Please cite as: EUAA, '4.15.5. Enhancing the forced return framework' in *Asylum Report 2022*, May 2022.

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Beyond the voluntary framework, an efficient migration system requires effective forced return mechanisms.

In this regard, Cyprus signed an agreement with the European Commission in February 2022, which includes standard procedures for returns. A Memorandum of Understanding and an Action Plan for the more effective management of migration is expected soon, as migration management has been considered pivotal in Cyprus.

In Denmark, the Return Act (*hjemrejseloven*), which is the first consolidated law in the field of return, came into force in 1 June 2021.[1272]The act formalised the tasks and responsibilities of the Danish Return Agency, defined the assessment and decision on compliance/non-compliance, the postponement of the legal date of departure, financial support and introduced the Return Contract. This is a legal agreement between the Danish Return Agency and the rejected asylum seeker who does not have the right to stay in Denmark. The contract can be entered into voluntarily (possibly after negotiations) or can be imposed by decision if the foreigner refuses to sign.

In Latvia, the Ombudsperson concluded a project, “Effective implementation of the monitoring and forced return process (Stage 1)”, which aimed to improve the mechanism to monitor forced return operations of third-country nationals and ensure compliance with Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008. To this end, guidelines were developed in the framework of this project, training material was created and the questionnaire to monitor forced return operations was improved to help detect victims of trafficking in human beings. The Ombudsperson held several training workshops to increase awareness and strengthen the capacity of staff to identify victims of human trafficking and ensure the rights of the child in a forced return process. Training was targeted at employees of the Orphan's Courts, municipalities, State Border Guard, State Inspectorate for Protection of Children's Rights and NGO’s.[1273]

A Returns Unit was established in 2021 within the Ministry for Home Affairs, National Security and Law Enforcement in Malta, with the aim of identifying shortcomings in the national return management system and recommending and ensuring the introduction of new efficient processes. It comprises civilian personnel to coordinate the return of third-country nationals. The unit's tasks include: enhancing the national approach on voluntary returns; providing return counselling; formulating, implementing and monitoring in-cash and in-kind support schemes; joint implementation of Assisted Voluntary Return and Reintegration Programmes with the IOM and other relevant stakeholders; researching available funding opportunities for return initiatives and implementing EU-funded projects on return; formulating and implementing a communications strategy through the dissemination of information material on return procedures and opportunities, as well as organising outreach activities; establishing stronger communication channels between national migration stakeholders, including NGOs, human rights activities and migrant communities.

Luxembourg introduced Bill 7954 to parliament on 19 January 2022, which was approved by the Council of Government on 26 November 2021.1274 The bill amends the Immigration Law to ensure a more effective management of the removal of third-country nationals who are illegally residing in Luxembourg. The different categories of removal measures are structured in a clear and coherent way to make implementation more straightforward. Furthermore, the members of the Consultative Commission on the Evaluation of the Best Interests of Unaccompanied Minors in Return Decisions continued its work.

With the new regulation of Article 303b of the Act on Foreigners Poland introduced a new procedure for issuing a decision to leave the territory when a foreigner is intercepted immediately after illegal crossing the external EU's border.1275 This change was a direct result of the crossings at the Belarus border. In addition, Poland continued implementing the ICMPD project "Development of the forced return monitoring system in the Republic of Moldova FReMM", which runs from December 2020 until February 2022, to ensure the return system to Moldova is in line with human rights.

In cooperation with the Autonomous city of Ceuta, Spain made efforts to carry our removals of minors who were living in reception centres, based on the Agreement between Spain and Morocco on cooperation in the field of prevention of the illegal emigration of unaccompanied minors, their protection and their concerted return signed in 2007.1276 Several NGOs (e.g. Save the Children1277 and Fundacion Raices1278), the General Council of Lawyers1279 and international organisations (e.g. UNICEF1) condemned these removals and have asked the government and UN organisations to immediately put a stop to them. In the same line, the Spanish Ombudsperson sent an official complaint and requested the Ministry of the Interior to suspend the collective return of minors from Ceuta to Morocco.1281 Consequently, the Administrative Court of Ceuta ordered the government to temporarily stop removals to Morocco of nine unaccompanied minors because the legal procedure had not been followed (see here and here).

