects procedural rights, detention, or the risk of removal.
- **Guarantee effective judicial review.** Any continuation of immigration detention in the current framework should be ordered by judicial authorities and subjected to automatic, regular judicial review.
- **Act immediately to prohibit the detention of children and families.** The [UN Committee on the Rights of the Child](#), the [UN Special Rapporteur on the human rights of migrants](#), and the [UN Working Group on Arbitrary Detention](#) all hold that children should never be held in immigration detention.
- **Safeguard against *refoulement*.** Member States should entrust the non-*refoulement* assessment to a separate and independent authority and adopt additional postponement grounds under the discretion for individual circumstances in Article 14(2) and Recital 15a.
- **Ensure people with humanitarian grounds or victims of trafficking are protected from entry bans.** Member States should apply the strongest safeguards possible under the legislation, such as refraining from imposing entry bans for humanitarian reasons, including on victims of trafficking in human beings (Article 10(5)).
- **Withdraw return decisions once a right to stay is granted.** The Regulation does not clearly establish a general obligation to withdraw a pre-existing return decision when status is subsequently granted. Member States should close this gap by withdrawing the return decision and deleting the corresponding SIS alert whenever a right to stay is granted, and by suspending return decisions while status procedures are pending.

Third, where implementation converges on restrictive readings, **civil society organisations, bar associations, and national human-rights institutions should engage in strategic litigation.** Priority targets may include detention under open-ended national grounds, non-

suspensive removal, enforcement of another State's decision without a fresh assessment, the situation of non-removable persons, and possible transfers to third countries together with reception and detention conditions there.

Direct challenges also remain open. Within two months of its publication, any Member State may bring an action for annulment before the CJEU 'on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers' (Article 263 TFEU), and may request interim suspension of specific provisions pending judgment (Article 278 TFEU). Some Member States' governments have already expressed concerns over elements of the Regulation – primarily the [return hubs](#) – so this option should not be dismissed as implausible. After the two months, the validity of individual provisions can still be contested before the CJEU through preliminary references from national courts (Article 267 TFEU).

4.3 Invest in regularisation, mobility, firewalls, and case management as the effective response to irregularity

Effective alternatives to return already exist. EU and national policy should invest in them, rather than treating forced removal as the only available or desirable policy option.

At the EU level, the Commission should support – and not [oppose](#) – stable, accessible regularisation pathways open to people in an irregular situation, as well as status-transition mechanisms for those who cannot be returned, so that people can apply independently, retain access to services, justice, and work during the procedure, and obtain secure, long-term status ([PICUM 2023](#)). It should promote the establishment of [firewalls](#) separating essential public and private services from immigration enforcement, so that formal rights become usable in practice. It should also thoroughly [investigate](#) claims made by civil society organisations regarding the non-respect of EU law, including the [Charter and the GDPR](#), due to existing reporting obligations. The Commission should fund long-term, independently accessible case-management and legal-aid programmes oriented towards durable case resolution. Finally, it should recognise, in visa policy and readmission arrangements, that regular mobility facilitates rather than obstructs return.

At the national level, Member States should draw on the lessons of previous policies and their limitations: they should privilege **permanent, individually accessible mechanisms** rather than one-off exceptional programmes; set renewal conditions no more demanding than the initial grant; adopt standards of documentary proof that do not exclude the most marginalised; decouple eligibility from employer sponsorship; and grant genuine status rather than mere toleration ([PICUM 2023](#)).

Alternatives are already operating in practice, though each has limits. Standing regularisation routes such as Spain's *arraigo* demonstrate the value of individually accessible status-resolution mechanisms. Case-management initiatives, including Belgium's Plan Together project, show how personalised legal, social, and educational support can help families pursue sustainable case resolution. Municipal healthcare firewalls, including anonymous health cards and Medinetz networks in Germany, further demonstrate how formal rights can be made usable without exposing service users to immigration enforcement.



more

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

moreproject-horizon.eu