

Special Report

# EU readmission cooperation with third countries: relevant actions yielded limited results



EUROPEAN  
COURT  
OF AUDITORS

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**Replies of the Commission and the EEAS**

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## Executive summary

**I** An effective and well-managed return policy is an essential part of a comprehensive migration policy. The inefficiencies of the EU return system act as an incentive for irregular migration. The difficulty of cooperating with migrants' countries of origin is one of the reasons for low returns of irregular migrants, as we noted in special report 24/2019. Considering the importance of the topic, we decided to investigate it further, our aim being to make a constructive contribution to ongoing EU efforts and debate.

**II** In this audit, we assessed whether the EU has effectively enhanced cooperation on readmission with third countries. To answer this main audit question, we analysed whether the EU has made progress in concluding relevant readmission agreements or similar arrangements with third countries, and whether EU action has made it easier for third countries to fulfil their readmission obligations effectively. We focused on the 10 countries with the highest absolute numbers of non-returned irregular migrants during the 2014-2018 period. We conclude that the EU actions to enhance readmission cooperation with third countries were relevant, but yielded limited results.

**III** During the 2015-2020 period, the EU achieved limited progress in concluding negotiations of EU readmission agreements. Longstanding issues (primarily the "Third Country National" clause) have remained major sticking points in the negotiations. The Commission has been more successful in negotiating legally non-binding readmission arrangements, the contents of which are more flexible. The political will shown by third countries has been essential for successful readmission negotiations.

**IV** We found that the results of negotiations with third countries were suboptimal due to the insufficient use of synergies with Member States and across policies. Limited progress has been made at EU level to create structural incentives for third countries to implement their readmission obligations. Most progress has taken place in the area of visa policy, where the revised Visa Code provided the EU with a mechanism and tools for regularly assessing and stimulating third countries' cooperation on readmission.

**V** We found that the contents of the EU readmission agreements and arrangements that were concluded have addressed most of the common obstacles to easing

readmission. In this context, joint readmission committees or working groups have provided forums for periodic evaluation of readmission cooperation. However, the recurring nature of some of the issues discussed showed that there were limits to their effectiveness.

**VI** EU networks in the area of returns have been successful in pooling national resources, and have been appreciated by participating countries for their results. With the successive extensions of its mandate, Frontex has been progressively taking over activities from the networks. In addition, Frontex has been increasing its support to Member States in the area of pre-return activities and return operations. We found that the difficulties Member States had in locating irregular migrants, preventing them from absconding, and ensuring that they attended interviews were a major source of inefficiency in the identification missions which Frontex supported.

**VII** We examined six capacity-building projects and 14 reintegration projects financed by the Commission. We found that the projects were relevant, and mostly delivered their planned outputs. We believe that the development of electronic readmission case-management systems with third countries in particular has the potential to improve readmission cooperation on a structural level.

**VIII** We found shortcomings in the EU data on returns in terms of completeness and comparability across Member States. In recent years, the Commission has submitted legislative proposals targeting most of the underlying weaknesses. However, many of the proposed changes have not yet been adopted or have not fully entered into force. Furthermore, data on the swiftness of readmission procedures and on the sustainability of returned migrants' reintegration are still lacking.

**IX** Since the 2019 Visa Code revision, the Commission has been required to assess third countries' readmission cooperation regularly and on the basis of reliable data. This regular assessment has the potential to improve EU data collection and sharing, and to facilitate evidence-based policy decisions in the area of readmission cooperation. The lack of an equivalent process for collecting data on readmission cooperation in the past, combined with the shortcomings in the data on returns, prevented us from assessing the overall impact of the EU actions to improve readmission cooperation with third countries.

**X** As a result of our audit, we recommend that the Commission should:

- pursue a more flexible approach when negotiating readmission agreements;
- create synergies with Member States to facilitate readmission negotiations;
- strengthen the incentives for third countries to cooperate on readmissions;
- enhance data collection on readmissions and reintegration sustainability.

# Introduction

## Returns and readmissions

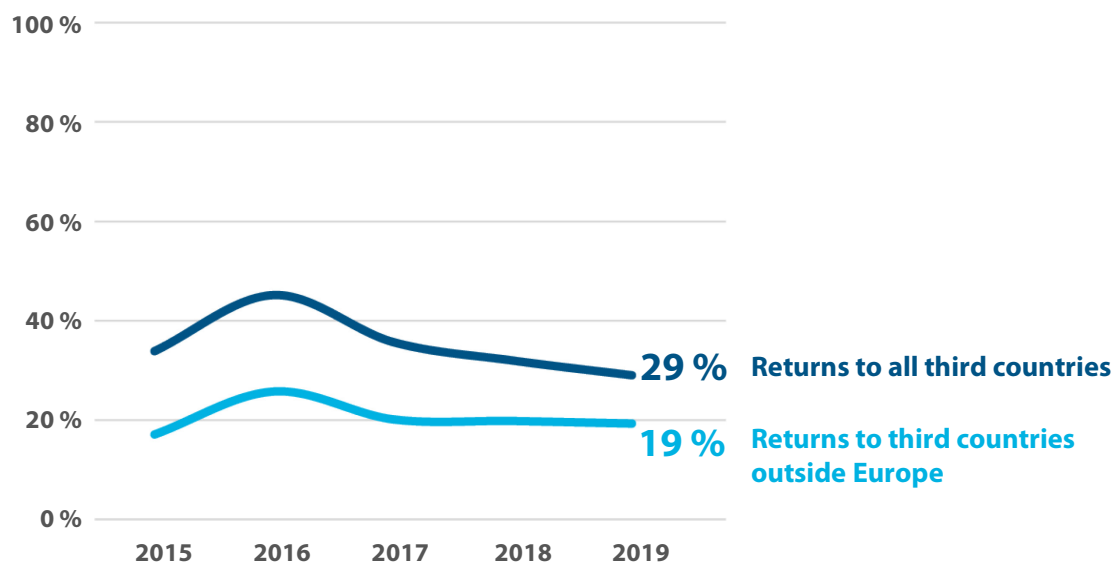
**01** An effective and well-managed returns policy is an essential part of a comprehensive migration policy. In special report 24/2019<sup>1</sup>, we identified several reasons for low return rates among irregular migrants (see [Annex I](#)). One of those reasons is the difficulty of cooperating with migrants' countries of origin.

**02** The inefficiencies of the EU returns system act as an incentive for irregular migration<sup>2</sup>. Since 2008, an average of around 500 000 foreign nationals per year have been ordered to leave the EU because they had entered it, or were staying, without authorisation. However, only one third of them have actually returned to a third country (29 % in 2019). This "effective return rate" drops below 20 % for returns to countries outside the European continent (see [Figure 1](#)). Actual returns are split more or less equally between voluntary and enforced returns.

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<sup>1</sup> ECA special report 24/2019 "Asylum, relocation and return of migrants: time to step up action to address disparities between objectives and results".

<sup>2</sup> A European Agenda on Migration, COM(2015) 240 final, page 9.

**Figure 1 – Effective return rate (EU-27)**

Source: ECA, based on Eurostat data.

**03** Caution is needed when using and interpreting the effective return rate. The underlying data are not always accurate and not fully comparable across EU Member States (see paragraphs [108-110](#)). Furthermore, a low rate is not necessarily due only to problems in cooperation with third countries, but also to internal challenges such as weaknesses in asylum and return legislation, and in Member States' systems, procedures and capacities (see paragraph [115](#), [Annex I](#) and special report 24/2019). Therefore, the return rate should not be used on its own to reach conclusions about the quality of readmission cooperation by a third country.

**04** Returns legislation is part of the EU *acquis* relating both to the management of illegal immigration and the functioning of the Schengen area. The returns process is mostly in the hands of national authorities. However, cooperation with third countries on readmitting irregular migrants is required at various stages of the returns process, in particular for migrants without valid travel documents (see [Figure 2](#)). The European Border and Coast Guard Agency (Frontex) can support Member States during the returns process.



**Figure 2 – The returns process, step by step**



Source: ECA, based on a Frontex original document.

**05** The obligation for a State to readmit its own nationals is presumed to exist under customary international law<sup>3</sup>. To reinforce this obligation, the EU has been inserting clauses on migration into agreements with third countries since the 1990s. In 1999, the Council decided to include standard readmission clauses in all European association and cooperation agreements with third countries<sup>4</sup> (see **Box 1**). Such a clause was also included in the “Cotonou agreement”<sup>5</sup>.

<sup>3</sup> See, for example, [Draft articles on the expulsion of aliens](#), adopted by the International Law Commission at its 66th session in 2014.

<sup>4</sup> [Council document 13409/99](#) of 25 November 1999.

<sup>5</sup> Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (the “[Cotonou agreement](#)”), Article 13.5(c)(i).

### Box 1

#### Standard readmission clause (1999)

##### Article A

The European Community and State X agree to cooperate in order to prevent and control illegal immigration. To this end:

- State X agrees to readmit any of its nationals illegally present on the territory of a Member State of the European Union, upon request by the latter and without further formalities [...]

The Member States of the European Union and State X will also provide their nationals with appropriate identity documents for such purposes.

##### Article B

The Parties agree to conclude upon request an agreement between State X and the European Community regulating the specific obligations for State X and the Member States of the European Community for readmission, including an obligation for the readmission of nationals of other countries and stateless persons. [...]

**06** In 2015, the European Council invited the Commission to set up a dedicated “European Return Programme”<sup>6</sup>. In response, the Commission formulated the EU Action Plan on return<sup>7</sup>. The plan defined immediate and mid-term measures for making the EU returns system more effective. In 2017, the Commission adopted a renewed Action Plan<sup>8</sup>, with additional actions to be implemented alongside the existing Action Plan.

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<sup>6</sup> European Council conclusions, 25-26 June 2015, EUCO 22/15, point 5(g).

<sup>7</sup> Communication from the Commission to the European Parliament and to the Council, EU Action Plan on return, COM(2015) 453 final.

<sup>8</sup> Communication from the Commission to the European Parliament and the Council on a more effective return policy in the European Union – a renewed Action Plan, COM(2017) 200 final.

## Readmission agreements and arrangements

**07** Countries may conclude readmission agreements to facilitate the practical implementation of their readmission obligations. However, functioning cooperation on readmission can exist among countries without any specific readmission agreement being in place. By contrast, a readmission agreement does not guarantee smooth cooperation.

**08** The EU's readmission agreements (EURAs) are concluded between the EU and non-EU countries. They operate alongside but take precedence over bilateral readmission agreements concluded by individual EU Member States<sup>9</sup>. The EU has concluded 18 legally binding EU readmission agreements. For six further countries, the Council has given the Commission a mandate to open negotiations (see [Figure 3](#)).

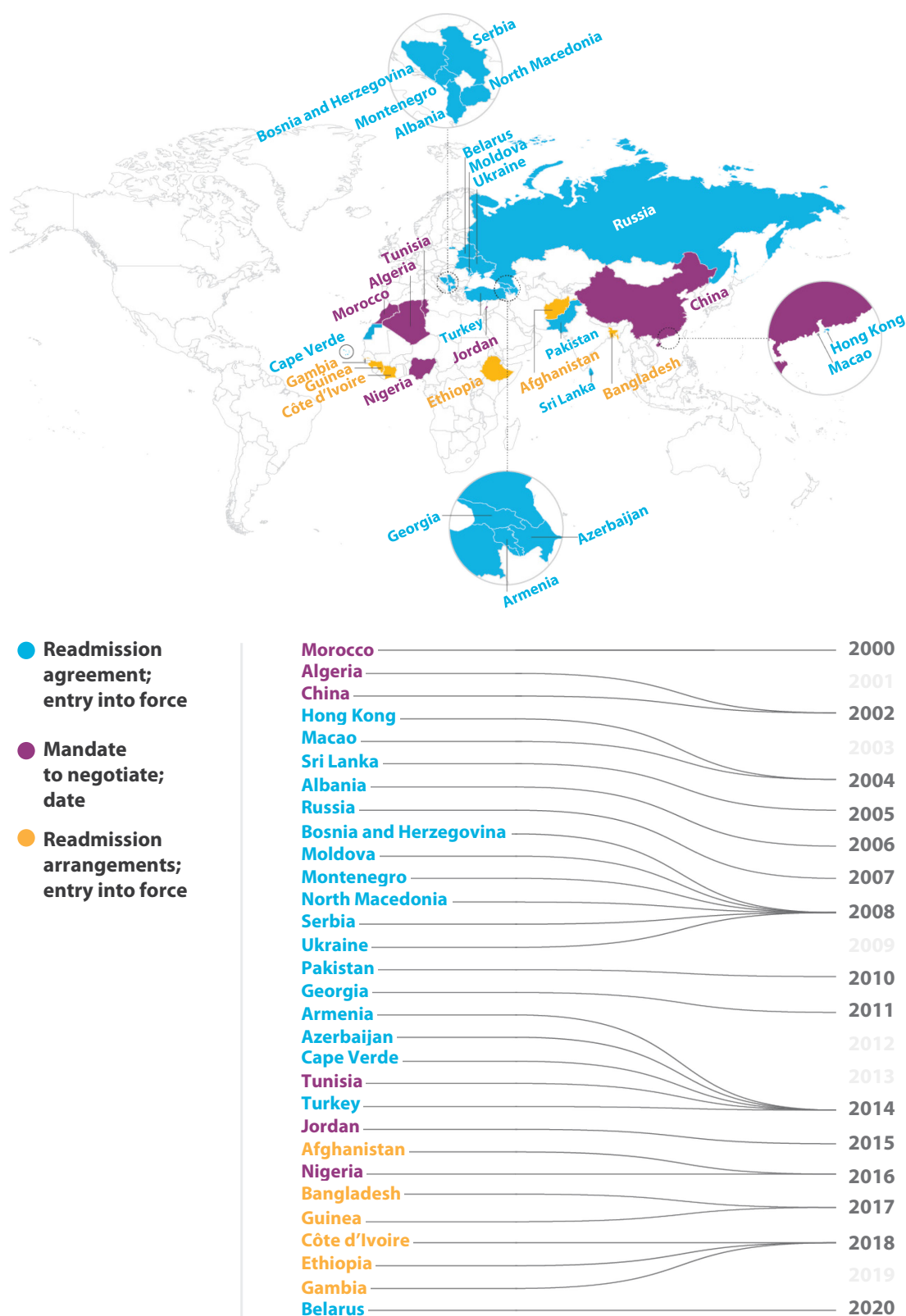
**09** Third countries may be reluctant to engage in negotiations about readmission agreements mainly due to internal political considerations (such agreements can be a source of public hostility in some countries). Since 2016, the Commission has therefore focused on developing practical cooperation arrangements with third countries, and has negotiated six legally non-binding arrangements for returns and readmissions (see [Figure 3](#)). The content of these practical arrangements, except for Afghanistan<sup>10</sup>, remains confidential.

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<sup>9</sup> EU Readmission Agreements, Facilitating the return of irregular migrants, European Parliamentary Research Service Briefing April 2015, EPRS\_BRI(2015)554212\_EN.

<sup>10</sup> See the [Joint Way Forward on migration issues between Afghanistan and the EU](#).

**Figure 3 – Map of EURAs and non-binding readmission arrangements**



Source: ECA, based on Commission data.

## Governance

**10** The EU was granted powers in the area of visas, asylum and immigration, including the power to conclude readmission agreements, when the Amsterdam treaty came into force in 1999<sup>11</sup>. This power is shared between the EU and the Member States (“shared competence”)<sup>12</sup>.

**11** EURAs are negotiated with a third country on the basis of a negotiating mandate which the Council grants to the Commission. The Commission (as the lead), together with the European External Action Service (EEAS), is responsible for negotiating EURAs and improving cooperation with third countries on readmissions. Readmission agreements are adopted by a Council decision, after the European Parliament has given its consent.

**12** In the case of legally non-binding readmission arrangements, the process is simpler. The Commission requests authorisation from the Council before starting a negotiation, and the Council has to confirm the outcome. However, the consent of the European Parliament is not required.

**13** Once in force, an EURA is monitored by a Joint Readmission Committee (JRC). A JRC comprises experts and representatives from EU Member States and the third country, and is co-chaired by the Commission and the third country. Similarly, readmission arrangements are monitored by Joint Working Groups (JWGs).

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<sup>11</sup> Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, Article 63.

<sup>12</sup> Treaty on the Functioning of the European Union (TFEU), Article 4.

