

Combating Irregular Migration in Albania and the wider region
Targeted support to capacity building within the framework of readmission
support to Albania

COMPENDIUM OF BEST PRACTICES IN RETURN, READMISSION AND REINTEGRATION



HELLENIC REPUBLIC
MINISTRY OF INTERIOR,
PUBLIC ADMINISTRATION
AND DECENTRALISATION



IOM International Organization for Migration
ONM Organizata Ndërkombëtare për Migratorin

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INTRODUCTION

The issue of return has become a “vital and integral component”¹ of the EU immigration and asylum policy. A Community return policy for persons residing without authorization is considered to be an integral and crucial part of the fight against illegal migration.² At the same time, the idea of cooperation and approximation of the national standards and norms has become a central theme at the EU level,³ even with regard to the relations between the EC and the third countries. In this frame, the signing of Readmission Agreements between EU Member States and third countries has been recently affirmed as a valuable instrument of an active and common return policy, as these Agreements set out clear obligations and procedures in order to facilitate and speed-up returns. Within this framework, Albania is requested to address the issue of return and readmission, in particular in light of the recently entered into force multilateral Readmission Agreement with the Member States of the European Community and of the challenges that the implementation of this agreement brings.

This Compendium on Best Practices on Return, Readmission and Reintegration has been compiled within the project “Combating irregular migration in Albania and the wider region. Targeted support to capacity building within the framework of readmission support to Albania”.⁴ This preparatory project has been conceived to support the Albanian authorities to fully and successfully implement their obligations under the EC/ Albania Readmission Agreement, which came into force on the 1st May 2006.

The project has three main components; Research into return policy and practices in Albania; Capacity building and sharing of best practices in Readmission negotiation, and implementation; and Reintegration mechanisms for returning Albanian migrants. The development of this compendium falls under the capacity building part of this project, however the aspects covered in the compendium widely reflect and refer to other activities, findings and results of the project.

The compendium covers both return and readmission issues, in particular the agreement between the Member States of the European Community⁵ and Albania, which sets out the procedures of return for both their own nationals (Albanian and EU citizens) and third

¹ COM(2002)564 final, p.6.

² Common Policy on illegal migration, COM()2001) 672 final, 15.11.2001, p.25.

³ Council Doc. 10703/05, 29 June 2005, “Presidency Programme on Asylum and Immigration”.

⁴ This project is funded by the European Commission under the B7-667 HLWG budget line for 2003, and co-funded by the Ministry of Interior, Public Administration and Decentralization of the Hellenic Republic.

⁵ With the exception of Denmark.

country nationals. For Albania, the Readmission Agreement for its own nationals came into force as of the 1st May 2006, while the clause concerning third country nationals will come into force after two years of derogation, as of the 1st May 2008.⁶

Albania is the first country of the Balkan region, which has concluded an agreement with the European Community, and is among the handful of countries for which the agreement is in force.⁷ At the time of writing, the European Community/Albania agreement had just come into force, hence the information presented in this compendium focuses on existing practices of bilateral agreements, while also focusing on more generic aspects of return and reintegration.

I. Scope, content and target audience of the Compendium

The original purpose of this Compendium was to look at the best practices identified in the field of return, readmission and reintegration in order to result in the creation of recommendations on best practices to be passed on to third countries. More specifically, it was envisioned to bring together the main results and findings of various presentations delivered in the framework of three workshops, which took place in Tirana between 2005 and 2006 and fall under the capacity building component of the project.

The workshops which took place were the following:

1. "Sharing experiences of Accession and Transit States in Return, Readmission and Reintegration Policies", 13th-14th June 2005;
2. "Sharing best practices of return policy and legal practices from the EU and from Countries of Destination", 3rd-5th October 2005;
3. "Reintegration experiences and applicability in Albanian return policies", 3rd-4th May 2006.

These three workshops were conceptualized to take place in a logical chain by following the main steps of the return process (return and readmission in general terms, specific aspects of the return process and reintegration as a last step of the process).

Delegated government officials from Albania, Belgium, Bulgaria, Greece, Kosovo, Italy, Romania, and UK contributed with presentations in the workshops and participated in the

⁶ For more details on this, refer to the Section on EU Policy.