Sweden amended and issued legal positions on returns, addressing practical obstacles (RS/048/2021), particularly situations when the applicant is not admitted in the home country, the applicant is a child with no legal guardian and there is no orderly reception in the home

country, and the immediate enforcement of a return to the home country including safe countries of origin (RS/071/2021).1283

Some EU+ countries temporarily halted the implementation of returns for specific profiles in 2021. For example, the Swedish Migration Agency updated its legal positions to stop the deportation of people to Afghanistan1284 of Tigrayan ethnicity to Ethiopia.1285 The SMA created a specific page where information on the situation in Afghanistan and its implications on the asylum procedure are regularly updated.1286 Guidelines were also issued on the right to receive reception aid when a valid refusal of entry or deportation order is in place.

Similarly, the Netherlands issued a decision and departure moratorium for third-country nationals from Afghanistan1287 and ethnic Tigrayans from Ethiopia.1288 In Norway, the UDI and the UNE temporarily suspended returns to Ethiopia,1289 Afghanistan,1290 and Gaza,1291 and the suspension of returns to Libya (except Tripoli) remained in place.1292 The inability to effectuate returns to Afghanistan due to the security situation was reaffirmed by courts in Austria (see for example here and here).

- 1272Lov nr 982 af 26/05/2021, Lov om hjemrejse for udlændinge uden lovligt ophold (hjemrejseloven) [Act No 982 of 26/05/2021, Act on the repatriation of aliens without legal residence (Return Act), May 26, 2021. https://www.retsinformation.dk/eli/lta/2021/982
- 1273More information on the Ombudsperson's activities: Ombudsman | Tiesībsargs. (2022, May 6). Patvēruma, migrācijas un integrācijas fonds, 2019-2021 [Asylum, Migration and Integration Fund, 2019-2021]. https://www.tiesibsargs.lv/lv/pages/petijumi-un-publikacijas/projekti/pmif
- 1274Projet de loi portant modification de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration [Draft law amending the amended law of 29 August 2008 on free movement of persons and immigration]. https://www.chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?actio
- 1275Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 20 sierpnia 2021 r. zmieniające rozporządzenie w sprawie czasowego zawieszenia lub ograniczenia ruchu granicznego na określonych przejściach granicznych [Regulation of the Minister for the Interior and Administration of 20 August 2021 amending the Regulation on temporary suspension or restriction of border traffic at certain border crossing points]. https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210001536
- 1276Acuerdo entre el Reino de España y el Reino de Marruecos sobre la cooperación en el ámbito de la prevención de la emigración ilegal de menores no acompañados, su protección y su retorno concertado, hecho en Rabat el 6 de marzo de 2007 [Agreement between the Kingdom of Spain and the Kingdom of Morocco on cooperation in preventing the illegal migration of unaccompanied minors, their protection and concerted return, done at Rabat on 6 March 2007]. https://www.boe.es/eli/es/ai/2007/03/06/(1)
- 1277Save the Children. (2021, May 20). Crisis migratoria en Ceuta [Migratory crisis in Ceuta]. https://www.savethechildren.es/actualidad/crisis-migratoria-ceuta
- 1278Fundación Raíces. (2021, August 16). Las repatriaciones del Ministro del Interior paralizadas por la actuación de las ONGs en favor de la infancia [Returns of the Minister of the Interior stopped by NGO action for children]. http://www.fundacionraices.org/wp-content/uploads/2021/08/NP-JUZGADO-PARALIZA-CAUTELARMENTE-REPATRIACIONdocx-