## Audit scope and approach

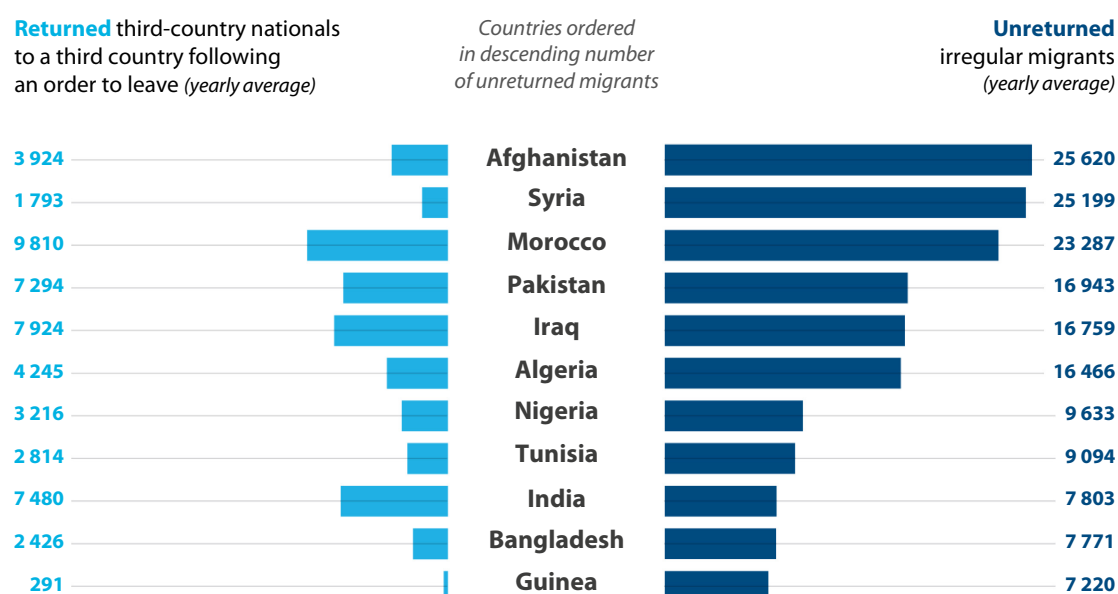
**14** The difficulty of cooperating with migrants' countries of origin is one of the reasons for low returns of irregular migrants, as we noted in special report 24/2019. Considering the importance of the topic, we decided to investigate it further. We expect our report to contribute to ongoing EU efforts and to the debate on the Commission's New Pact on Migration and Asylum, which was presented in September 2020.

**15** The objective of this audit was to determine whether the EU has effectively enhanced cooperation on readmission with third countries. To answer this main audit question, we asked two sub-questions:

- (1) Has the EU made progress in concluding relevant readmission agreements or similar arrangements with third countries?
- (2) Has EU action facilitated effective implementation of third countries' readmission obligations?

**16** The audit focused on the period from 2015, when the Commission launched the Action Plan on Return, until mid-2020.

**17** We used the average number of all non-returned irregular migrants as the criterion for drawing up the list of 10 third countries for examination (see [Figure 4](#)). The nationals of these 10 countries (excluding Syria) accounted for 38 % of all return orders issued during the 2014-2018 period, as well as for 46 % of all unreturned irregular migrants from the EU. We excluded Syria from our audit, as in May 2011 the EU suspended all bilateral cooperation with the Syrian authorities.

**Figure 4 – Yearly average returns of irregular migrants (2014-2018)**

Source: ECA, based on Eurostat data (datasets migr\_eiord and migr\_eirtn).

**18** Our main auditees were the Commission, the EEAS and Frontex. We also consulted representatives of Integrated Return Management System networks (see paragraph 80), the Council secretariat, and authorities from Germany, France and Spain. We selected these three Member States because of their respective importance in terms of migratory pressure and returns (the number of asylum applications, and return decisions), and our previous audit coverage of Italy and Greece in this area.

**19** Due to COVID restrictions, we were unable to make the visits we had planned to third countries. This means that we had to rely to a large extent on desk reviews of available documents, and on interviews with EU stakeholders. However, we did contact the embassies of three third countries to obtain their views on readmission cooperation with the EU. Furthermore, we consulted stakeholders from the European Parliament, the International Organisation for Migration (IOM), and the European Council on Refugees and Exiles.

**20** The effective return of irregular migrants requires EU returns policy to have an effective “internal dimension”, namely identifying and locating irregular migrants, referring unsuccessful asylum applicants, and implementing return decisions by Member States. As we have already covered this internal dimension of EU returns

policy<sup>13</sup>, this audit has focused solely on cooperation with third countries in the area of readmissions.

**21** We did not enter into the merits of individual return decisions. Return decisions are issued by the national authorities, for which the Member States have sole responsibility. The national authorities are also responsible for performing return operations (potentially supported by Frontex). Return decisions are subject to the administrative and legal remedies envisaged by European and national legislation. If an appeal is lodged, the national authorities or courts assess each case based on its merits, including whether it is safe for a migrant to be returned to the third country.

**22** The audit did not cover EU Member States' bilateral readmission agreements, arrangements, memoranda of understanding or any other form of bilateral cooperation between the Member States and third countries. These remain within the sole purview of the Member States, and the Commission does not have access to them.

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<sup>13</sup> ECA special report 24/2019 "[Asylum, relocation and return of migrants: Time to step up action to address disparities between objectives and results](#)".



## Observations

### Results of negotiations with third countries are suboptimal due to insufficient use of synergies with Member States and across EU policies

**23** In this section, we examine whether the Commission and the EEAS:

- (a) entered into readmission negotiations with the 10 third countries with the most unreturned irregular migrants;
- (b) pursued the negotiations effectively; and
- (c) developed tools for creating incentives to implement readmission obligations.

### The Commission and the EEAS did engage in readmission dialogue with the third countries with the most unreturned irregular migrants

**24** The 10 third countries with the most non-returned irregular migrants during the 2014-2018 period (excluding Syria) were, in order of significance, Afghanistan, Morocco, Pakistan, Iraq, Algeria, Nigeria, Tunisia, India, Bangladesh and Guinea (see paragraph 17 and [Figure 4](#)). The Council and the Commission have formally identified eight of these countries as a priority for engaging in negotiating an EURA or arrangement. The Commission:

- o received a mandate from the Council to negotiate an EURA with Algeria (2002), Morocco (2003), Tunisia (2014), and Nigeria (2016). An EURA with Pakistan has been in place since 2010;
- o launched negotiations of legally non-binding arrangements with Afghanistan (2016), Bangladesh (2016), and Guinea (2017);
- o has engaged in migration dialogue with Iraq and India, even though it did not formally identify them as priority countries for negotiations (see [Box 2](#)).

## Box 2

### Readmission cooperation in the context of migration dialogue with Iraq and India

During 2014-2017, political and security conditions in Iraq were not suitable for a readmission dialogue. In 2018, the EU Strategy for Iraq<sup>14</sup> identified establishing a migration dialogue with Iraq, “including agreeing on procedures facilitating the identification and returns of returnees”, as one of the EU’s strategic objectives. The EU actions taken since then have not led to any tangible results in terms of cooperation on enforced returns.

The EU and the Government of India have met regularly as part of the EU-India High-Level Dialogue on Migration and Mobility, and established a Common Agenda for Migration and Mobility in 2016. In the area of irregular migration, the EU and India agreed on “exploring possibilities for a Readmission agreement”<sup>15</sup>, although no tangible progress has been made so far.

**25** In addition to migration pressures and the number of persons awaiting return, the Commission has correctly considered other factors when deciding whether to engage in readmission negotiations with a third country, and whether to negotiate an EURA or a legally non-binding arrangement in such cases. These factors include:

- (a) the potential to negotiate a visa facilitation agreement. Such agreements may be an incentive for third countries to conclude an EURA (see paragraph 50);
- (b) political will. Some third countries may be interested in negotiating an EURA, rather than negotiating separate agreements with individual Member States. By contrast, legally non-binding arrangements may be politically more acceptable for other third countries;
- (c) urgency. In 2015, the number of illegal border crossings into the EU that were detected surged to 1.8 million, from 0.3 million in 2014. [Figure 5](#) shows the respective changes for the countries covered by our audit. In cases where cooperation with a given country of origin required urgent improvement, but

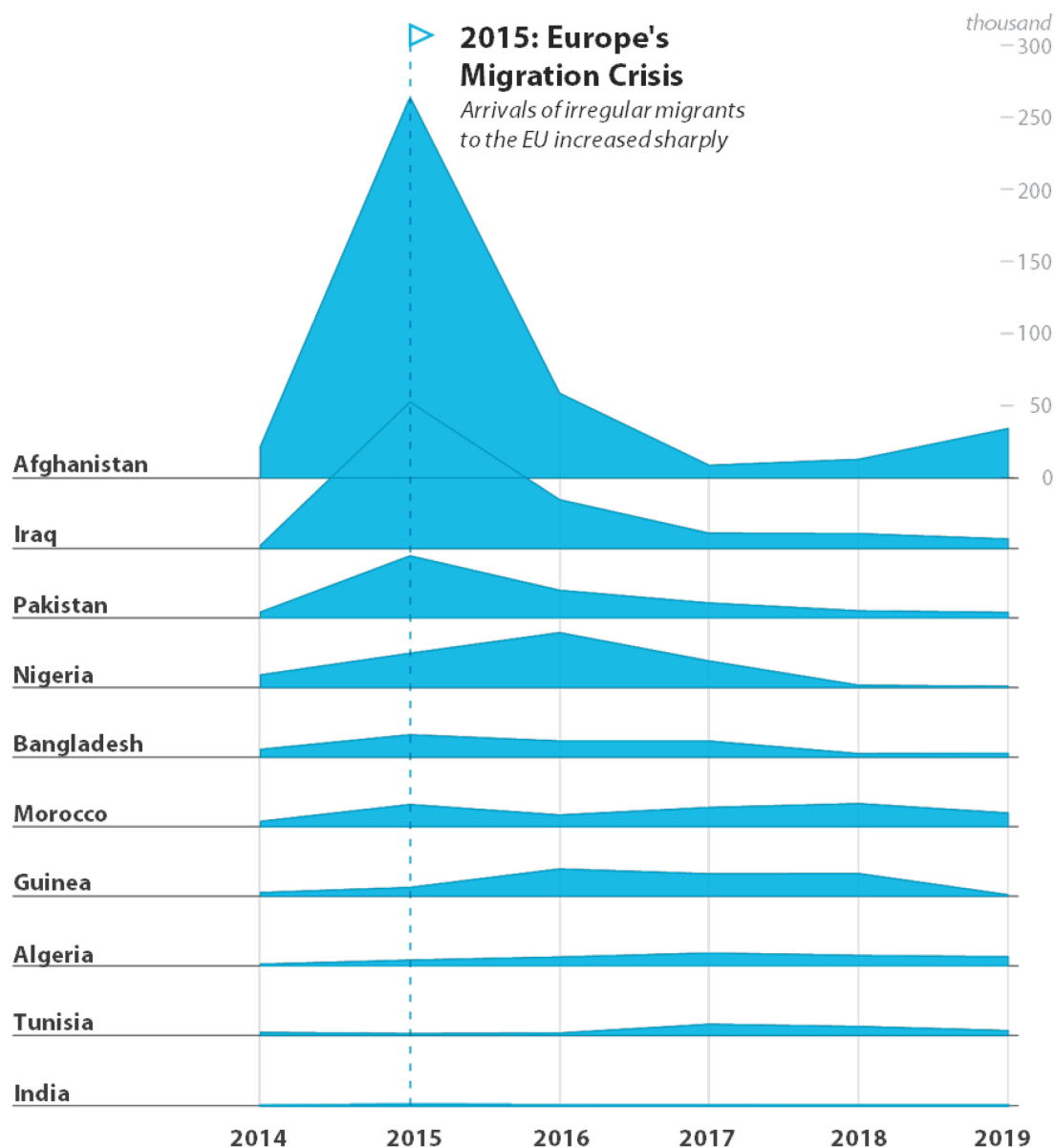
<sup>14</sup> Elements for an EU strategy for Iraq, JOIN(2018) 1 final, Brussels, 8.1.2018.

<sup>15</sup> Joint Declaration on a Common Agenda for Migration and Mobility between India and the European Union and its Member States, Brussels, 29 March 2016, point 4(x).

where the conclusion of an EURA did not seem feasible in the short term, the Commission strived to sign less formal (legally non-binding) arrangements;

- (d) timing. The Commission may not be able to start or continue negotiations due to political factors in or pertaining to a third country. Equally, the Commission may start such negotiations when an opportunity (such as a favourable political climate) arises, even if they are not required by migration flows at the time.

**Figure 5 – Detections of illegal border-crossings at the EU borders**

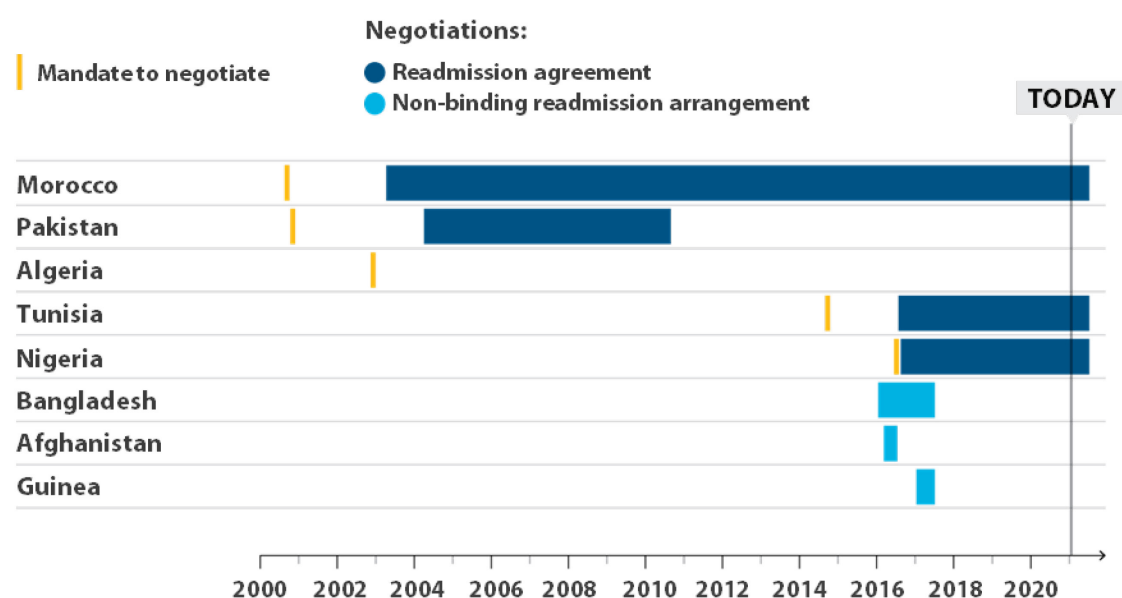


Source: ECA, based on FRAN data as of 28 July 2020.

## The Commission and the EEAS achieved limited progress in concluding readmission agreements, but were more successful in negotiating legally non-binding readmission arrangements

**26** We have reviewed the negotiations of EURAs/arrangements with countries covered by our audit, focusing on the period after 2015. We assessed the legally binding and non-binding agreements separately, due to significant differences in the negotiation process. **Figure 6** shows the timeline of the negotiations.

**Figure 6 – Timeline of negotiations**



Source: ECA, based on Commission data.

### EU readmission agreements

**27** The political will of third countries is essential for successful negotiations. Algeria's preference for cooperating on returns and readmissions with Member States bilaterally, and for managing migration on its own without EU support, explains why the negotiations never officially started. The fact that high-level dialogue between the EU and Morocco was suspended in December 2015 due to an unrelated issue also meant that EURA negotiations were suspended between 2015 and 2019. The need for high-level political backing also means that the negotiations risk being suspended during election periods.

**28** EURA negotiations are organised in formal rounds. Long delays between a mandate being received and negotiations actually starting (Morocco, Pakistan,

Tunisia), and between negotiating rounds, are symptomatic of third-country authorities lacking the will to pursue the negotiations. This can result from domestic political considerations that cannot be easily addressed, but also from insufficient EU incentives to support the negotiations (see paragraphs 47 to 72). We saw evidence on occasions of the Commission and the EEAS providing political backing to resume suspended negotiations. However, national stakeholders that we interviewed felt that the Commission's and the EEAS' political involvement with third countries needed to be stepped up, including political recognition and high-level visits, and more closely aligned with Member States.

