

Caritas Europa position paper
“Human rights and human dignity at the centre in return policies”

Summary of the concerns and recommendations

In a first section of this position paper, Caritas Europa sets out the concerns we have on several aspects of the return policies (p3- 12):

- **Core principles and safeguards** embedded in several human rights instruments and Conventions are neglected in many contexts.
- **The use of detention** to implement return decisions is increasing in many countries, further fuelling the negative perception of migrants and having a huge detrimental impact on people.
- **The issuance of entry ban** along the implementation of the effective return amounts to a punitive measure against irregular migration and contributes to the logic of criminalisation of migration. It can impede people in search of protection to apply for asylum.
- **The increasing number of people living in a limbo situation**, neither returned nor provided with a legal status or access to service provision, and pushed into poverty and destitution.
- **The increasing “externalisation” of migration management** by stepping up collaboration with transit and neighbouring countries (ie. Turkey, Libya) at the cost of human rights.
- **The enhanced negotiation of readmission agreements and partnerships with third countries**, often behind closed doors, and the instrumental use of development aid to meet European countries’ strategic interests on migration management and border control. European travel documents are also issued to speed up the deportation of a person without the identification by the country of return.
- **The scale up of return to fragile and conflict countries such as Afghanistan**, where people’s life is at risk and the principle of non-refoulement can be breached.
- The need to ensure that **voluntary return programmes** are the fruit of an informed decision, empowering the beneficiary to start a new life and leading to a fulfilling personal reconstruction.

The second section of the position paper spells out our recommendations to policy makers (p.12-15):

- **Human rights principles and guarantees should prevail** in the implementation of return. All return implementation, including forced ones, should be carried out in a safe, humane and dignified way. **Collective expulsion and push backs** must be prohibited. **Basic rights** such as access to health care and education should always be granted, independent of the stage of the return procedure or the individual’s status. Asylum applicants should have access to a **fair and efficient asylum procedure** with the necessary safeguards and legal remedies before a final return decision is issued. People should never be returned to a country where they would be at risk of persecution (**non-refoulement**). Vulnerable people, including human trafficking victims, should be treated with special attention according to their needs and should also be protected against removal. The **best interest of the child and family unity** should always prevail.

- **Detention** should be only a last resort measure, reasonable, proportionate and as short as possible. **Alternatives to detention** should be implemented. Children and unaccompanied minor migrants as well as vulnerable people should never be detained.
- **Voluntary return** should always prevail over forced return. Assisted voluntary return and reintegration programmes should put people's wellbeing at the centre in all the different steps of the return and be the fruit of an informed decision.
- **Collaboration with third countries** should not turn a blind eye on human rights and EU values. **Development aid** should not be made conditional on collaborating with the EU on migration management and return. According to article 208 of the Lisbon Treaty and development aid principles, aid is aimed at eradicating poverty in developing countries and should be allocated according to their priority needs towards achieving the Sustainable Development Goals. Member States should refrain from using **European travel document** given its lack of transparency and the risk of returning people to a country that is not theirs. People should never be returned to fragile and conflict countries, such as Afghanistan where their life would be at risk.
- When people find themselves in a **limbo situation** where they cannot be returned due to a situation beyond their control, their legal status should be regularised as quickly as possible. States should not cut off migrants from accessing social benefits and basic services, such as health and education; otherwise they risk falling in a status of destitution and extreme vulnerability and poverty.