



THE EU'S RETURN REGULATION: NEGOTIATING ON THE BASIS OF EVIDENCE, NOT NARRATIVES

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- In 2025, the European Commission proposed a return regulation including controversial measures that risk violating migrants' rights.
- The proposal was done without an impact assessment, with the last comprehensive assessment of EU return policy dating back to 2014.
- The European Parliament should insist on evidence-based policymaking during the negotiations, and re-balance inter-institutional responsibilities regarding impact assessments.
- EU return policies based on simplistic and unchecked narratives are likely to lower return rates and to legitimize demands of far-right parties.

In March 2025, the European Commission proposed a regulation to establish a common EU system for returning irregular migrants. The Commission has presented this proposal without conducting an impact assessment—an increasingly common approach in EU migration policymaking. The lack of gathering evidence is regrettable, as the proposal proposes controversial measures such as the facilitation of 'return hubs' in third countries, the detention of children, and the issuance of blank 'European' return orders.

This policy brief focuses on the procedural elements and inter-institutional balance in evidence gathering. EU institutions are now negotiating the proposal. These negotiations should be informed by robust evidence gathered through both policy and academic research. These evaluations should help drawing the necessary lessons and feed into the inter-institutional negotiations, thereby improving the quality of the legislation. In the case of the return regulation, a narrow scope of consultations based on unchecked and overly simplistic narratives – instead of our best knowledge of what works and what may not – is prone to



unintended consequences, such as falling instead of rising return rates. The EU risks creating distrust and thus legitimizing far-right ‘solutions’.

The European Commission and the New Return Proposal

The European Commission, particularly DG HOME, has faced increasing pressure from member states to adopt more restrictive approaches to migration. Calls for faster removals of migrants have long been championed by far-right parties, even when such policies risk undermining fundamental rights and due process. In response, many centre-right – and even some centre-left – governments have begun shifting toward more restrictive migration agendas as well.

In May 2024, a group of 15 member states sent a letter to the Commission urging it to “think outside the box” in addressing irregular migration. Among their proposals was the idea of cooperating with third countries to establish ‘return hubs’—facilities where returnees could be held while awaiting final approval. By October 2024, the European Council had called on the Commission to submit a new legislative proposal “as a matter of urgency.”

This urgency shaped the Commission’s March 2025 proposal for a new Return Regulation. It aligned with President von der Leyen’s political priorities, which emphasized the “simplification and efficiency of returns” to meet what the institution perceived as electoral expectations.

Citing the need for swift action, the Commission opted not to carry out an impact assessment for the proposal. Instead, it referred vaguely to expert-level discussions and preliminary findings from an internal study – “*Gaps and Needs of EU Law in the Area of Return*” – which was not due to be completed until later in 2025. The study, conducted by the ICF consortium in cooperation with EPC, MPI, and the Odysseus Network, remains unpublished, thus precluding democratic scrutiny.


The Commission also claimed to have drawn on EU-funded research projects. However, the leaders of these projects issued a joint statement asserting that they were neither consulted nor involved in drafting the proposal. They welcomed evidence-based policymaking but cautioned against the selective use or misrepresentation of research findings. Indeed, some statements in the proposal’s context section directly contradict their evidence.

In view of the public discussion, the Commission developed an “analytical supporting document” in mid-May 2025 to accompany the proposal for a Return Regulation. The document provides interesting numbers but falls short of a real impact assessment that justifies legislative choices. Overall, the Commission relied on a thin and questionable evidence base to support its political priorities.

The Unfulfilled Promise of Better Governance Standards

Under the EU’s Better Regulation Guidelines and the *Interinstitutional Agreement on Better Law-Making* (Article 13), the Commission is expected to base legislative proposals on sound scientific evidence, including impact assessments and consultations with affected stakeholders.

In the area of return policy, the last comprehensive implementation assessment of the predecessor Return Directive occurred in 2014—over a decade ago. When the Commission scheduled this directive for revision in 2018, that proposal for a recast directive (which was never adopted), too, lacked an impact assessment. At the time, the Commission justified its omission by citing urgency and declining return rates – from 45.8% in 2016 to 36.6% in 2017



– claiming that Member States were not fully utilizing the directive’s flexibility to deport third-country nationals.