**29** The Commission negotiates the EURAs following negotiating directives issued by the Council, based on a Commission proposal. The contents of the directives were broadly similar for all EURAs. Two elements included in the directives tend to be particularly controversial during the negotiations: the Third Country National clause (TCN) (see [Box 3](#)), and the use of the European travel document (EUTD) for returns<sup>16</sup>.

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<sup>16</sup> Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994.

### Box 3

#### The Third Country National clause

The TCN clause allows the return of people to a third country through which they transited before entering the EU. This is a standard clause in all EURAs concluded so far, also with more distant countries such as Pakistan. Third countries tend to oppose the TCN clause as it is politically very sensitive and not rooted in international law.

In practice, the TCN clause is applied sporadically due to legal, operational and human-rights concerns. When it is used, it is generally with the countries neighbouring the EU. Nevertheless, certain Member States insist on the TCN clause due to its symbolic value (translating a commitment by a third country to cooperate on managing migration through its territory) and due to concerns about setting a wrong precedent. In certain cases, the TCN clause may complement the Member States' bilateral agreements, which do not include it. In other cases, Member States whose bilateral agreements include the TCN clause may not endorse an EURA without it.

**30** The Commission's only evaluation of EURAs dates from 2011<sup>17</sup>. The evaluation found that the main reasons for excessive delays in negotiating EURAs are "[a] lack of incentives and a certain lack of flexibility from Member States on some (technical) issues" (primarily the TCN clause). The Commission recommended<sup>18</sup> that the concrete need for the TCN clause and other procedures not widely used in practice should be thoroughly evaluated for each country before being included in the negotiating directives. Nevertheless, this was not done for the countries covered by our audit.

**31** All the third countries with ongoing EURA negotiations that we cover in our audit have categorically opposed the TCN clause from the outset (even when featured in some of their bilateral agreements with Member States). The Commission and the EEAS have therefore chosen to put the clause on hold, together with other controversial issues that cannot be solved at a technical level, with a view to discussing them at the end of the negotiations. Nevertheless, the TCN clause tended to resurface regularly and to jeopardise the negotiations.

<sup>17</sup> [Evaluation of EU Readmission Agreements](#), COM(2011) 76 final, 23 February 2011.

<sup>18</sup> [COM\(2011\) 76 final](#), Recommendations 4, 5 and 8.

**32** Unlike the TCN clause, the possibility of using the EUTD for returns can, according to the stakeholders we interviewed, be effective for addressing difficulties with readmission cooperation with some countries (for an overview of the difficulties, see paragraph 74). However, most third countries insist on their prerogative to re-document their citizens, and oppose accepting EUTDs. The Commission has succeeded in including the EUTD in only one of the negotiated agreements in our sample.

**33** Overall, during the 2015-2020 period, the EU did not achieve tangible progress in the EURA negotiations with Algeria and Morocco. The EURA negotiations with Tunisia and Nigeria progressed on technical issues, but the most contentious points were set aside. Furthermore, the length of the negotiations meant that progress achieved in one negotiating round may need to be reconfirmed in the following one (e.g. due to a change in counterparts or in the political situation in the third country).



















#### **Readmission arrangements**

**34** The negotiating process for readmission arrangements is much more flexible than for the EURAs. The Commission does not have strict negotiating directives, and there are no formal negotiating rounds. The focus is on the swiftness of the negotiations and on finding pragmatic solutions to improve readmission cooperation.

**35** The Commission was successful, with the EEAS' support, in negotiating the three legally non-binding readmission arrangements covered by our audit (with Bangladesh, Afghanistan and Guinea). Technical issues that presented a challenge during the negotiations included the use of the EUTD (in all three cases) and charter flights (two cases). Sticking points were solved on a political level by positive incentives, alignment with Member States (including joint EU-Member State high-level missions, see paragraph 45), and, in one case, by the possibility of applying visa restrictions.

**36** The EURAs are standardised public documents. Readmission arrangements are more flexible, but also share common characteristics. With the exception of the "Joint Way Forward" concluded with Afghanistan, the arrangements are confidential, so we cannot disclose individual ones. However, a comparison of the EURA for Pakistan and the "Joint Way Forward" provides a useful insight (see [Figure 7](#)).

**Figure 7 – Comparison of the “Joint Way Forward” for Afghanistan and the EURA for Pakistan**

<b>Joint Way Forward Afghanistan</b>		<b>EURA Pakistan</b>
<b>Legally non-binding arrangement</b>	<b>Type of cooperation on readmission</b>	<b>EU Readmission Agreement</b>
<b>4 October 2016</b>	<b>Entry into force</b>	<b>1 December 2010</b>
	<b>Precedence over Member States’ bilateral agreements</b>	
Not specified 	<b>Readmission of third-country nationals</b>	
	<b>Use of the EU standard travel document for return</b>	 Not specified
Within agreed limits 	<b>Acceptance of scheduled and charter flights</b>	 Not specified
	<b>Acceptance of Frontex-organised return operations</b>	 Not specified
Visa for escorts 	<b>Specific requirements for escorts</b>	 Specified in an implementation protocol
	<b>Support package defined in the document</b>	
Joint Working Group 	<b>Regular meetings</b>	 Joint Readmission Committee
	<b>Specific provisions on care for unaccompanied minors</b>	

Source: ECA.



**37** Readmission arrangements have the same objective as the EURAs, i.e. to facilitate cooperation on returns. Significant differences include:

- (a) no references to international protection of refugees and human rights. From the countries covered by our audit, only the “Joint Way Forward” with Afghanistan had references equivalent to those in the EURAs;
- (b) a lack of reciprocity;
- (c) being tailor-made for each country, leaving certain contentious issues outside the text (e.g. TCNs);
- (d) no annexes listing documents for establishing nationality;
- (e) greater flexibility to agree on mutual objectives, possibly including a country support package in the arrangement. The arrangement with Afghanistan included comprehensive support measures addressing the needs of returnees and host communities in the short, mid and long-terms, including sustainable reintegration and improving employment opportunities. The assistance also targets internally displaced persons in Afghanistan, returnees from Iran and Pakistan, and their host communities, for a total of €219 million<sup>19</sup>.

**38** Civil society organisations and the European Parliament have criticised the arrangements for their lack of transparency and the potential impact on returnees’ human rights<sup>20</sup>. By contrast, the national stakeholders that we interviewed generally welcomed the Commission’s development of legally non-binding arrangements as a pragmatic tool for improving readmission cooperation with third countries, in particular when quick results were needed. Member States have also explored similar arrangements when negotiations of formal readmission agreements have not advanced. The Commission’s formal negotiating mandate does not, however, allow it to abandon negotiations for a formal EURA in favour of a quicker arrangement.

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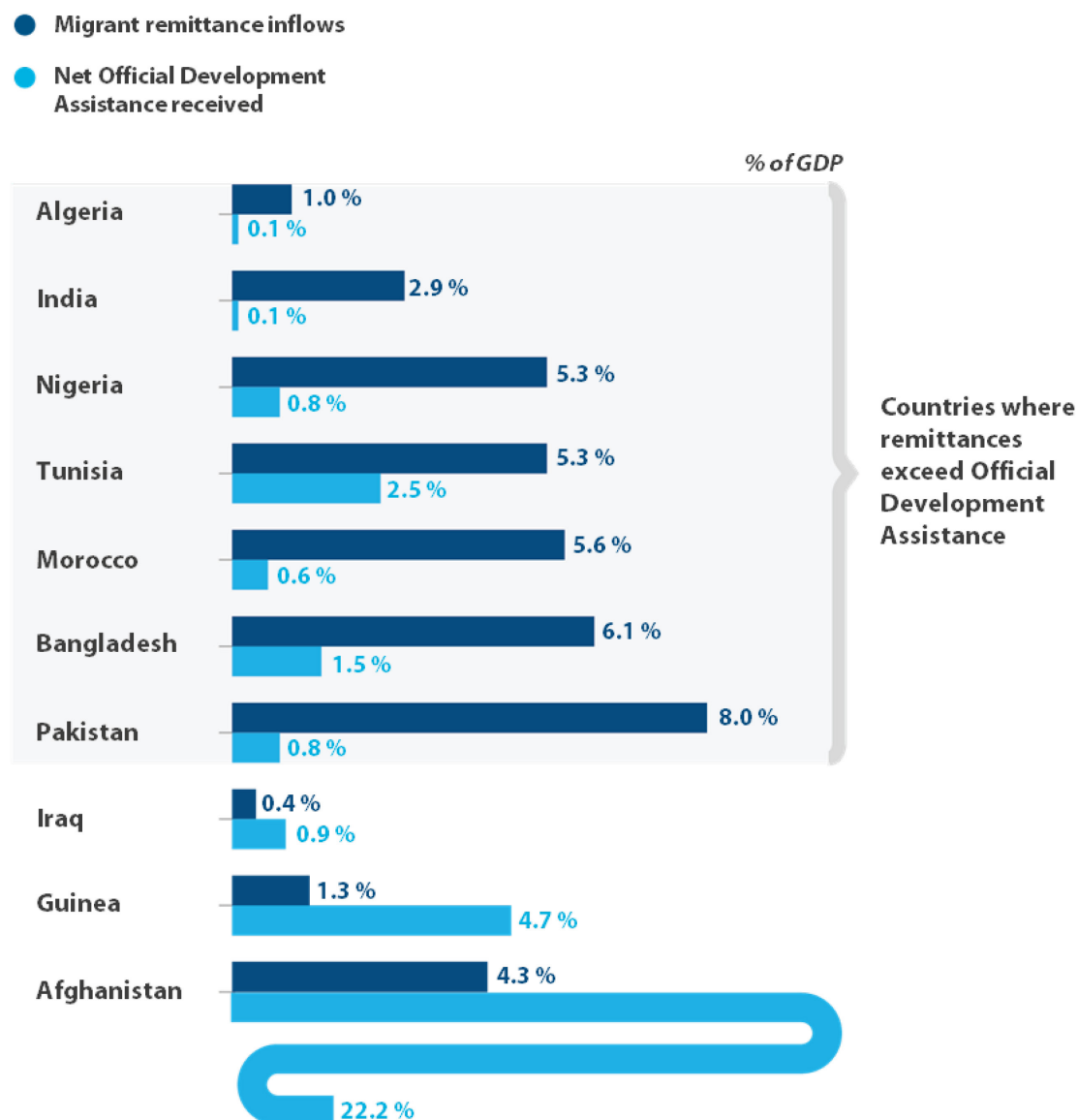
<sup>19</sup> The Commission’s answer to a written question from the European Parliament, ref.: E002442/2020(ASW), 18 August 2020.

<sup>20</sup> See, for example, the article “An ‘Informal’ Turn in EU’s Migrant Returns Policy towards Sub-Saharan Africa” available at [migrationpolicy.org](https://migrationpolicy.org); and the European Parliamentary Research Service Study “European Implementation Assessment on the Return Directive 2008/115/EC”, PE 642.840 – June 2020, page 11.

## **There was insufficient progress in creating synergies with Member States and across EU policies**

**39** In the area of international relations, countries usually negotiate agreements for their mutual benefit. By contrast, readmission agreements, although they are written in a reciprocal way, can be seen by third countries as mainly benefiting the EU. Furthermore, such agreements (and enforced returns) can be a source of public hostility in some countries. This is linked to the fact that the remittances sent home by the diaspora (which also includes irregular migrants) can provide a livelihood for whole communities, a key source of foreign currency, and far exceed official development assistance. The latter is the case for seven countries in our sample ([Figure 8](#)). These considerations may affect third countries' views and perceptions of readmission agreements, and also explain the need for the EU to develop incentives to support readmission negotiations.

**Figure 8 – Remittances and Official Development Assistance as a share of GDP in 2019**



*Note:* The graph provides an overall picture, and does not differentiate between the country of origin of the remittances and remittances from irregular vs. regular migrants.

*Source:* ECA, based on World Bank datasets: GDP (current US\$), Net official development assistance received (current US\$), and Migrant remittance inflows (US\$). Available at [data.worldbank.org](https://data.worldbank.org).

**40** The European Council has repeatedly called for the necessary leverage to be created and applied – with the aid of relevant EU policies, instruments and tools – in order to achieve measurable results in terms of preventing irregular migration and returning irregular migrants. The Commission has also called for further action to deploy leverage with a view to stepping up readmission (see [Annex II](#)).

**41** In the following paragraphs, we assess the progress achieved by the Commission in increasing its influence in readmission negotiations both by:

- speaking with one voice and creating synergies with Member States; and
- developing incentives by means of the policies within its remit.

### **Speaking with one voice, and synergies with Member States**

**42** When obtaining a mandate/authorisation from the Council to start negotiations for an EURA/arrangement, the Commission did not seek agreement at the same time with the Member States in the Council about potential incentives and tools to support the negotiations, nor did it outline a “tailor-made support package” when launching negotiations with third countries. Some third countries were reluctant to engage in the negotiations, as they did not see a clear added value in pursuing an EURA over bilateral cooperation with Member States. This was the case in particular for North African countries, which benefited from generous bilateral deals with some Member States.

**43** In 2016, the Commission and the EEAS prepared joint “non-papers on enhancing cooperation on migration, mobility and readmission” for 16 key countries of origin and/or transit. These outlined possible components of an EU package, with both positive and negative incentives, to support the negotiations. The Member States were invited to contribute, but the discussions<sup>21</sup> on the packages were inconclusive. No similar exercise has taken place since.

**44** Apart from consultations in the Council working groups, the Commission has not systematically associated key Member States (as regards bilateral relations with a third country and/or the impact of migratory flows) in facilitating negotiations with third countries. This meant that the Commission could not draw effectively on the political weight of the Member States, or on the policies which require their active involvement (such as visa facilitation or labour migration; see also paragraph 65), to support the discussions.

**45** When the Member States have been associated in facilitating readmission negotiations, this has improved the EU’s collective political influence. This proved

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<sup>21</sup> High-Level Working Group on Asylum and Migration meetings on 23 February 2016 ([Council document 6451/16](#)) and on 22 April 2016 ([Council document 8529/16](#)).

beneficial in achieving results in terms of concluding readmission arrangements or unblocking negotiations. For example, in April 2017 four Member States participated with the Commission in a joint mission to Guinea to successfully open readmission negotiations.

**46** By contrast, the lack of a common approach and parallel negotiations on bilateral agreements by key Member States may have hampered for example the start of EU negotiations with Algeria<sup>22</sup>.

### **Incentive-based approach**

**47** The EU and its Member States are not only the world's biggest donors of development assistance, but are also major global trading partners and foreign investors<sup>23</sup>. The Commission was able to use various policies on an ad hoc basis to support readmission negotiations. Particularly in the case of readmission arrangements, the Commission made effective use of financial assistance (projects supporting development, reintegration, migration management, and capacity-building). By contrast, for countries where financial assistance has not been a sufficient incentive, the Commission has struggled to use other policies to provide effective support for negotiations, even where it had extensive political and economic relationships.

**48** In the following sections, we analyse the progress achieved by the EU in applying its key policies (visa, development, trade) to create structural incentives for third countries to fulfil their readmission obligations, as repeatedly requested by the European Council (see [Annex II](#)). We also examine legal migration, which is of primary interest for third countries, the use of negative incentives, and measures to enhance coordination.

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<sup>22</sup> [EU Cooperation with third countries in the field of migration](#), Study, Directorate-General for Internal Policies, European Parliament, 2015, page 89.

<sup>23</sup> [The Neighbourhood, Development and International Cooperation Instrument](#), Factsheet, European Commission, June 2020. ISBN 978-92-76-19025-7 – doi: 10.2761/5991 KV-02-20-381-EN-N.

### Visa policy – important progress in developing tools

**49** Visa policy is inherently linked with migration management and, as such, is particularly suitable to be leveraged for the purpose of improving readmission cooperation with third countries.

**50** Negotiating a visa facilitation agreement<sup>24</sup> in parallel to EURAs proved successful in the past<sup>25</sup>. Since 2005, as the Member States agreed in Coreper, any offer to negotiate such an agreement has been conditional upon launching EURA negotiations at the same time. However, EU visa facilitation agreements may not by themselves offer a sufficiently attractive incentive for third countries that already benefit from advantageous bilateral agreements with key Member States.