⁷ The EC signed multilateral RAs also with Sri Lanka, Hong Kong and Macao. Recently the EC/Russia RA has been signed but is currently pending ratification.

separate working groups that took place within each of the workshops. The workshops also brought together representatives of the NGO community, the Albanian business community and migrants themselves in order to provide a holistic approach in examining the return process.

Owing to the creation of a more recent set of best practices on return, looking into the best practices of EU Member States, this compendium has been reformulated in order to ensure synergies between the two sets of material. While the *“Compilation of Best Practices in Return Management in Selected EU Countries and Romania”*⁸ is a comprehensive overview of best practices, mainly from the experience of EU Member States, as countries of destination, this compendium brings into perspective Albania as a country of origin of migration movements.⁹ As such, this compendium should also be understood to support the European Commission’s objective to intensify cooperation with third countries.¹⁰

As a consequence of the existing material, this Compendium neither replicates nor expands upon the analysis undertaken in the existing studies, but instead, complements them by providing examples focusing only on some aspects of the return and readmission process (i.e. negotiation and implementation of readmission agreements, the issue of sustainability, the role of organisations in providing reintegration assistance, etc.) and on specific selected countries. The examples given do not represent an in-depth analysis of individual practices, but a snapshot of these cases based on the experience of the individual presenters and the discussions undertaken. In particular practices and examples that could be of use or of relevance in the Albanian context have been highlighted.

Where relevant, synergies have been made with existing materials on return, such as the report on *“The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities”*, and the *“Proposal for handling irregular migrants in line with the EU acquis and international norms”*, as well others elaborated under this project. Therefore, this compendium should be read in conjunction with other outputs of the project, which have expanded upon the results presented here. In particular, the findings presented in the second workshop will be presented in a forthcoming publication, which summarizes the return and readmission practices of four EU Member States including; Belgium, Greece, Italy and the United Kingdom and in particular Return

⁸ Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005, funded through the ARGO Programme.

⁹ The material presented here is also more synthetic in nature, as it extrapolates examples and practices that have been further developed in the framework of other activities and publications that have been undertaken within this project.

¹⁰ Specifically highlighted as a policy objective of the Council as well, for example Thessoloniki European Council, Presidency conclusions 19th and 20th June 2003.

and Readmission policies and practices in the case of Albania. Moreover, the main results and findings of workshop three have been incorporated into a policy paper on “*Institutionalising assistance to returned migrants through local Employment Offices and local NGOs*” as part of the reintegration component of this project. Moreover, the reports of the three different workshops¹¹ have been the main sources of some information contained in this compendium, in particular when the discussions held are mentioned.

The relevant EC directives and publications prepared under other projects also have been considered.

This compendium has been designed for policy makers and negotiators in EU and third country readmission agreements, for Government officials working in the return, readmission and reintegration as well as for universities and research institutes.

II. Defining “Best practices”

In order to have a better understanding of what these best practices will consist of, it was agreed to use the definition according to which *best practices are approaches that have shown, through research, evaluation and experience, to be effective and sustainable, and that produce good results which can be applicable in, and applied to, different situations*.¹² Best practices should be characterized by: being innovative, developing creative solutions; showing a positive impact on the level of implementation of migrants’ rights; having a sustainable effect and having the potential for replication.¹³ However, as the compendium suggests, this does not mean that all best practices applied can be successful due to the differences of the contexts and, moreover, each model of best practice also has shortcomings and might not fully work in a different setting.

Being that issues of return, readmission and reintegration are still developing in many countries, including Albania, for the purpose of the workshop, it was agreed that a model of best practice could also be derived from a model of bad practice.¹⁴ Indeed, looking at the shortcomings of the current practices, a number of suggestions and recommendations have been drawn, that should help in filling the existing gaps.

¹¹ These reports, prepared by IOM, are unpublished.

¹² Compilation of Best Practices in Return Management in Selected EU Countries and Romania, IOM, 2005 funded through the ARGO Programme.

¹³ Glossary on Migration, IOM, 2004.

¹⁴ Refer also to the Compilation of Best Practices in Return Management in Selected EU Countries and Romania, IOM, 2005 funded through the ARGO Programme.