Back then in 2018, the European Parliament commissioned a substitute impact assessment, which emphasized the importance of evidence-based policymaking given the profound implications for human rights and civil liberties. The proposal for a recast directive ultimately failed in interinstitutional negotiations, with the lack of evidence cited as a key reason for parliamentary opposition.

In 2020, the European Parliament adopted a resolution criticizing the Commission for failing to deliver mandatory implementation reports on the Return Directive since 2014, despite a legal obligation to do so every three years. These reports remain overdue.

Nevertheless, in 2025, the Commission introduced the new proposal—this time seeking to replace the directive with a regulation that is directly enforceable in all Member States.

Insisting on Robust Impact Assessments for Quality Legislation


The Commission’s approach raises questions as to whether the responsibility (and budget) for conducting impact assessments should remain with the Commission or be shifted to the European Parliament. The Commission neglects this standard routinely in the migration domain. For instance, the legislative initiatives under the EU Migration and Asylum Pact were introduced without impact assessments, prompting the European Parliament to undertake its own substitute assessment.

In other EU policy areas, concerns have also been raised about the lack of impact assessments. One example is the Commission’s proposals to deregulate sustainability reporting, presented under the guise of ‘simplification’. In that case, the Commission equally acted under ‘urgency’ and bypassed impact assessments. Civil society organizations filed a complaint with the European Ombudsman (EO), accusing the Commission of maladministration and closed-door policymaking. In a matter of weeks, EO Teresa Anjinho opened an inquiry. Subsequently, the EO launched a similar inquiry into lack of evidence backing the Facilitators Package, based on a complaint dating back to November 2024.

These cases may prompt the European Parliament as well as supervisory institutions to push harder for enforcement of the Commission’s obligations to increase transparency and improve legislation. If these tasks remain unfulfilled, the European Parliament could move to reallocate the corresponding budget and responsibilities directly to the Commission’s Joint Research Centre or the European Parliamentary Research Service. Other EU bodies — such as the Ombudsman, the Court of Auditors, and the EP Budgetary Committee — should also step up scrutiny of how the proposals for the EU-wide laws are assessed and implemented, particularly in sensitive areas like migration.

Improve Policy Outcomes through Evidence

A key issue is the continued use of ‘return rates’ as a central justification for revising return policy and assessing the credibility of the Common European Asylum System. Despite repeated efforts to increase returns, the rate has dropped over the years. A ReSOMA policy paper highlights the lack of critical analysis on what drives increases or decreases in return rates—for example, whether EU member states issued orders to leave to individuals deemed ‘non-removable’ for humanitarian, health, or family reasons. There are major differences in how member states proceed with issuing orders to leave. For instance, based on Eurostat data, it can be calculated that France had an average return rate from 2008 to 2020 of around



14%, whereas Latvia had a rate of 94%. The difference can in part be attributed to the way in which the two countries issue orders to leave.

Targeted critical analysis is essential to ensure that policy reforms are both realistic and in line with the EU's values. It can help avoid proposals — such as the establishment of '*EU return hubs*' — that generate political headlines but are legally and practically unfeasible or even 'doomed to fail'.

Indeed, much of the current debate centers on ideas that have already proven problematic. The Commission risks raising unrealistic expectations — such as large-scale externalization of return or asylum procedures — that cannot be met without violating human rights standards. Proposals such as detaining and deporting children or issuing orders to leave without identifying the country of return are not only ethically troubling but also unlikely to be scalable or legally defensible.

Paradoxically, the Commission could further lower return rates by making return decisions "automatic". This may be expected after a Schengen visa has ended or an asylum claim has been rejected, or even when no country of return has been identified. Issuing more low-quality orders to leave to individuals who cannot be returned, as well as prolonging their detention time will ultimately reduce the return rate, not increase it. Without engaging in serious dialogue with a wide range of stakeholders, the Commission — and European party groups such as the EPP sympathetic to the ideas — risks undermining their own objectives.

By promoting overly simplistic and politically driven narratives, the Commission may inadvertently legitimize far-right arguments that current EU policies are "failing," paving the way for extreme proposals, including "massive deportations" or "remigration." These narratives are already gaining ground in countries like France, Austria, Italy and Germany. If the Commission continues to prioritize political expediency over sound policymaking based on comprehensive evidence, it could become complicit in creating overblown expectations and weakened EU values.

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