**51** The 2009 Visa Code<sup>26</sup> consolidated procedures and conditions for issuing short-stay visas. It did not provide suitable tools for using visa policy to enhance cooperation on readmission<sup>27</sup>. In 2018, the Commission presented a proposal for a revision, which was adopted in June 2019<sup>28</sup>. The revised Visa Code now provides the EU with a mechanism and tools for stimulating third countries' cooperation on readmission (the possibility to use not only positive incentives, but also restrictive visa measures).

### Development assistance – some progress

**52** The EU has provided development assistance via a multitude of instruments. These primarily promote socio-economic development, and do not generally envisage linking the assistance, or the amounts allocated to individual third countries, to

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<sup>24</sup> The full list of countries that have concluded visa facilitation agreements with the EU is available on the Commission's [website](#).

<sup>25</sup> See also [EU Action Plan on return](#), COM(2015) 453 final, page 14.

<sup>26</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

<sup>27</sup> [Impact assessment](#), SWD(2018) 77 final, page 23.

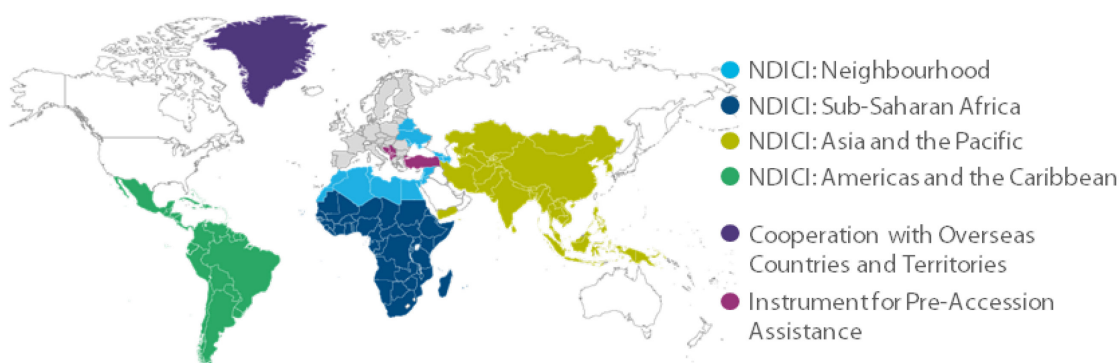
<sup>28</sup> Regulation (EU) 2019/1155 of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code).

cooperation by third countries on migration management in general, or on readmission in particular.

**53** At the height of the migration crisis, European and African heads of state and government launched the EU Emergency Trust Fund for Africa (EUTF)<sup>29</sup> at the Valletta summit in November 2015 in order to mobilise funds to address the root causes of irregular migration and to foster cooperation on migration management. As of October 2020, the resources allocated to the trust fund had reached €5 billion. The EUTF has proved useful for supporting discussions on readmission cooperation.

**54** For the 2021-2027 period, the Commission has proposed overhauling the set-up of EU development aid instruments. The new Neighbourhood, Development and International Cooperation Instrument (NDICI)<sup>30</sup>, with a budget of €79.5 billion, will cover practically the whole world (see [Figure 9](#)).

**Figure 9 – EU External Instruments MFF 2021 – 2027**



Source: ECA, based on Commission's factsheet "The Neighbourhood, Development and International Cooperation Instrument", June 2020, ISBN 978-92-76-19025-7 doi:10.2761/5991 KV-02-20-381-EN-N.

**55** Specifically for the "Neighbourhood countries", the Commission proposed allocating them 10 % of the related funds to reward progress in "democracy, human rights, cooperation on migration, economic governance and reforms". The 10 % incentive-based approach also existed under the preceding European Neighbourhood

<sup>29</sup> In 2018, we audited the trust fund and published special report 32/2018 "[European Union Emergency Trust Fund for Africa: Flexible but lacking focus](#)".

<sup>30</sup> [Proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument](#), COM(2018) 460 final, 14.6.2018.

Instrument, to acknowledge progress towards democracy, human rights, and the rule of law. Cooperation on migration and economic governance are new indicators. The Commission did not envisage such an incentive-based approach for other regions.

**56** Furthermore, as part of the NDICI the Commission proposed a horizontal spending target of 10 % to help to “enable the Union to respond to challenges, needs and opportunities related to migration”<sup>31</sup>.

**57** Since October 2019, the NDICI has been subject to negotiations between the Council and the European Parliament. One of the most controversial issues in the negotiations has been whether to make migration an element of conditionality<sup>32</sup>. The Council and the Parliament reached an agreement after our audit had ended, and adopted the NDICI Regulation in June 2021<sup>33</sup>.

#### Trade – no progress yet

**58** EU trade agreements (EU Association Agreements, and Partnership and Cooperation Agreements) have contained readmission clauses since the 1990s (see paragraph 05). As a European Parliament study observed<sup>34</sup>, “the clauses are ‘not self-executive’ (meaning that the clauses are incapable of taking effect without implementing agreements)”. The agreements do not envisage a working mechanism to reward cooperation, or to sanction third countries for a lack of cooperation on readmission.

**59** The EU-Japan Economic Partnership Agreement linked<sup>35</sup> the facilitation of movement of natural persons for business purposes to a commitment to cooperate on

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<sup>31</sup> COM(2018) 460 final, Recital 30.

<sup>32</sup> NDICI legislative train schedule as of 20 September 2020.

<sup>33</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe.

<sup>34</sup> European Parliamentary Research Service Study “European Implementation Assessment on the Return Directive 2008/115/EC”, PE 642.840 – June 2020, pages 166-167.

<sup>35</sup> EU-Japan Economic Partnership Agreement (entered into force on 1 February 2019), Annex 8-C, Article 7.



return and readmission. Except for one Partnership and Cooperation Agreement currently being negotiated, similar provisions have not been included in other agreements.

**60** In 1971, the European Community first introduced a Generalised Scheme of Preferences to support developing countries. Six of the 10 countries covered by our audit benefit from this Scheme. The Scheme's impact on job creation has been significant: for example, an estimated 5 million people are employed in Bangladesh because of it<sup>36</sup>.

**61** All beneficiary countries have to respect the principles of 15 core conventions on human rights and labour rights. For further benefits, eligible countries also have to respect 12 conventions relating to the environment and governance principles<sup>37</sup>. There are no conditions dealing with cooperation on migration management and readmission.

**62** The current EU Generalised Scheme of Preferences Regulation will be in force until the end of 2023. At the time of the audit, the Commission had not prepared any assessment as to whether, and how, cooperation on migration and readmission could be incorporated into the next Regulation (e.g. compliance with World Trade Organisation rules; potential costs vs. benefits).

#### Legal migration – labour and education – synergies needed with Member States

**63** Third countries consider enhanced cooperation on legal migration to be an important part of (and incentive for) their cooperation on migration management with the EU. Several EU directives have harmonised the entry and right to stay of certain categories of workers. Nevertheless, the Member States retain important powers (e.g. to determine the number of labour migrants admitted), and their active involvement is required to deploy these policies.

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<sup>36</sup> Key facts on the 2019 Biennial Report on the Generalised Scheme of Preferences, European Commission, February 2020.

<sup>37</sup> See Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008, Annex VIII.

**64** In line with the Partnership Framework<sup>38</sup>, the Commission launched the idea of legal migration pilot projects in September 2017<sup>39</sup>. To date, four Pilot Projects have been supported under the Mobility Partnership Facility<sup>40</sup>, one under the Asylum, Migration, and Integration Fund (AMIF)<sup>41</sup>, and one under the EUTF<sup>42</sup>. The projects have been useful for exploring new approaches. However, the Commission has not yet managed to scale up the projects for use as an effective incentive with third countries.

**65** At the same time, the Member States have issued substantial numbers of residence permits to third-country nationals, including for labour migration (see *Figure 10*). However, the EU has not leveraged the successful bilateral cooperation schemes for the purpose of readmission negotiations (see paragraph *44*).

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<sup>38</sup> Communication from the Commission on establishing a new Partnership Framework with third countries under the European Agenda on Migration, COM(2016) 385 final.

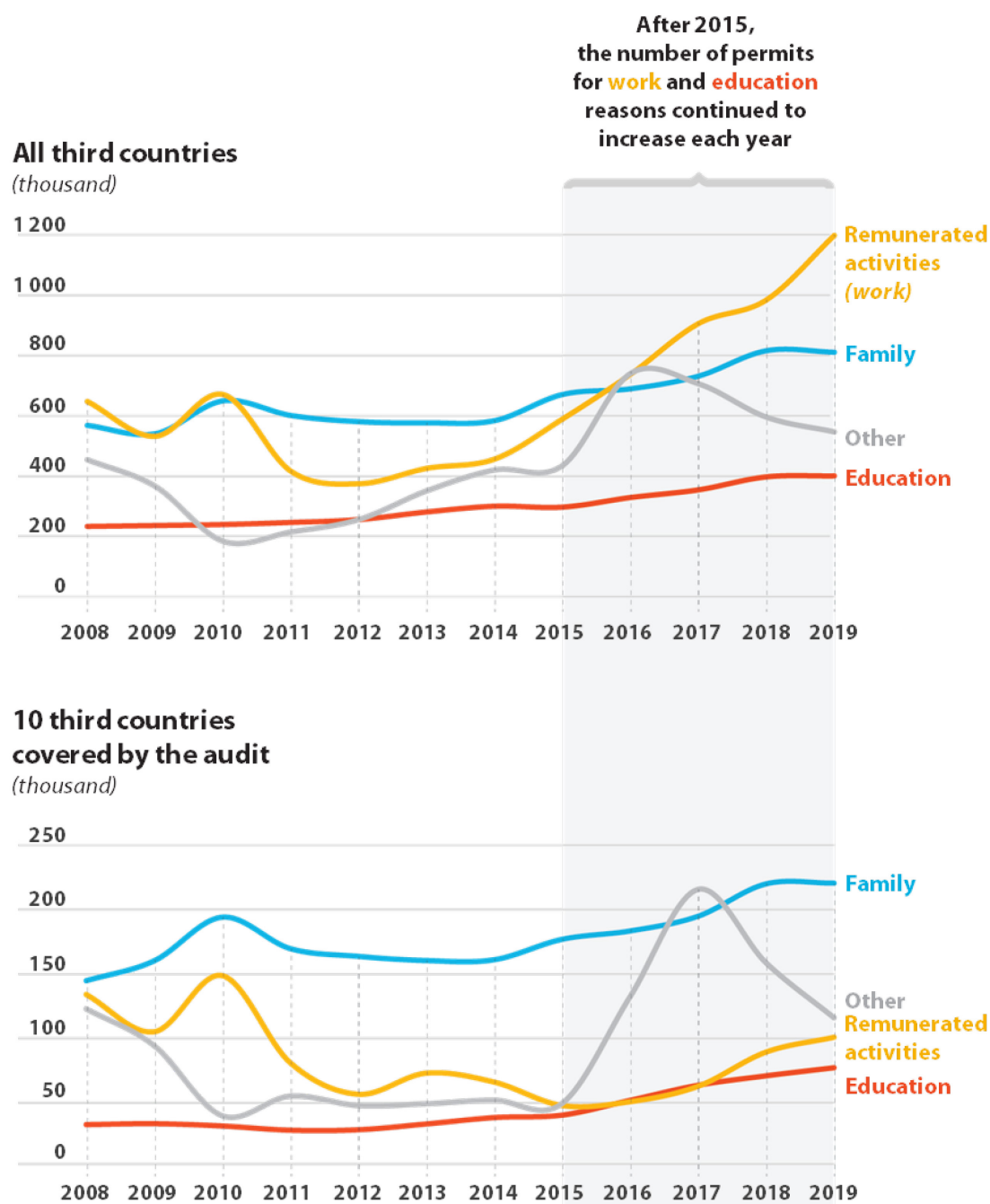
<sup>39</sup> Communication on the Delivery of the European Agenda on Migration, COM(2017) 558 final.

<sup>40</sup> Project descriptions available at [mobilitypartnershipfacility.eu](http://mobilitypartnershipfacility.eu).

<sup>41</sup> “Match” project.

<sup>42</sup> “Towards a Holistic Approach to Labour Migration Governance and Labour Mobility in North Africa” project.

**Figure 10 – First-time residence permits by reason**



Note: "Other" includes non-asylum discretionary permissions, retired persons of independent means, diplomats, etc.

Source: ECA, based on EUROSTAT data for EU-27 (dataset migr\_resfirst).

**66** Participation in student exchanges is an interesting incentive for third countries. In total, almost 4 000 students came to the EU in 2019 from the 10 countries covered by our audit under the popular Erasmus+ programmes managed by the Commission. However, this was only 5.3 % of all first-time residence permits issued by the Member States for education purposes in the same year for the same 10 countries.

#### Use of negative incentives – mixed positions of Member States

**67** The EU has been reluctant to use negative leverage to support readmission negotiations. This has been the case even for countries which receive extensive political, economic, and/or military support, while still refusing to cooperate on readmitting their irregular migrants. The concern has been that using negative incentives would damage partnerships with third countries, and ultimately be counter-productive. It could further exacerbate the (dire) socio-economic situation in third countries, or make transit third countries less willing to cooperate on migration management, thereby increasing irregular migration to the EU. Nevertheless, the possibility of applying restrictive visa measures helped to advance negotiations for a readmission arrangement with one country covered by our audit.

**68** The national representatives we interviewed confirmed their Member States' mixed positions on using negative leverage in negotiations. Although some considered this option necessary, others believed they could harm the relationship in the long term and that the focus should be on strengthening overall mutual relationships through more political involvement and greater cooperation in all areas.

#### Greater coordination to create synergies and leverage

**69** In June 2016, the Commission created a Task Force to support the implementation of the Partnership Framework. The Task Force has been a forum for coordination and discussion between senior Commission and EEAS staff responsible for both migration and broader external relations. At the weekly meetings, participants have discussed the most significant developments (mostly in the migration agenda) for key countries of interest. In December 2019, the Commission created a permanent Commissioners' "project group" on migration to enhance coordination at a political

level. One of the aims of the group has been to “develop stronger cooperation with countries of origin and transit and a more robust system of readmission and return”<sup>43</sup>.

**70** At the Council, Coreper established an informal visa leverage mechanism in 2017<sup>44</sup>. This provided a toolbox of possible visa measures where cooperation on readmission by a third country was unsatisfactory. According to the stakeholders we interviewed, merely mentioning the possibility of using the mechanism helped to improve cooperation with several third countries. In 2019, the mechanism was formalised in the revised Visa Code (see paragraph **51**).

**71** This positive experience with the visa leverage mechanism led Coreper to develop a “comprehensive leverage mechanism”<sup>45</sup>. This is an informal general cooperation mechanism for activating different policies (falling within the EU and/or Member State remit) to improve third-country cooperation on returns and readmissions. At the time of the audit, the mechanism had not yet been used.

**72** In September 2020, the Commission presented its New Pact on Migration and Asylum<sup>46</sup>. In Article 7 of the proposed new Regulation on Asylum and Migration Management<sup>47</sup>, the Commission put forward a mechanism which develops the informal Coreper comprehensive leverage mechanism.

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<sup>43</sup> Commissioners’ group on “Promoting our European Way of Life” – Principles and key workstreams, 6 December 2019 (not publicly available).

<sup>44</sup> Link between return/readmission and visa policies, 9097/1/17 REV 1, Brussels, 19 May 2017 (not publicly available).

<sup>45</sup> Proposal for a coordination mechanism to activate different policies to improve the cooperation of third countries on the return/readmission of their nationals, 8954/1/20 REV 1, Brussels, 25 June 2020 (not publicly available).

<sup>46</sup> COM(2020) 609 final.

<sup>47</sup> COM(2020) 610 final.