III. Structure of the Compendium

This Compendium is structured in five sections. The first section gives an overview of the EU policy on return and readmission, and introduces the Albanian position in the same fields. Sections A, B and C explore the discussion held during the three workshops outlined above. Each of these three sections are structured in such a way to emphasise the main issues and concerns raised during workshop and working groups, presented in the form of questions and answers, for easy reference. The best practices that were drawn upon are highlighted in the text. As best practices were not always identified, difficulties or problematic areas have been elaborated instead. The recommendations and best practices are then summarised at the end of the section in a systematic list of recommendations. A section with general conclusions ends the compendium.

EU POLICY ON RETURN AND READMISSION AND THE ALBANIAN CASE

This first section of the compendium provides the policy perspective of the EU on the issue of return and readmission in generic terms, in order to clarify which are the standards in these fields for Albania and other countries working towards European integration. In particular, this section provides some terminological clarification and highlights the EU policy, along with the Albania context. Following the same categorization adopted in the other sections, the *acquis* is likewise divided into **return** (both forced and voluntary) and **readmission**. Due to limitations provided by the span and the scope of the compendium itself, it is not possible to comprehensively elaborate all aspects of return and readmission policy (such as the different types of return, human rights implications, etc.).

Before entering into details, a preliminary terminological clarification is needed regarding the terms of 'return' and 'readmission', in particular as they are conceived at the EU level.

I. Terminological Clarification

In November 2002 in its *Return Action Programme*, the Council defined **return** as

the process of going back to one's country of origin, transit or another third country, including preparation and implementation. The return may be voluntary [and assisted] or enforced.

This definition is still valid and re-called in other most recent documents. In the *Draft Directive on common standards and procedures in Member States for returning illegally staying third country nationals* (October 2005), for instance, the Commission utilizes the same definition. However, it is worth noting that this definition only addresses the effective return of the migrant from the EU territory and not his/her reintegration into his/her country of origin and, moreover, it does not consider the time dimension, which is linked to the return process.

There are numerous sub-categories of return which can describe the way it takes place, e.g. voluntary, forced, assisted or spontaneous return;¹⁵ as well as subcategories which

¹⁵ For a more specific definition of the different types of return, refer to the Green Paper On A Community Return Policy On Illegal Residents, Brussels, 10.04.2002, COM(2002) 175 final. Available at: http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf and to the IOM's Comments on the EU Green paper on a Community return Policy on Illegal Residents, IOM, 2001, http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf. Refer also to the IOM Glossary on Migration, <http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Glossary.pdf>.

can describe who is participating in the return, e.g. repatriation (for refugees).¹⁶ Also the *Green Paper on a Community Return Policy on Illegal Residents*, published in April 2002, acknowledges the existence of various categories of returnees while making a clear-cut distinction between those who decide autonomously to go back to their country of origin and those who are forced to leave their host country.

As far as **readmission** is concerned, broadly speaking, this concept is considered as

*an act by a state accepting the re-entry of an individual (own nationals, third-country nationals or stateless persons), who has been found illegally entering to, being present in or residing in another state.*¹⁷

Usually, and also in this context, the concept is linked to the framework established by the Readmission Agreements. The Readmission Agreements (RAs) address procedures for one State to return irregular migrants (both nationals and third country nationals) to their home State or a transit State¹⁸ (see below for a further explanation).

II. Return Policy: EU perspective and Albanian context

In its *Communication of 2001 on a Common Policy on Illegal Immigration* the Commission pointed out that **return policy is an integral and crucial part of the fight against illegal immigration**. The *Green Paper on a Community Return Policy of 2002* elaborated in more detail the issue of return as an integral part of a comprehensive community immigration and asylum policy. It highlighted the need for approximation and improved co-operation on return among Member States and put on the table the need for common standards.

The need to define and **consolidate a common return policy** has gained momentum since the entry into force of the Amsterdam Treaty and was repeatedly stressed in the ensuing European Councils in Laeken, Seville, Thessaloniki and Brussels (November

¹⁶ Voluntary return is based on an informed decision freely taken by the individual. Assisted voluntary return includes organizational and financial assistance for the return and where possible, reintegration measures offered to the individual. Involuntary, or non-voluntary, or forced return: return that is not undertaken by the individual voluntarily. These terms, together with "deportation", are used interchangeably throughout the text. IOM is prevented by its Constitution from engaging in, or facilitating, the forced return of migrants, or any escorting, or transit assistance services related thereto. For more information on this issue and some related aspects, refer to the *Return Migration: Policies and Practices in Europe*, IOM, 2004.

