

**IOM presentation to the European Parliament**  
**Session IV**

- IOM welcomes the continued efforts by the European Union to pursue a common approach among Member States to the management of return as a necessary element of a well managed migration policy. Return management represents an integral component in an effective migration management approach, supportive of an established immigration policy, in conjunction with other important elements including an effective asylum processing and border management, and coherent mechanisms for legal migration of third country nationals and their integration in the EU.
  
- IOM has read with interest and mostly supports what has already been written to comment on the innovative features of the proposed directive, bearing in mind the underlying principle of the Hague Programme, whereby common standards on **return must ensure that persons are returned ‘in a humane manner and with full respect of their human rights and dignity’**. For time management reasons however, this presentation will touch on those salient features of the proposal which prompt comments based on IOM’s experience in direct implementation of voluntary return assistance activities.
  
- **IOM’s comments derive from its extensive experience** – close to 30 years - with the implementation of Assisted Voluntary Return programmes in Europe. At presents, IOM runs over 20 Assisted Voluntary Return programmes with European partners – and provides AVR services every year to about 30,000 stranded migrants, persons with temporary protected status, unsuccessful asylum seekers, or just wishing to go home, irrespective of their status in the host country. IOM services can address pre-departure, transportation and post arrival reception reintegration needs at individual or community level.
  
- The Draft Directive on return contains some **innovative elements** such as the promotion of the **principle of voluntary return** (which is not yet present in all national legislative frameworks) thus limiting formal assistance provisions in this respect and the recognition that in the first instance, **it** should be preferred over forced return. The **two-step return procedure** obviating to the immediate enforcement of removal orders, therefore giving migrants the possibility to more concretely consider and access the measure of voluntary return – amore humanitarian approach to return on a voluntary basis, prior to the removal order tacking effect. Other important features of draft directive includes the **Provisions for a minimum set of procedural safeguards**, articulating Member States’ obligation to document and ensure at their own costs that concerned individuals (Third Country Nationals) can count on written communications, access to linguistic and legal aid and judicial remedies and **the establishment of minimum standards** for those who can’t be returned (though these need additional clarity at the legislative level).

- A proposed system for MS **mutual recognition of expulsion decisions** and abidance to the ‘solidarity’ principle (and a solidarity fund with respect to enacting a removal in a MS other than the one emitting the decision itself) will serve to enhance the effectiveness of a common EU approach to return. This proposed arrangement however will require a more efficient and effective collation and sharing of data throughout the EU (Schengen Information System).
  
- **On the other hand the proposal focuses on a narrow subgroup of returns** and excludes other typologies of migrants who, although regular residents in the EU space, may still need / choose to rely on assistance to return to their respective countries of origin. In dispensing return assistance IOM favours the expansion of those categories eligible for voluntary return to the extent possible, so as to enhance the use of AVR support, derive economies of scale and balance the compulsory aspect of the return.
  
- The present proposal defines the scope of return as *return to a country of transit, or another third country*. **For IOM return refers to the process of going back to the country of origin or of previous regular residence, where returnees may be better able to reintegrate.** This is in line with its concern for sustainability of the return, at the end of a migration process and where the reinsertion into the socio-economic fabric of the origin society may be supported and facilitated, so as to address those push factors which may have prompted the initial step into an irregular migration journey. Just without going into any details, resettlement programmes proved to be a good alternative to voluntary return.
  
- Among the special considerations concerning **vulnerable groups** of migrants, the proposal seems to focus in particular on minors, but other groups of vulnerable migrants also require special considerations, due to their age, health condition or gender in specific contexts. Victims of trafficking would definitely require considered, tailored assistance and protection according to the Palermo protocols and the European Convention on Action Against Trafficking in Human Beings. In the case of health related vulnerabilities, a number of host countries have commissioned to IOM return assistance tailored to these specific groups, who would otherwise be unable to address reintegration challenges on their own.
  
- The principle of **family unity** in enacting return decisions is not clearly addressed; this also in reference to the need for more guidance in the proposal on the practical implications of the *principle of best interest of the child*- both with respect to the return decision itself and also on the question of the temporary detention of minors- taking into account factors such as the child’s view, age, access to health and education, and the views of the legal guardian both in the host country and in the country of return.
  
- Regarding the provisions in case of serious risks of absconding, and where less coercive measures are not sufficient, a third country national may be kept in **temporary custody**, it must be pointed out that at present custodial time limits vary widely across the EU and little data is available at the community level correlating length of custody and cooperation with third countries on identification issues. Alternative measures to detention should be further investigated as they can achieve the same results as detention in less intrusive ways.

### **Return sustainability through reintegration.**

- In its focus on combating irregular migration, the Directive endeavours to address policy concerns internal to the EU 'space' with respect to the identification of standards and procedures. Although the Commission efforts on the 'external' dimension of return are orientated in pursuing the various readmission initiatives with third countries, and hence regulating enforced returns, the proposed Directive bears little consideration for the possibility of a reintegration component of return, particularly in the case of voluntary return. It is also IOM's belief (and a number of studies conducted in countries of origin comparing the experiences of spontaneous, voluntary and forced returnees in reintegrating support this position) that the return of migrants is more sustainable when it is complemented with reintegration assistance, addressing the push factors prompting out migration and reducing the impact of the return on the community of origin.
- The Rabat Action Plan stemming from the Euro – Afrique Conference in Rabat last July also points to the need for more extensive cooperation on the fight against Irregular Migration, among countries of destination, transit and origin, and the need for facilitating, among others, the re-integration of irregular migrants who have returned to their country of origin.
- IOM has extensive experience in the provision of individual reintegration to returnees, both in cash (reinstallation grants) and especially in in-kind reintegration support. Much of the reintegration assistance provided is the result of intensive pre-departure information sharing and counselling of the would be returnees. However given the tight time lapse between the return order and the removal one proposed by the Directive, there would be limited usefulness in the information dissemination on voluntary return modalities, on reintegration opportunities through Country of Origin Information collection, counselling of would be returnees and their preparation for return and reintegration possibilities.
- Whereas those forcibly removed, or whose return and removal orders are issued simultaneously, would be rendered even more vulnerable in the country of origin through the lack of preparation to return. In line with the actions suggested at the Rabat Conference, IOM advocates a degree of monitoring of the return, which may assist in better mapping the reintegration needs of returnees, as well as the sustainability of the various return actions envisaged both through the Directive as well as by the Rabat action plan. In the long run, concerted approach on the socio-economic forces driving migration, must include both elements of fighting irregular migration as well as tapping the development potential of return migration. Indeed, the important link between migration and development has been acknowledged and further explored in recent dialogue at the regional and international level (Conference on Migration and Development, Brussels March 2006; Euro-African Ministerial Conference on Migration and Development, Rabat July 2006; UN High Level Dialogue on Migration and Development, New York September 2006).