## **EU actions to facilitate readmission were relevant, but results were uneven and the impact could not be assessed**

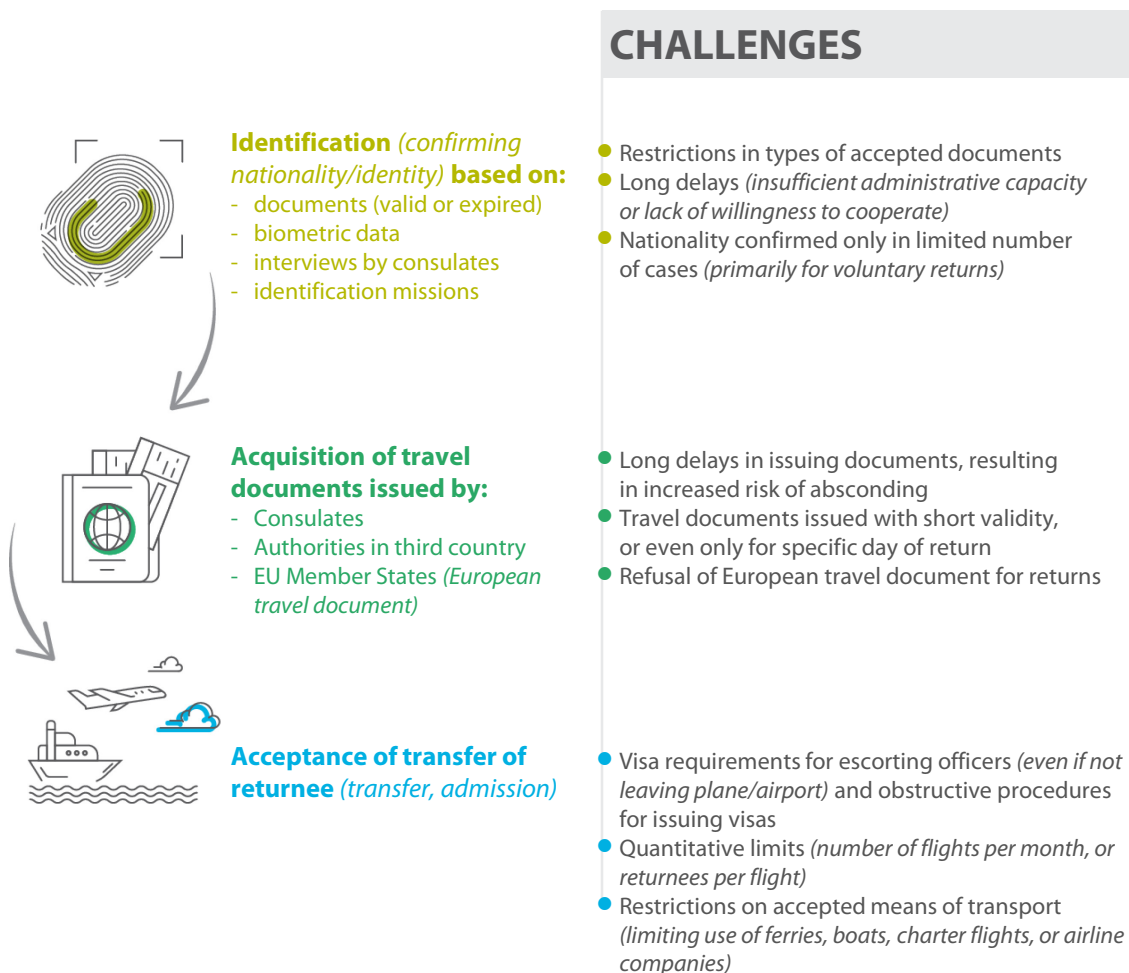
**73** In this section, we examine whether the Commission:

- (a) improved practical cooperation on readmission with third countries, in cooperation with Frontex and Member States;
- (b) provided third countries with adequate capacity-building and reintegration support to facilitate readmission; and
- (c) monitored, in collaboration with Frontex, the extent to which third countries had implemented their readmission obligations.

### **Measures to improve practical cooperation on readmission have produced uneven results**

**74** In most cases, third countries do not formally contest the readmission of their nationals. However, they can obstruct the readmission process and effective returns in various ways, in particular for irregular migrants without valid travel documents (see [Figure 11](#)). Furthermore, a number of bottlenecks affect the return process in the Member States (see special report 24/2019 and [Annex I](#)).

**Figure 11 – Involvement of third countries in the readmission process, and potential challenges**



Source: ECA.

**75** The EU and the Member States have been trying to address challenges in readmission cooperation by means such as:

- concluding readmission agreements and arrangements (although their implementation has not been always satisfactory in practice);
- creating networks which successfully pooled national resources; and
- increasing Frontex support.

## Readmission agreements and arrangements

**76** We have reviewed the agreements concluded for the countries covered by our audit and the reports from the JRC/JWGs in order to assess their effectiveness at improving readmission cooperation. We found that the EURAs/arrangements covered most of the common obstacles to smooth readmission. Notable exceptions were:

- (a) the acceptance of EU travel documents for return, which was stipulated in only one of the four agreements reviewed (see also paragraph 32);
- (b) visa requirements for escorts – visas were required in one agreement, but nothing was specified in three others. The required visas had a negative impact on the readmission process in two of the four third countries;
- (c) quantitative limits on the maximum number of returnees per flight and/or per month envisaged in two arrangements (this did not impede readmissions in practice); the others did not specify whether any limits could be applied.

**77** The fact that a specific obligation has been created through EURA provisions does not necessarily mean that it will be observed in practice and that cooperation will be smooth. Third countries sometimes introduced additional layers of requirements, verifications or permits, thus creating more difficulties for practical cooperation.

**78** JRC/JWG meetings have been organised regularly, once or twice a year, to assess the implementation of EURA/arrangements, and to discuss the latest policy developments and cooperation in other areas of migration management. However, the recurring nature of some of the issues discussed during JRCs/JWGs did show the limits to their effectiveness.

**79** For countries without an EU readmission agreement or arrangement, there is nothing comparable to the JRC/JWG for discussing practical readmission cooperation. The dialogue on migration and mobility which takes place in other forums is generally organised at a higher level, its scope is broader, and it does not target specific obstacles to readmission cooperation.



## Integrated Return Management System networks

**80** To improve practical cooperation on readmissions, the Commission used the AMIF to support the development of the “Integrated Return Management System”. The system includes three EU networks, in which Member States participate on a voluntary basis, with the Commission and Frontex having coordinating roles:

- (a) the European Integrated Return Management Initiative network (Eurint);
- (b) the European Return Liaison Officers’ network (EURLO);
- (c) the European Reintegration Network (ERIN), which became the European Return and Reintegration Network (ERRIN) with expanded scope in 2018.

**81** With the extensions of its mandate (see paragraph [84](#)), Frontex has progressively taken over activities from the networks. The handover of Eurint to Frontex was finalised in December 2019, started for EURLO in December 2019 (with a gradual handover by September 2021), and is planned to be finalised for ERRIN reintegration activities by July 2022.

**82** At the time of our audit, the Eurint transfer was finalised and the EURLO transfer was on track. However, no additional staff were allocated to Frontex’s European Centre for Returns for these activities in 2019 or 2020. This was linked with the Commission significantly altering the Frontex establishment plan in 2018<sup>48</sup>, without consulting Frontex beforehand. In March 2019, Frontex asked (unsuccessfully) to postpone the EURLO transfer due to shortages in human and financial resources. For the same reason, finalisation of the ERRIN transfer has been postponed by two years.

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<sup>48</sup> See [COM\(2018\) 631](#), Legislative Financial Statement, Point 3.2.3.1, first table, compared to [COM\(2015\) 671](#), Legislative Financial Statement, Point 3.2.3.1, Temporary agents (AD grades).

**83** The EU networks have been successful in pooling national resources, and have generally been appreciated by participating countries for their results:

- (a) **Eurint** has shown its added value as a knowledge and information-sharing platform for practitioners – a prerequisite for the development of a more integrated and coordinated approach for effective returns<sup>49</sup>.
- (b) Although the influence of the **EURLOs** on the actual return of irregular migrants has been limited, stakeholders identified the clear added value of the EURLO programme, and its benefits in terms of effectiveness and efficiency when compared with national return activities. The continuous physical presence on the ground of the EURLOs has made it possible to develop a relationship with third-country authorities, and has improved collaboration. Stakeholders also highlighted unexpected additional outcomes: the EURLOs supported strategic initiatives such as negotiating readmission agreements with local authorities, or enhanced Frontex's reputation and visibility in countries of origin<sup>50</sup>.
- (c) The activities – and added value – of **ERRIN** lay primarily in ensuring joint procurement of reintegration assistance contracts with service providers in third countries, and in managing and monitoring them (the parameters of the reintegration assistance and eligibility criteria were defined by individual Member States). Since it became ERRIN, its activities have been expanded to cover support for new initiatives and reintegration approaches. ERRIN has been largely on track in terms of implementing its activities, and has exceeded its targets for providing reintegration assistance (by mid-2020, the caseload approached 22 000 returnees, against a target of 20 000)<sup>51</sup>.

### Frontex support

**84** Since 2015, Frontex's mandate has been reinforced twice<sup>52</sup>. Consequently, Frontex has been increasingly involved in assisting Member States with pre-return

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<sup>49</sup> Evaluation Eurint programme, PBLQ, December 2018, pages 2-3 (not publicly available).

<sup>50</sup> EURLO Programme Evaluation Report, BearingPoint, November 2018, pages 6-7 (not publicly available).

<sup>51</sup> ERRIN Scoreboard, June 2020 (not publicly available).

<sup>52</sup> [Regulation 2016/1624](#) and [Regulation 2019/1896](#); the latter increased Frontex's role in return operations, both pre-return and post-return.

activities and return operations to third countries. In terms of pre-return activities, Frontex has been providing Member States with operational support (e.g. by deploying return specialists), and tools for improving cooperation with third countries (best practices, consular workshops, videoconference identification, and identification missions).

**85 Return specialists** provide Member States with tailor-made support in their return-related activities, for example by strengthening return procedures, improving consular cooperation with third countries, and providing IT and other support. The first deployments took place in 2016 when seven officers were deployed to Greece. Activities have been growing slowly ever since, and, in 2019, Frontex deployed a total of 15 return specialists in five Member States. Due to the nature of the return specialists' work, common indicators on their effectiveness/efficiency were not drawn up. However, Frontex's reports<sup>53</sup> list the specialists' concrete achievements, thus showing their added value.

**86** Out of the 10 third countries covered by our audit, Frontex has “**best practices**” documents with two. One has been instrumental in facilitating joint return operations, and the other served as a basis for organising one consular workshop and several identification missions.

**87** In an effort to harmonise the way newly negotiated arrangements are applied, the Commission and/or Frontex have organised **workshops for the consular offices** concerned in Europe. These workshops included an exchange of views on practicalities, such as the timely issuing of travel documents, and procedures for organising charter flights. However, the results were mixed, as at subsequent JWG meetings the Member States noted some improvements but also persisting difficulties.

**88** Frontex launched a pilot project for a **videoconferencing** system to conduct the **identification** process in 2018. The pilot was implemented in cooperation with the EURLO programme, which procured the videoconferencing equipment, and the IOM. The system was effective in 2019 at facilitating the identification of migrants.

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<sup>53</sup> Annual Frontex Evaluation Reports of the Flexible Operational Activities in Return (not publicly available).

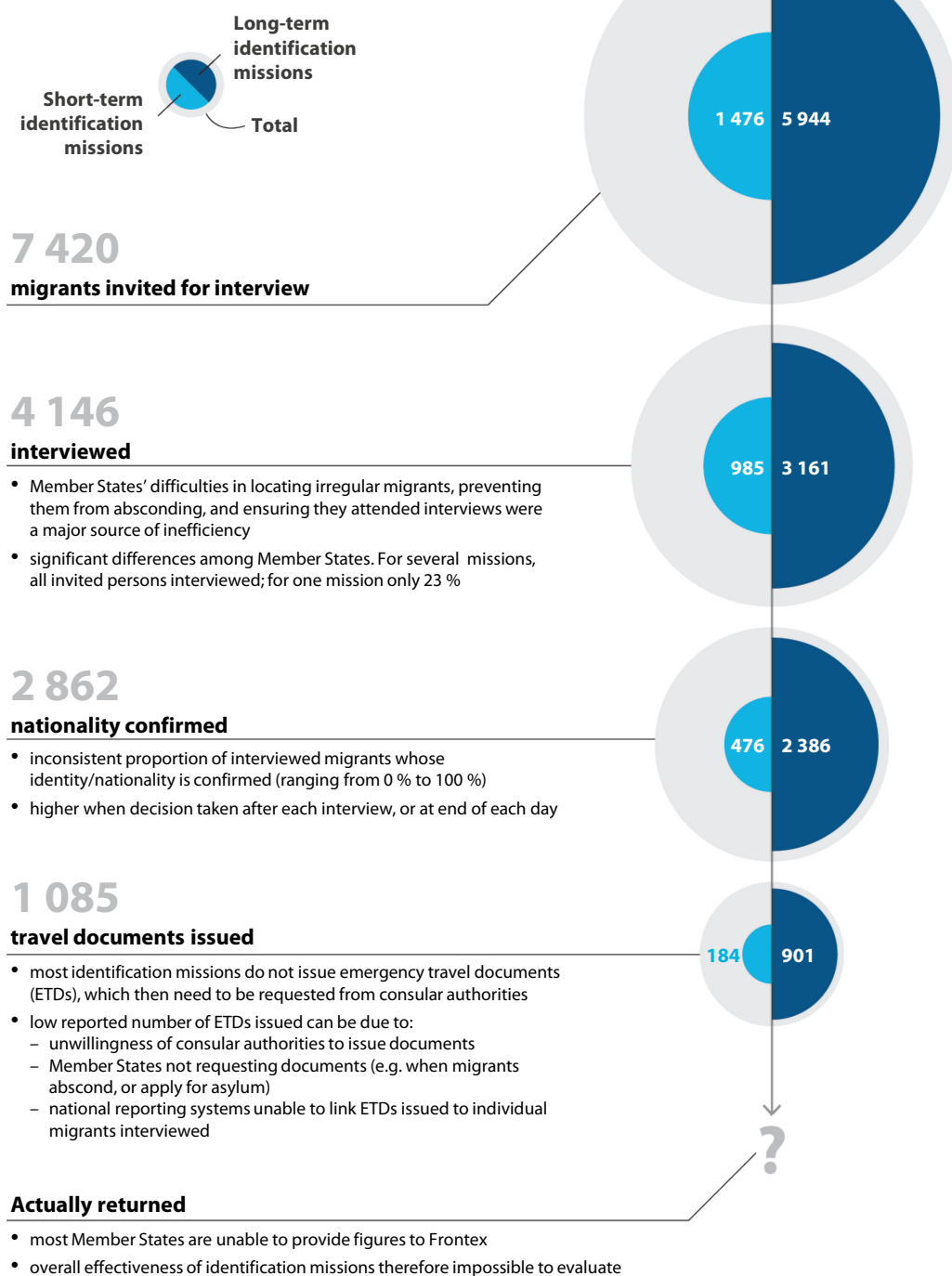
Nevertheless, three quarters of those identified subsequently applied for international protection, and so could not be returned.

**89** Member States developed the concept of **identification missions** to address issues with consular cooperation with third countries (e.g. when a consulate does not want to cooperate on identification, does not have the mandate to do so, or is not physically present in a Member State). Frontex has been supporting Member States with identification missions since the end of 2016, when it took this activity over from Eurint. The Frontex support is driven by requests from Member States, and its exact form is defined on a case-by-case basis.

**90** By mid-2020, Frontex had supported 25 short-term missions (generally one-two weeks are needed to perform identification activities in one or more Member States) and five long-term missions (deployments in a single location, potentially for years). The results of the missions are shown in [Figure 12](#).

**Figure 12 – Identification missions supported by Frontex  
(Oct 2016 – May 2020)**

**Significant shortcomings in efficiency  
and results of missions**



Source: ECA, based on Frontex data.