1.pdf

- 1279Abogacía Española. (2021, August 14). La Abogacía española exige de inmediato el cese de las repatriaciones de menores sin garantías jurídicas [The Spanish Law Association immediately demands the cessation of returns of minors without legal guarantees]. https://www.abogacia.es/actualidad/noticias/la-abogacia-espanola-exige-de-inmediato-el-cese-de-las-repatriaciones-de-menores-sin-garantias-juridicas/
- 1United Nations Children's Emergency Fund. (2021). UNICEF reclama a España que ponga fin a las devoluciones automáticas en Ceuta y Melilla [Spain must end automatic returns in Ceuta and Melilla]. https://www.unicef.es/noticia/espana-debe-poner-fin-las-devoluciones-automaticas-en-ceuta-y-melilla
- 1281National Ombudsman | Defensor Del Pueblo. (2021, August 13). Devolución sin procedimiento de menores extranjeros no acompañados en Ceuta [Unaccompanied foreign minors' return without procedure in Ceuta]. https://www.defensordelpueblo.es/resoluciones/devolucion-sin-procedimiento-de-menores-extranjeros-no-acompanados-en-ceuta/
- 1283Swedish Migration Agency | Migrationsverket. (2021, May 25). Rättsligt ställningstagande. Avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer - RS/071/2021 [Legal position. Removal with immediate enforcement to home country including safe countries of origin — RS/071/2021]. https://lifos.migrationsverket.se/dokument?documentSummaryId=45549
- 1284Swedish Migration Agency | Migrationsverket. (2022, May 10). Information regarding the situation in Afghanistan. https://www.migrationsverket.se/English/About-the-Migration-Agency/Information-regarding-the-situation-in-Afghanistan.html
- 1285Swedish Migration Agency | Migrationsverket. (2021, November 15). Landinformation: Etiopien - Försämrat säkerhetsläge i november 2021 (version 1.0) [Country information: Ethiopia — deteriorating security situation in November 2021 (version 1.0)]. https://lifos.migrationsverket.se/dokument?documentSummaryId=45938
- 1286Swedish Migration Agency | Migrationsverket. (2022, May 10). Information regarding the situation in Afghanistan. https://www.migrationsverket.se/English/About-the-Migration-Agency/Information-regarding-the-situation-in-Afghanistan.html
- 1287Ministry of Justice and Security | Ministerie van Justitie en Veiligheid. (2021, August 11). Kamerbrief over instellen besluit- en vertrekmoratorium Afghanistan [Parliamentary brief on introducing a decision and departure moratorium for Afghanistan]. https://www.rijksoverheid.nl/documenten/kamerstukken/2021/08/11/tk-instellen-besluit-en-vertrekmoratorium-afghanistan
- 1288Ministry of Justice and Security | Ministerie van Justitie en Veiligheid. (2021, November 1). Kamerbrief over Landenbeleid Ethiopië - Tigray en etnisch Tigreeërs [Parliamentary brief on the Ethiopia country policy - Tigray and ethnic Tigrayans]. https://www.rijksoverheid.nl/documenten/kamerstukken/2021/11/01/tk-brief-tk-landenbeleid-ethiopie-tigray-en-etnisch-tigreeers
- 1289Immigration Appeals Board | Utlendingsnemnda. (2021, November 19). UNE suspends returns to Ethiopia. https://www.une.no/en/see-more-news/archive/2021/returns-suspended-ethiopia/
- 1290Immigration Appeals Board | Utlendingsnemnda. (2021, September 8). UNE extends the suspension of returns to Afghanistan. https://www.une.no/en/see-more-

news/archive/2021/une-extends-the-suspension-of-returns-to-afghanistan/

- 1291Immigration Appeals Board | Utlendingsnemnda. (2021, June 24). UNE suspends returns to Gaza. https://www.une.no/en/see-more-news/archive/2021/une-suspends-returns-to-gaza/
- 1292Immigration Appeals Board | Utlendingsnemnda. (2015, January 5). UNE suspends returns to Libya. https://www.une.no/en/see-more-news/archive/2015/une-suspends-returns-to-libya/

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