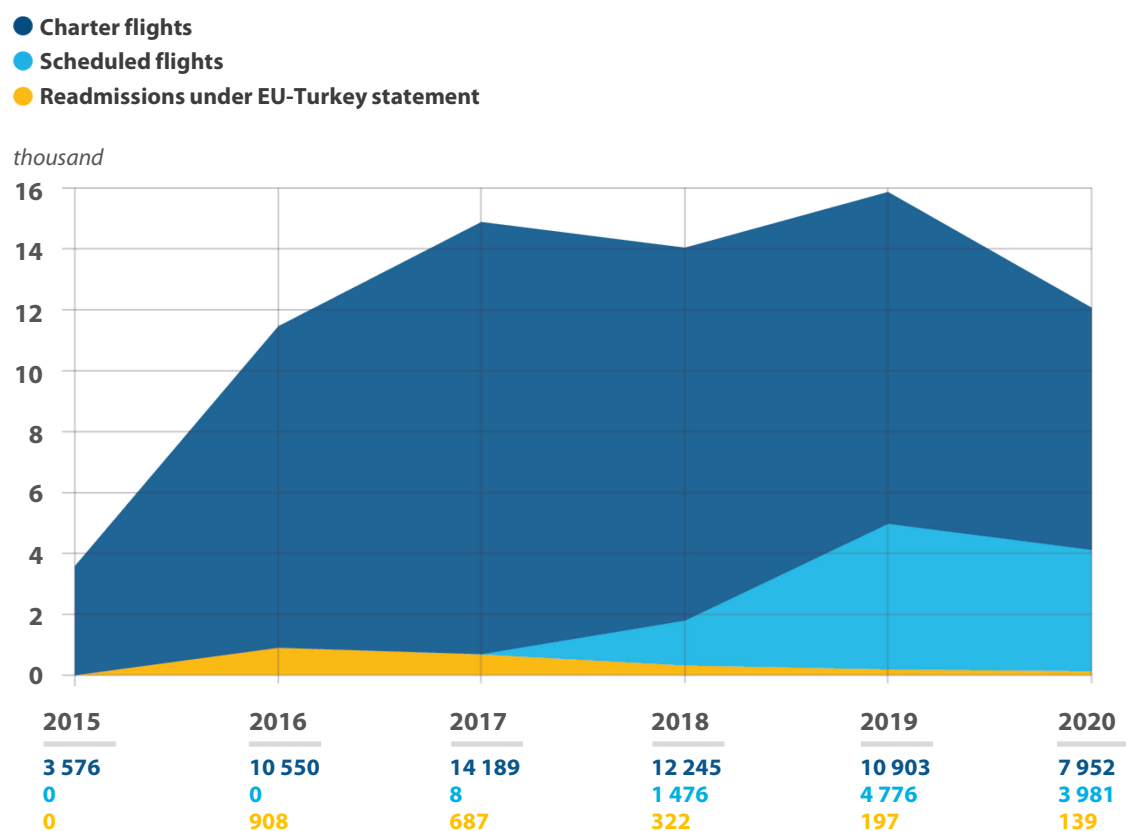
**91** In the case of **return operations**, Frontex provides financial and operational support (e.g. by organising flights, and deploying escorts and monitors). Traditionally, Frontex has mainly supported charter flights. It estimates that most of these flights currently involve its assistance. Nevertheless, a charter can only be used with the consent of each country of return. Of the 10 countries covered by our audit, two refuse Frontex charters. Several of the charters were organised with only a few returnees on board<sup>54</sup>.

**92** In the Renewed Action Plan on return of March 2017, the Commission called upon Frontex to “put in place a mechanism for assisting the Member States in carrying out returns by commercial flights”. Consequently, Frontex put in place the necessary contracts with airlines, as well as internal systems, and organised a first commercial flight in December 2017. Since then, numbers have been growing significantly (see [Figure 13](#)). In addition, Frontex has been providing assistance with voluntary departures since 2019, and with voluntary returns since 2020. The number of supported cases has grown quickly, from 155 voluntary departures in 2019 to 1 532 third-country nationals returned in a voluntary manner (both voluntary departures and returns) in 2020. This partly compensated for the drop in other return operations in 2020 caused by COVID restrictions.

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<sup>54</sup> For more information on support for and challenges to the cost-efficiency of charter operations, see ECA special report 24/2019 “[Asylum, relocation and return of migrants: Time to step up action to address disparities between objectives and results](#)”.

**Figure 13 – Number of third-country nationals returned with Frontex**



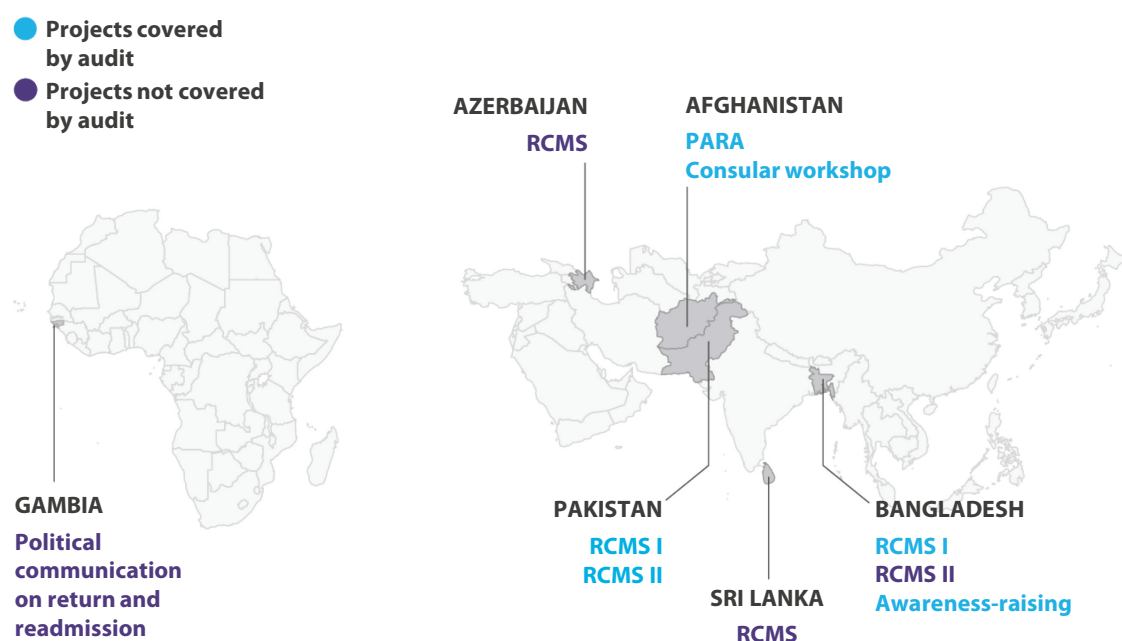
Source: ECA, based on Frontex data.

## Capacity-building support and reintegration projects were relevant, and mostly delivered planned outputs

### Capacity-building support

**93** In 2016, the Commission launched the Readmission Capacity Building Facility (RCBF/EURCAP). It aims to strengthen partner countries' capacities to manage returns and cooperate on readmission with the EU, and to prevent irregular migration. The Facility has a budget of €38.5 million (financed under AMIF) and is being implemented by the IOM. [Figure 14](#) provides an overview of RCBF support actions. Our assessment of six actions implemented in the countries covered by the audit is in [Annex III](#). We found the actions were relevant, and generally delivered their expected outputs. The outcomes achieved were partly satisfactory.

**Figure 14 – RCBF/ EURCAP support actions, 2016-2023**



Source: ECA, based on an IOM original document.

**94** Three of the RCBF actions we examined aimed to build and operate the electronic Readmission Case Management System (RCMS). The RCMS seeks to automate readmission processes and procedures, integrate stakeholders (in third countries and Member States), reduce overall case-processing time, and provide up-to-date statistics and information. As such, the RCMS has the potential to structurally improve readmission cooperation with third countries.

**95** The RCMS in Bangladesh has been successfully developed and deployed since November 2020, and Member States have started using it to submit readmission requests. The RCMS for Pakistan has been successfully designed, developed and deployed in four pilot Member States (since April 2018). The national representatives that we interviewed pointed to mixed results during the pilot phase. They appreciated the RCMS as a tool, and felt that it should be promoted and expanded. Authorities were more likely to reply to readmission requests, and more quickly. However, many challenges remained. Ultimately, the RCMS is a technical tool whose success also depends on how willing third-country authorities are to cooperate.

**96** At the end of 2018, the Commission approved the second phase of the Pakistan RCMS project, with the objective of making the system accessible to other Member States. However, this extension encountered major delays. The IOM and the Pakistani



authorities did not sign the required service agreement until some 18 months later, in July 2020, due to obstacles on the Pakistani side.

**97** We reviewed three further capacity-building actions which responded to specific needs agreed during the JWG. These were helpful for establishing cooperation under the newly negotiated readmission arrangements.

### **Reintegration assistance**

**98** In accordance with the Return Directive, voluntary return should be preferred over forced removals<sup>55</sup>. Socio-economic reintegration is also an important incentive for migrants to return voluntarily. It provides returnees with livelihood prospects, and so makes their returns dignified and more sustainable. During the EURA negotiations and at subsequent JRCs/JWGs, the countries covered by our audit have regularly emphasised the importance of a dignified return for their nationals, and of their reintegration. *Annex IV* contains our assessment of the reintegration support provided in the countries covered by our audit.

**99** The Commission funded reintegration assistance in all the 10 countries covered by our audit. It did so through AMIF and through EU development funds:

- (a) Under AMIF, the Commission co-financed voluntary and forced returns carried out by Member States. Between 2015 and 2019, AMIF co-financed in total about 276 000 returns globally (159 000 of which were voluntary). Around 40 % of returnees received reintegration assistance<sup>56</sup>. However, the Commission did not stipulate common minimum requirements or standards for such assistance, which was designed mostly on a national basis.
- (b) EU development funds financed voluntary returns and reintegration assistance for internally displaced people, migrants located in third countries, or those stranded alongside migration routes. The underlying projects have had strong humanitarian, development, and/or migration-management dimensions. In

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<sup>55</sup> Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, Recital 10.

<sup>56</sup> Report from the Commission, 2019 Annual Management and Performance Report for the EU Budget, COM(2020) 265 final, pages 32 and 155.

general, returnees from Europe accounted for only a fraction of those receiving assistance due to their mostly low number. For instance, over 820 000 people returned to Afghanistan from Iran and Pakistan in 2018<sup>57</sup>, which contrasts with 3 120 Afghans who returned from the EU.

**100** We reviewed 14 reintegration projects, and found them relevant to the needs of returnees and third countries. The projects have targeted returnees' economic, social and psychosocial reintegration, improving the living conditions of receiving communities, and/or strengthening the capacity of countries of origin to manage migration and reintegrate returning migrants.

**101** We found that 11 projects have delivered (or are likely to deliver) their planned outputs. However, in two of the 11 cases, delays (due to the difficult security context in Afghanistan) affected the projects' implementation. Three of the 14 projects faced more serious difficulties. At the time of the audit, the three projects were ongoing, and the Commission and its implementing partners took a number of mitigating measures in response to the difficulties.

**102** In several cases (Afghanistan, Guinea and Nigeria), demand for reintegration assistance exceeded the budget initially allocated to the projects. In such instances, the Commission and the EUTF reacted with flexibility by providing the additional support that was needed (see [Box 4](#)).

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<sup>57</sup> Returns to Afghanistan, Joint IOM-UNHCR Summary Report 2018, published in Kabul, May 2019, page 4.

## Box 4

### EU support to address the migrant crisis in Libya

In 2019, the EU approved the Regional Action for the Sahel and Lake Chad region, for a total of €121 million. The Action provided resources to facilitate 9 000 voluntary (humanitarian) returns, to protect 12 400 migrants who were stranded or in a vulnerable situation, to search for and rescue 10 000 migrants who were stranded in the desert, and to support 38 050 returnees with reintegration. The Action was developed by the IOM following a mandate from the Joint Task Force of the African Union, the EU and the United Nations, alongside other EU-IOM programmes addressing the migrant crisis in Libya.

The Action complements 13 national actions being implemented in the Sahel and Lake Chad region since 2017 under the EU-IOM Joint Initiative. These proved insufficient in the light of the subsequent crisis in Libya. In Guinea, for example, the national action was originally planned to assist 2 000 returnees; 9 200 people actually asked for reintegration support at the end of 2018.

At the end of 2020, the EU agreed to extend the Regional Action by 18 months, and increased its overall contribution to €188 million, the aim being to provide further protection for thousands of vulnerable and stranded migrants and to facilitate their safe and dignified voluntary returns.

Overall, the EUTF substantially contributed to the voluntary return of over 50 000 migrants from Libya, and their reintegration in their countries of origin under the EU-AU-UN Task Force. It has also contributed to community stabilisation in Libya by giving 3.5 million people access to improved healthcare, and by providing basic education for 70 000 children<sup>58</sup>.

**103** The reintegration projects were ongoing at the time of our audit, and the information that was available did not allow us to assess the likelihood of their planned outcomes being achieved. In this respect, the projects in Afghanistan, Bangladesh, Guinea, Iraq, Morocco, Nigeria and Tunisia contained components for improving migration governance, including the national authorities' capacity to provide post-arrival and reintegration assistance. Achieving the outcome of "sustainable reintegration of returning migrants" will also depend on external factors and the resources available to continue delivering post-project assistance.

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<sup>58</sup> EUTF-Factsheet 2020-Libya, short versions\_V.17.

**104** The stakeholders we interviewed emphasised the importance of safe and dignified returns and sustainable reintegration of the returnees. All but one of the reintegration projects that we reviewed included (where relevant) a monitoring component for assessing the sustainability of reintegration over time. In particular, the IOM (which implements seven of the 14 reintegration projects we audited) has developed comprehensive methodology for evaluating the sustainability of its reintegration support, and has progressively applied it to its reintegration projects since 2017<sup>59</sup>. This could allow it to compare the results achieved across projects, countries and over time, and to identify reintegration success factors better.

**105** According to the IOM's definition, "reintegration can be considered sustainable when the returnees have reached levels of economic self-sufficiency, social stability within their communities, and psychosocial well-being that allow them to cope with (re)migration drivers"<sup>60</sup>. The IOM's reintegration reports under the EU-IOM Joint Initiative<sup>61</sup>, together with preliminary data from other countries, showed that generally sustainable results had been achieved (even though the economic reintegration component received relatively lower scores than the social and psychosocial ones) for the people who could be located and who consented to the survey. By contrast, a mid-term evaluation of two programmes implemented by other organisations in Afghanistan found poor sustainability in terms of assistance.

### **The data available did not enable comprehensive monitoring of readmissions**

**106** The Commission (Eurostat) has been compiling European statistics on migration and international protection since 2008. Member States supply the data in line with an

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<sup>59</sup> For a detailed description of the methodology, see [IOM Biannual Reintegration Report #2](#), November 2019, pages 32-37.

<sup>60</sup> [IOM Biannual Reintegration Report #2](#), November 2019, page 30.

<sup>61</sup> Available at [migrationjointinitiative.org](https://migrationjointinitiative.org).

EU Regulation, which was updated in 2020<sup>62</sup>. The statistics on return<sup>63</sup> comprised yearly data on:

- (a) the number of third-country nationals ordered to leave, disaggregated by the citizenship of the persons concerned;
- (b) the number of third-country nationals who have in fact left, following an administrative or judicial decision or act, as referred to in (a), disaggregated by the citizenship of the persons returned (“third-country nationals returned”).

**107** The updated regulation provides, from reference year 2021, for increased frequency (from yearly to quarterly) and additional disaggregation (age, sex, unaccompanied minors, type of return, assistance received, destination country) of the data.

**108** A key indicator on the effectiveness of return policy is the “effective return rate”, calculated as the number of people who actually left EU territory, divided by the number of those ordered to leave (indicators (b) vs. (a) above). The Commission uses the indicator in its documents<sup>64</sup>, while acknowledging the challenges affecting the underlying data<sup>65</sup>. These challenges are due to differences in national procedures and legislation, and to weaknesses in the EU’s legislative framework and information systems for border management. The main issues, and the steps the Commission has taken in recent years to address them, are summarised in [Annex V](#).

**109** For monitoring purposes, and in the absence of adequate European data, the Frontex Risk Analysis Unit has been collecting data from Member States since 2011 on a monthly basis on return decisions for illegally staying third-country nationals and their actual returns.

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<sup>62</sup> Regulation (EU) 2020/851 of the European Parliament and of the Council of 18 June 2020 amending Regulation (EC) No 862/2007 on Community statistics on migration and international protection.

<sup>63</sup> Regulation (EC) No 862/2007, Article 7.

<sup>64</sup> For example in COM(2018) 634 final, page 2.

<sup>65</sup> See, for example, Eurostat, Statistics explained – Enforcement of immigration legislation statistics, 11 July 2019, “Non-EU citizens ordered to leave the EU” section.

**110** As part of its Risk Analysis Network (FRAN), Frontex collects the data through different channels and using different methodology from Eurostat. This means the data are not comparable (see [Figure 15](#)). Similarly, as is the case for Eurostat, the Frontex data contain weaknesses<sup>66</sup>. In addition, several Member States do not provide the data<sup>67</sup>.

**Figure 15 – Eurostat and Frontex data on return decisions**



*Source:* ECA, based on Eurostat (statistical tables “Third country nationals ordered to leave EU28 in 2019”, [migr\_eiord]) and Frontex data (Risk Analysis for 2020, Annex Table 11. Return decisions issued in 2019).

**111** Member States, the Commission and Frontex have shared information on readmission cooperation with priority third countries in various forums. In particular, the Commission has been organising monthly “Readmission Expert Group” meetings to exchange operational information with national experts. However, this information was not collected and provided systematically, and was incomplete.

**112** The revised Visa Code (see paragraph [51](#)) requires the Commission to “regularly assess, at least once a year, third countries’ cooperation with regard to readmission, on the basis of reliable data”<sup>68</sup>. The indicators concern:

- (a) the number of return decisions;
- (b) the number of actual forced returns as a percentage of issued decisions;
- (c) the number of readmission requests accepted by the third country as a percentage of the number of such requests submitted to it;
- (d) the level of practical cooperation with regard to return in the different stages of the return procedure (identification, issuance of travel documents and

<sup>66</sup> Frontex explained the weaknesses in sections 5.7 and 6.3 of its [Risk Analysis for 2019](#).

<sup>67</sup> See the Frontex [Risk Analysis for 2019](#), page 25 and the [Risk Analysis for 2020](#), page 32.

<sup>68</sup> [Visa Code Regulation](#), Article 25a(2).

acceptance of EU travel documents, acceptance of the readmission of persons, and acceptance of return flights and operations).

**113** The required data on returns and on readmission cooperation are, however, neither complete nor comparable across Member States (points (a) and (b) above; see paragraph [108](#) and [Annex V](#)), or have not existed at EU level (points (c)<sup>69</sup> and (d)).

**114** To compensate for the lack of available data, the Commission launched a data collection survey together with Frontex in January 2020, accompanied by detailed qualitative questionnaires on the level of readmission cooperation by the Member States with 39 third countries of interest.

**115** The quantitative data collected are: issued return orders (in terms of decisions and of persons); effective returns; requests for Emergency Travel Documents (ETDs); and ETDs issued. The indicators on return orders (decisions) and on effective returns correspond to those previously collected through the Frontex Risk Analysis Network, and have the same weaknesses (see paragraph [108](#)). The indicators on ETDs requested and issued are new, and only 20 Member States provided the data. The data show that the Member States requested ETDs only for a fraction of the return decisions issued (for 12 of the Member States, the figure was below 3 %). While ETDs are not always needed (for example, migrants can have travel documents, return on a voluntary basis, or abscond) and several return decisions could be issued to the same person, the data suggest that most of the Member States did not seek cooperation by the countries of origin on re-documenting and readmitting irregular migrants in an overwhelming majority of cases. For cases where cooperation was sought, there was considerable variation between Member States in the reported rate of ETDs received versus those requested, with figures ranging from 13 % to 100 %.

**116** The qualitative questionnaire included 14 detailed questions on readmission cooperation for each of the 39 third countries. One of the questions concerned meeting deadlines for issuing travel documents, as stipulated in readmission agreements. However, data on the actual (average) length of the process have not been collected.

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<sup>69</sup> Frontex started collecting these data from Member States on a monthly basis in 2020.

**117** The Commission completed and transmitted to the Council its assessment of the results of the survey on 10 February 2021<sup>70</sup>. The Council may, based on a proposal from the Commission and taking into account the Union's overall relations with the third country, activate the positive or negative incentives envisaged in the revised Visa Code<sup>71</sup>.

**118** This new process has the potential to improve EU readmission cooperation with third countries by:

- (a) strengthening data collection and sharing by Member States in the area of readmission cooperation. For the first time ever, quantitative and qualitative data on readmission cooperation with priority third countries will be available at EU level;
- (b) producing a regular annual assessment of cooperation by relevant third countries, making it possible (after several such assessments) to establish clear trends in cooperation;
- (c) enabling evidence-based policy decisions in the area of readmission cooperation.

**119** The lack of an equivalent process for collecting data on readmission cooperation in the past, combined with shortcomings in the data on returns (see paragraphs [108](#) to [110](#) and [Annex V](#)), prevented us from assessing the overall impact of EU actions to improve readmission cooperation with third countries.

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<sup>70</sup> Report from the Commission to the Council – Assessment of third countries' level of cooperation on readmission in 2019, COM(2021) 55 final (not publicly available).

<sup>71</sup> [Visa Code Regulation](#), Article 25a(5) and 25a(8).



## Conclusions and recommendations

**120** Overall, we found that the EU actions to enhance readmission cooperation with third countries were relevant, but yielded limited results.

**121** We selected the 10 countries with the highest absolute numbers of non-returned irregular migrants during the 2014-2018 period (see paragraph 17). We found that the Council and the Commission formally identified eight of these 10 third countries as priorities, and engaged with them in readmission negotiations. The Commission has also engaged in migration dialogue with the other two countries, but without any tangible progress on readmissions (paragraphs 24 to 25).

**122** During the 2015-2020 period, the EU achieved limited progress in concluding readmission agreements, but was more successful in negotiating legally non-binding readmission arrangements. The political will shown by third countries has been essential for successful readmission negotiations. Although the Commission and the EEAS provided political backing for resuming suspended negotiations, the national stakeholders we interviewed felt that the Commission's and the EEAS' political involvement with third countries needed to be stepped up (paragraphs 26 to 28).

**123** The Commission and the Member States did not take sufficient account of the lessons learnt from previous EURAs, and longstanding issues (primarily insistence on the TCN clause and third countries' reluctance to accept it, even when featured in bilateral agreements) have remained major sticking points in EURA negotiations. By contrast, the Commission and Member States have not insisted on including the EUTD in the negotiated agreements, despite the EUTD's potential to address difficulties with readmission cooperation effectively (paragraphs 29 to 33).

**124** The readmission arrangements have the same objective as the EURAs, but are more flexible in their contents. However, the Commission's formal negotiating mandate does not allow it to abandon unsuccessful EURA negotiations and pursue a quicker readmission arrangement (paragraphs 34 to 38).

## Recommendation 1 – Pursue a flexible approach in EURA negotiations

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The Commission should agree with the Council on a more flexible approach in EURA negotiations:

- by adapting the contents of EURAs to specific features of readmission cooperation with the third country concerned, and assessing the actual need to include (or not include) the TCN clause, the EUTD, and other sensitive clauses when proposing draft negotiating directives to the Council;
- in the event of long-term unsuccessful EURA negotiations, by agreeing on a procedure to pursue alternative readmission arrangements when appropriate.

**Timeframe: 31 December 2022**

**125** The Commission and the Member States did not develop a strategic approach encompassing EU and national policies to create comprehensive packages to support EURA negotiations. In addition, the Commission and Member States have not been systematically “speaking with one voice” to third countries, and the Commission has not always included key Member States in the process of facilitating negotiations with third countries. When the Member States were included, this improved the EU’s collective political influence, and proved beneficial in achieving results (paragraphs 39 to 46).

## Recommendation 2 – Create synergies with Member States

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The Commission should create synergies with Member States to facilitate EURA negotiations and readmission arrangements:

- before launching negotiations, by agreeing with Member States on EU and national policies, which could potentially be used as incentives;
- by systematically including key Member States in the process of facilitating negotiations with third countries.

**Timeframe: Immediate**

**126** The EU has made limited progress in creating structural incentives for third countries to implement their readmission obligations. In the area of visa policy, the revised Visa Code provided the EU with a mechanism and tools for stimulating third countries' cooperation on readmission. In the new Neighbourhood, Development and International Cooperation Instrument, the Commission proposed preserving a performance-based incentive for Neighbourhood countries while adding cooperation on migration among the criteria for rewarding progress on good governance. It also suggested a horizontal spending target of 10 % to help to "enable the Union to respond to challenges, needs and opportunities related to migration". In the area of trade policy, no tangible progress has been achieved since 2015 in creating incentives to stimulate third countries' cooperation on readmission. As regards legal migration, the Member States' bilateral labour and educational schemes have not been sufficiently leveraged at EU level. The EU has been reluctant to use negative leverage to support readmission negotiations lest it prove counter-productive (paragraphs [47](#) to [68](#)).

**127** Progress has been achieved in increasing coordination between Commission departments and between Member States. The Commission Task Force created in 2016 to support implementation of the Partnership Framework has served as a forum for coordination and discussion between Commission departments and the EEAS. In December 2019, the Commission created a permanent Commissioners' "project group" on migration to enhance coordination at a political level. Coreper's informal visa leverage mechanism provided a toolbox of visa measures in the event of third countries being uncooperative on readmissions. The mechanism's very existence helped to improve readmission cooperation on several occasions. This positive experience led to the development of a Coreper informal "Comprehensive leverage mechanism", potentially enabling various policies to be activated with a view to improving third-country cooperation on returns and readmissions (paragraphs [69](#) to [72](#)).

### Recommendation 3 – Strengthen incentives for third-country cooperation on readmission

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The Commission should evaluate, at the inception phase, the potential of all newly proposed agreements, instruments and policies related to third countries being used as incentives for migration management and readmission cooperation.

**Timeframe: 31 December 2022**

**128** Effective readmissions can be hampered by multiple challenges. The contents of EURAs/arrangements address most of the common obstacles to smooth readmission. Against this backdrop, JRCs/ JWGJs provided forums for periodically evaluating readmission cooperation. However, the recurring nature of some of the issues discussed did show the limits to their effectiveness (paragraphs 74 to 79).

**129** The EU return networks (Eurint, EURLO, ERRIN) have been successful in pooling national resources, and have been appreciated by participating countries for their results. With the extensions of its mandate, Frontex has progressively taken over activities from the networks. However, EURLO and ERRIN transfers faced challenges due to shortages in human and financial resources at Frontex (paragraphs 80 to 83).

**130** Since 2015, Frontex’s mandate has been reinforced twice, resulting in increased support for Member States as regards pre-return activities and return operations. The Member States’ difficulties in locating irregular migrants, preventing them from absconding, and ensuring they attended interviews were a major source of inefficiency as far as identification missions were concerned. In the case of return operations, Frontex’s support for returns by scheduled flights and with voluntary departures and returns has been growing quickly (paragraphs 84 to 92).

**131** We found that the six reviewed projects which the Commission financed under the RCBF were relevant for improving readmission cooperation. We believe that the development of electronic readmission case-management systems with third countries in particular has the potential to enhance cooperation on a structural level (paragraphs 93 to 97).

**132** The Commission funded reintegration assistance projects in all 10 countries covered by our audit. We found that the projects we examined were relevant to the

needs of returnees and third countries. Of the 14 projects, 11 have delivered (or are likely to deliver) most of their planned outputs, although in two cases with delays (paragraphs [98](#) to [103](#)).

**133** The stakeholders we interviewed for our audit emphasised the importance of safe and dignified returns and sustainable reintegration of the returnees. All but one of the reintegration projects that we reviewed included a monitoring component to assess the sustainability of reintegration over time. As the projects were still ongoing at the time of our audit, final sustainability results are not yet available. However, preliminary data showed encouraging results (paragraphs [104](#) and [105](#)).

**134** We found shortcomings in the EU data on returns in terms of completeness and comparability across Member States. This is due to differences in national procedures and legislation, and to weaknesses in the EU's legislative framework and information systems for border management. In recent years, the Commission has submitted legislative proposals targeting most of these weaknesses. However, many of the proposed changes are still part of the legislative cycle, or have not yet fully entered into force. Furthermore, data on the swiftness of readmission procedures and on the sustainability of returned migrants' reintegration are still lacking (paragraphs [106](#) to [110](#) and [Annex V](#)).

**135** Member States, the Commission and Frontex have shared operational information on readmission cooperation with priority third countries at regular meetings. However, this information was not collected and provided systematically, and was incomplete. With the 2019 revision of the Visa Code, the Commission has been required to assess third countries' readmission cooperation regularly and on the basis of reliable data. This regular assessment has the potential to improve EU data collection and sharing, and to facilitate evidence-based policy decisions in the area of readmission cooperation. The lack of an equivalent process for collecting data on readmission cooperation in the past, combined with the shortcomings in the data on returns, prevented us from assessing the overall impact of EU actions to improve readmission cooperation with third countries (paragraphs [111](#) to [119](#)).

## Recommendation 4 – Improve data collection

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The Commission should enhance data collection on readmissions and reintegration sustainability:

- by introducing additional disaggregation on the swiftness of readmission procedures, using data to be provided by the Member States; and
- by systematically collecting data on the sustainability of returned migrants' reintegration.

**Timeframe: 31 December 2023**

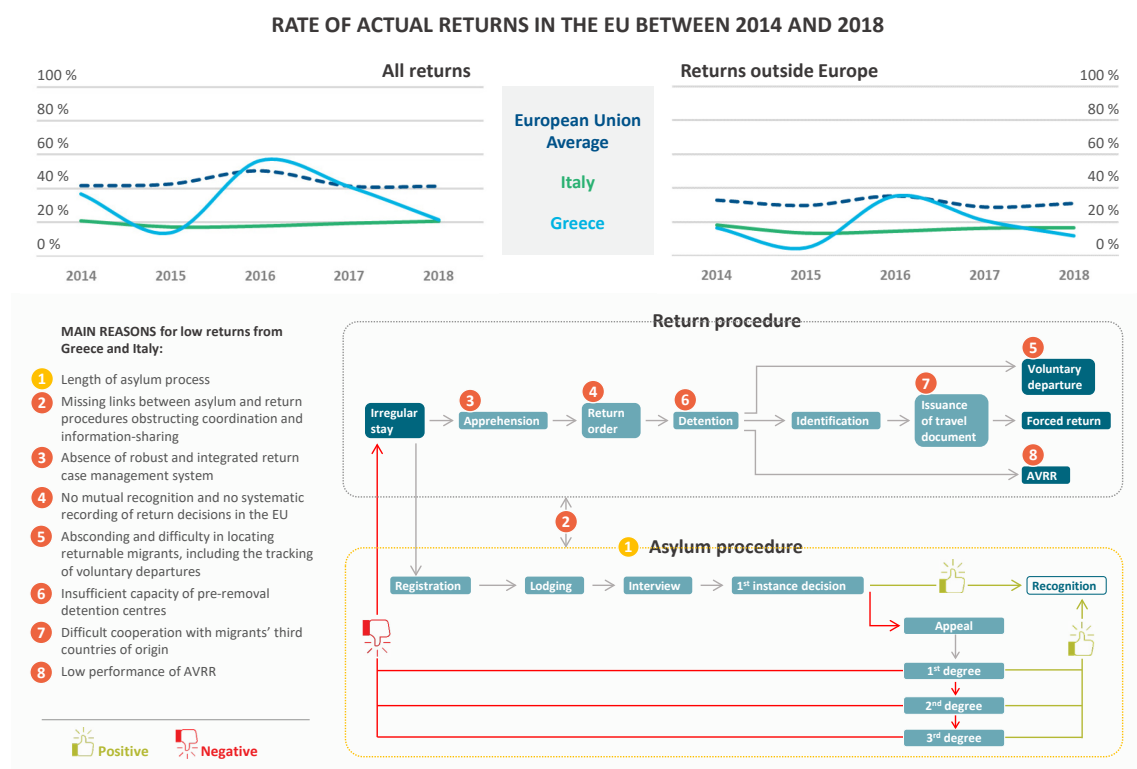
This Report was adopted by Chamber III, headed by Mrs Bettina Jakobsen, Member of the Court of Auditors, in Luxembourg on 6 July 2021.

*For the Court of Auditors*

Klaus-Heiner Lehne  
*President*

# Annexes

## Annex I – Main reasons for low returns from Greece and Italy



Source: ECA special report 24/2019 “Asylum, relocation and return of migrants: time to step up action to address disparities between objectives and results”, Figure 25.

## Annex II – Calls to create and apply incentives

### European Council Conclusions

#### European Council meeting (18 October 2018) – Conclusions, EUCO 13/18

“More should be done to facilitate effective returns. Existing readmission agreements should be better implemented, in a non-discriminatory way towards all Member States, and new agreements and arrangements concluded, while creating and applying the **necessary leverage** by using all relevant EU policies, instruments and tools, **including development, trade and visa.**”

#### European Council meeting (19 October 2017) – Conclusions, EUCO 14/17

“The European Council further calls for [...] creating and applying the **necessary leverage**, by using all relevant EU policies, instruments and tools, including **development, trade and visa**, to achieve measurable results in terms of preventing illegal migration and returning irregular migrants.”

#### European Council meeting (22 and 23 June 2017) – Conclusions, EUCO 8/17

“Well-functioning readmission agreements and pragmatic arrangements with third countries shall be put in place at EU level without any further delay by using all possible **levers**, including by reassessing **visa policy** towards third countries, as needed.”

#### European Council meeting (20 and 21 October 2016) – Conclusions, EUCO 31/16

“The European Council recalls the importance of continuing to work towards the implementation of a Partnership Framework of cooperation with individual countries of origin or transit [...] to create and apply the **necessary leverage**, by using all relevant EU policies, instruments and tools, including **development and trade.**”

#### European Council meeting (28 June 2016) – Conclusions, EUCO 26/16

“The EU will put into place and swiftly implement the [Partnership] Framework based on effective **incentives** and adequate **conditionality**, starting with a limited number of priority countries of origin and transit [...] to create and apply the **necessary leverage**, by using all relevant EU policies, instruments and tools, including **development and trade.**”

#### European Council meeting (25 and 26 June 2015) – Conclusions, EUCO 22/15

“**All tools shall be mobilised** to promote readmission of irregular migrants to countries of origin and transit. [...] building on the ‘more-for-more’ principle, EU assistance and



policies will be used to create **incentives** for implementing existing readmission agreements and concluding new ones.”

### Commission Communications

[A more effective return policy in the EU – A renewed Action Plan, Commission Communication, COM\(2017\) 200 final](#)

“Engaging with third countries through the Partnership Framework, using **all available policies and tools** will foster better cooperation with a view to identifying, re-documenting and readmitting their nationals. Overall, tailor-made approaches should be used to identify **all the interest, incentives and leverages** at stake with a partner country in order [...] to further improve cooperation on return and readmission.”



















[Establishing a new Partnership Framework with third countries, Commission Communication, COM\(2016\) 385 final](#)

“The EU and its Member States should combine their respective **instruments and tools** to agree compacts with third countries in order to better manage migration. This means, for each partner country, the development of a mix of **positive and negative incentives**, the use of which should be governed by a clear understanding that the overall relationship between the EU and that country will be guided in particular by the ability and willingness of the country to cooperate on migration management. The **full range of policies, financial instruments** and EU’s **external relations instruments** will need to be used.”

[EU Action Plan on return, Commission Communication, COM\(2015\) 453 final](#)

“The EU needs to **increase its leverage** on readmission in relation with partner countries, to ensure the implementation of existing commitments and agreements, and to facilitate the negotiation and conclusion of new ones. [...] Return and readmission should be part of a balanced and consolidated EU package to a third country, drawing on **all relevant policies** – in particular home affairs, foreign policy, development assistance, trade, security – to achieve EU migration policy goals. **Conditionality** should be used where appropriate.”

## Annex III – Overview of our assessment of capacity-building projects (RCBF)

Start of activities	End of activities	Description	Contract amount (EUR)	Programme	Geographic coverage	Relevance <i>Addressed the needs of third countries/ issues hindering practical cooperation</i>	Outputs delivered <i>Planned outputs have been (or are likely to be) delivered</i>	Outcome achieved <i>Planned outcome has been (or is likely to be) achieved</i>
Dec. 2016	March 2017	<b>PARA</b> - Assistance upon arrival to 152 returnees who were returned to Afghanistan between 12 December 2016 and 31 March 2017, under the EU-Afghan Joint Way Forward (JWF)	267 525	RCBF/ EURCAP I	Afghanistan			
June 2017	July 2017	<b>Consular workshop</b> - Capacity-building workshop for Consular Officials of Afghan Embassies in Europe	33 826	RCBF/ EURCAP I	Afghanistan			
Jan. 2017	April 2018	<b>Awareness-raising</b> - Awareness-building around key themes on safe migration in 12 districts, namely the resilience and success of regular Bangladeshi migrants, the risks of, and alternatives to, irregular migration to Europe, and how to access regular mechanisms for migration	920 800	RCBF/ EURCAP I	Bangladesh			
Sept. 2018	Dec. 2020	<b>RCMS I</b> - Capacity-building of Bangladeshi authorities to manage and operate the readmission case management system with the aim of effectively governing the return process of migrants irregularly residing in destination countries	4 813 000	RCBF/ EURCAP II	Bangladesh			
Dec. 2016	June 2018	<b>RCMS I</b> - Capacity-building of Pakistan authorities to manage and operate the readmission case management system, development and rollout of the system	1 476 000	RCBF/ EURCAP I	Pakistan			
Jan. 2018	Dec. 2020	<b>RCMS II</b> - Expansion of the readmission case management system	1 415 220	RCBF/ EURCAP I	Pakistan			



Satisfactory



Partly satisfactory

























































Not satisfactory




Not applicable/Not available


## Annex IV – Overview of our assessment of reintegration projects

Start of activities	End of activities	Title	Contract amount (EU contribution, EUR)	Programme	Geographic coverage	Relevance <i>Addressed the needs of returnees/ third countries</i>	Reintegration outputs delivered <i>Planned outputs have been (or are likely to be) delivered</i>	Monitoring <i>The action envisages monitoring the sustainability of the reintegration support</i>	Sustainability <i>The assistance allows for a sustainable reintegration</i>
15.3.2017	14.3.2022	Reintegration and Development Assistance in Afghanistan (RADA)	50 000 000	DCI	Afghanistan				 <i>Based on preliminary data</i>
14.7.2017	31.3.2021	Sustainable Reintegration and Alternatives to Irregular Migration of vulnerable Afghans	13 000 000	DCI	Afghanistan				
21.11.2017	5.4.2022	Incentive programme to improve reintegration of returnees in Afghanistan	39 260 500	DCI	Afghanistan				
23.12.2017	22.12.2021	Afghanistan - Ethical Lifestyle Initiative for the Economic Reintegration of Returnees and Internally Displaced People	8 788 046	DCI	Afghanistan				
29.3.2018	28.9.2021	Sustainable Human settlements in Urban areas to support Reintegration in Afghanistan (SHURA)	16 700 000	DCI	Afghanistan				
4.8.2019	5.10.2023	Economic Response to Regional Displacement in Afghanistan programme ("EZ-Kar")	27 000 000	DCI	Afghanistan				
13.4.2017	12.4.2022	Sustainable Reintegration and Improved Migration Governance in Bangladesh (PROTTASHA)	15 900 000	DCI	Bangladesh				 <i>Based on preliminary data</i>
5.4.2017	4.10.2020	EUTF-IOM Initiative for Migrant Protection and Reintegration: Guinea	5 400 000	EUTF	Guinea				 <i>Based on preliminary data</i>

Start of activities	End of activities	Title	Contract amount (EU contribution, EUR)	Programme	Geographic coverage	Relevance <i>Addressed the needs of returnees/ third countries</i>	Reintegration outputs delivered <i>Planned outputs have been (or are likely to be) delivered</i>	Monitoring <i>The action envisages monitoring the sustainability of the reintegration support</i>	Sustainability <i>The assistance allows for a sustainable reintegration</i>
6.12.2018	5.12.2023	SAFE RETURN - Reintegration and recovery assistance in areas of return in Iraq (AWDA AMINA)	9 000 000	DCI	Iraq				
13.4.2017	12.6.2021	EUTF-IOM: - Strengthening the management and governance of migration and the sustainable reintegration of returning migrants to Nigeria	15 500 000	EUTF	Nigeria				 <i>Based on preliminary data</i>
1.12.2017	31.5.2022	EUTF-IOM Initiative for Migrant Protection and Reintegration: Regional Action for the Sahel and Lake Chad region	188 222 021	EUTF	Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Nigeria, Senegal				 <i>Based on preliminary data</i>
15.8.2018	31.12.2021	EUTF-IOM Facility for Migrant Protection and Reintegration in North Africa	58 000 000	EUTF	Algeria, Egypt, Libya, Morocco and Tunisia				
22.5.2017	12.2.2021	PROGRES migration in Tunisia (including set-up of a Tunisian-led reintegration mechanism)	12 800 000 (including €2.5 million for reintegration)	EUTF	Tunisia				
1.6.2016	1.7.2022	European Return and Reintegration Network (ERRIN)	58 455 000	AMIF	34 countries worldwide				



 Satisfactory




 Partly satisfactory


 Not satisfactory

 Not applicable/Not available

## Annex V – Weaknesses in EU data on return, and measures to address them

Indicator	Issue	Impact	Addressed?	Effective?
<b>Effective return rate</b>	The number of return decisions issued in a certain year relates to persons other than those effectively returned in the same period, as there is a time-lapse between return decisions and their enforcement.	Indicator methodologically unsound. This can lead to data showing anomalies, such as effective returns higher than issued return orders. For example, the Eurostat data on Albanians in 2017 result in a return rate of 100.9 %.	No	
<b>Third-country nationals ordered to leave</b>	Member States' legal frameworks have different definitions of when a return order is to be issued. Return orders may be: <ul style="list-style-type: none"> <li>- not systematically issued in connection with the termination of legal stay ("tolerated stay");</li> <li>- issued automatically to everybody found illegally entering the territory, or staying there irregularly, and then withdrawn or suspended if an authorisation to stay (e.g. for humanitarian reasons) is issued;</li> <li>- issued multiple times to the same person (e.g. because of a limited period of validity).</li> </ul>	Limits the comparability of data across Member States.	The recast "Return Directive" proposed by the Commission in 2018 (COM(2018) 634 final) specifies in Article 8.6 that "Member States shall issue a return decision immediately after the adoption of a decision ending a legal stay of a third-country national, including a decision not granting a third-country national refugee status or subsidiary protection status".	 As of end-2020, the co-legislators have not yet reached agreement on this legislative proposal.

Indicator	Issue	Impact	Addressed?	Effective?
Third-country nationals who have actually left	There is no system for recording where and when a third-country national crosses EU (Schengen) borders. In particular, in the event of voluntary departures, Member States apply different criteria for registering and reporting a person as having returned.	Data incomplete	The EU Entry/Exit System (EES) (Regulation (EU) 2017/2226) will register all travellers from third countries each time they cross an EU external border, and also systematically identify over-stayers (individuals remaining in the Schengen Area after the end of their authorised stay).	 The EES is not expected to be operational before the first half of 2022.
	A Member State which has issued a return decision is not informed when a returnee exits EU territory through another Member State's territory.	Data incomplete	As part of the Commission's legislative package to strengthen the Schengen Information System, Regulation (EU) 2018/1860 requires Member States to enter all return decisions in the System (Article 3). When a third-country national subject to a recorded return decision is checked exiting a Member State's territory through the external borders, the national authorities must inform the Member State issuing the return decision about the location and time of the departure (Article 6).	 The strengthened Schengen Information System should enhance the completeness and accuracy of the data on compliance with return decisions. The Commission is to decide by 28 December 2021 when Regulation (EU) 2018/1860 starts to apply, after verifying the extent to which the various stakeholders are prepared.
	Data collected by Eurostat do not provide sufficient detail (disaggregation) on the return procedure followed, and are not interconnected.	Data do not provide a picture of the effectiveness of Member States' return systems.	Since reference year 2014, Eurostat has been collecting annual data from Member States on third-country nationals returned, divided up by type of return, assistance received, and readmission agreement followed.	 Without a legal basis, data provision was voluntary, and not all Member States participated. Consequently, the data were incomplete and not comparable year-on-year.

Indicator	Issue	Impact	Addressed?	Effective?
			<p>In May 2018, the Commission proposed revising Eurostat's migration and asylum statistics. Regulation (EU) 2020/851 was adopted in June 2020 and for return-related statistics envisages:</p> <p>(a) disaggregation by age and sex and by unaccompanied minors;</p> <p>(b) reporting reference periods shortened from annual to three calendar months;</p> <p>(c) for the number of third-country nationals who have actually left, disaggregation not only by the citizenship of the persons returned, but also by the type of return and assistance received, and by the country of destination.</p>	<p> The revised Regulation goes in the right direction, and the new sub-categories of data will provide valuable information on returns. Nevertheless:</p> <ul style="list-style-type: none"> <li>- legislators and decision-makers will continue to lack the full picture without data on the swiftness of readmission procedures and on the sustainability of returned migrants' reintegration;</li> <li>- the data will not be interconnected. This means that it will still not be possible to answer questions such as "How many nationals of country X have been returned to destination country Y?", or "How many migrants with a return order issued in year Z actually left the EU, and in which year?"</li> </ul>



Effectively addressed



Addressed but not yet operational, or only partly effective



Not addressed/not adopted

## Acronyms and abbreviations

**AMIF:** Asylum, Migration, and Integration Fund

**EEAS:** European External Action Service

**ERRIN:** European Return and Reintegration Network

**ETD:** Emergency Travel Document

**EURA:** EU Readmission Agreement

**Eurint:** European Integrated Return Management Initiative network

**EURLO:** European Return Liaison Officers network

**EUTD:** EU Travel Document for return

**EUTF:** EU Emergency Trust Fund for Africa

**Frontex:** European Border and Coast Guard Agency

**IOM:** International Organisation for Migration

**JRC/JWG:** Joint Readmission Committee/Joint Working Group

**NDICI:** Neighbourhood, Development and International Cooperation Instrument

**RCBF/EURCAP:** Readmission Capacity-Building Facility

**RCMS:** Readmission Case Management System

**TCN:** Third-Country National



## Glossary

**Asylum:** Protection granted by a state to people from another country who are fleeing persecution or serious danger.

**Coreper:** An acronym for the “Committee of the Permanent Representatives of the Governments of the Member States to the European Union”. As the Council’s main preparatory body, its role and different formations are explained in Article 240(1) of the Treaty on the Functioning of the EU.

**Irregular migrant:** A person entering or residing in a country without the necessary authorisation.

**Migration:** The movement of any person or group of people, for a period exceeding one year, either across an international border or within a country.

**Readmission agreement:** Agreement between two or more countries laying down the framework and procedures for the prompt and orderly return of irregular migrants to their country of origin or to a country through which they have transited.

**Readmission:** Act by a State accepting the re-entry of an individual, most commonly an own national, or a national of another State who had previously transited through the country or a permanent resident.

**Return decision:** An administrative or judicial decision or act declaring the stay of a non-national to be illegal and requiring them to return.

**Return rate:** The ratio between the number of third-country nationals actually returned and the number ordered to leave the EU in a given year. This is an imperfect measure of the effectiveness of returns owing to the time lag between a decision being issued and the actual return.

**Return:** The process of a third-country national going back – whether in voluntary compliance with an obligation to return, or enforced – to their country of origin, a country of transit, or, voluntarily, to another third country.

**Visa facilitation agreement (EU):** Agreement that facilitates the issuing of authorisations to citizens of a non-EU country for transit through or an intended stay in the territory of the EU Member States of no more than three months in any six-month period. Visa facilitation is distinct and separate from visa liberalisation.

**Voluntary departure:** Compliance with an obligation to leave a country by the deadline set in a return decision.

**Voluntary return:** Assisted or independent return to the country of origin or transit, or another country based on a voluntary decision by the returnee.

# Replies of the Commission, the EEAS and Frontex

## Replies of the Commission and the EEAS

<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=59347>

## Reply of Frontex (the European Border and Coast Guard Agency)

<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=59347>

## Timeline

<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=59347>

## Audit team

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber III External action, security and justice, headed by ECA Member Bettina Jakobsen. The audit was led by ECA Member Leo Brincat, supported by Romuald Kayibanda, Head of Private Office and Annette Farrugia, Private Office Attaché; Sabine Hiernaux-Fritsch, Principal Manager; Karel Meixner, Head of Task; Jiri Lang, and Piotr Zych, Auditors. Mark Smith provided linguistic support.



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Difficulties in cooperating with countries of origin contribute to low returns of irregular migrants from the EU. Our audit assessed whether the EU has effectively enhanced readmission cooperation with third countries. We found that the outcomes of negotiations with third countries were suboptimal due to insufficient use of synergies with Member States and across EU policies. EU actions to facilitate readmission cooperation were relevant, but their results were uneven, and shortcomings in data on returns and readmissions prevented us from assessing their overall impact. We recommend that the Commission should pursue a more flexible approach when negotiating readmission agreements; create synergies with Member States to facilitate readmission negotiations; strengthen incentives for third countries; and enhance data collection on readmissions.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.



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