¹⁷ Proposal for a Return Action Programme, Council of the European Union, Brussels, 25 November 2002. <http://register.consilium.europa.eu/pdf/en/02/st14/14673en2.pdf> .

The Glossary Justice and home affairs European Commission, brings up also the reintegration component of this issue http://ec.europa.eu/justice_home/glossary/printer/glossary_r_en.html.

¹⁸ Ibid.

2004). More recently, the European Commissioner for Justice, Liberty and Security, Mr. Franco Frattini¹⁹ emphasized, *inter alia*, that a return policy is an integral and crucial part of the fight against illegal immigration and that common standards should be set in order to enhance the operational cooperation among Member States.²⁰

In response to this increasing interest, the *Acquis Communautaire* in this field is in phase of considerable expansion, although some of the documents still remain non-binding.

Concerning the way in which return is carried out and the different types of return, the last developments at the EU level calls for the establishment - as a general principle - of a **harmonised two-step return procedure**: involving a return decision as a first step and - if necessary - the issuing of a removal order as a second step; thus, aligning to a certain extent the currently divergent Member States systems.²¹ The **priority of voluntary return over forced return** and the obligation under international law to readmit their own nationals form the basis for the development of common standards on expulsion, detention and deportation.

Some of the most relevant general principles of the European Commission in the field of return can be summarized in the following points:²²

- Need of common principles, common measures, and common standards, based also on best practices of Member States;
- Standards to be implemented in all Member States, on a harmonized legal basis;
- Priority of voluntary return over forced return;
- Enhanced cooperation and dialogue with countries of origin and transit;
- Enhanced operational cooperation among Member States;
- EC RAs to form an integral part of a comprehensive (return) migration policy;
- International obligations and human rights to be observed when implementing return measures;
- Country-specific and long-term return programmes to be implemented and evaluated;
- Migration policy to become an integral part of the EU's external policy.

¹⁹ Speech addressed to the French Senate in March 2006.

²⁰ Also the Commission Communication on a Common Policy on Illegal Migration (2001) was very clear in expressing the demand for common principles; common standards and common measures in the area of formulating a community return policy.

²¹ Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals, COM (2005)/391 final. http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0391en01.doc.

²² Some of these principles are pointed out in the Conclusions on best practices on return with regard to specific countries of origin of third-country nationals staying illegally on the territory of Member States, adopted by the Council in 2004.

More particularly, the *Draft Directive on common standards and procedures in Member States for returning illegally staying third country nationals*²³ sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights and general principles of Community law and international law, including refugee protection. The principles are as follows:

1. Establish a rule that illegal stay should be ended through a fair and transparent procedure;
2. Promote the principle of voluntary return by establishing a general rule that a “period for departure” should normally be granted;
3. Establish, as a general principle, a harmonised two-step procedure: involving a return decision as a first step and, if necessary, the issuing of a removal order as a second step;
4. Address the situation of persons who are staying illegally but who cannot be removed;
5. Provide for a minimum set of procedural safeguards;
6. Limit the use of coercive measures, binding it to the principle of proportionality and establishing minimum safeguards for the conduct of forced return;
7. Reward good compliance (including an option to withdraw any re-entry ban) and penalising non-compliance (including an option to extend any re-entry ban) and protecting the interests of the state in cases of serious threat to national and public security (including an option to extend any re-entry ban);
8. Limit the use of temporary custody and binding it to the principle of proportionality;
9. Establish minimum safeguards for the conduct of temporary custody.

The issue of return plays a crucial role in the **Albanian context**, as Albania is both an important country of origin and transit of migration,²⁴ which is currently involved in the process of approximation to the EU as potential candidate country. In this light, the need to address the issue of return of irregular migrants and all the related aspects (i.e. procedures, legislative and institutional framework, facilities, etc.) has been identified as a priority by the Government of Albania in the National Strategy on Migration and its corresponding Action

²³ Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals, COM (2005)/391 final. http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0391en01.doc

²⁴ At present, the number of irregular migrants identified on the Albanian territory remains quite low. However the number of immigrants entering Albania might increase in the following few years, due to the EC/Albania RA and also as Albania is likely to become a country of immigration in the same way that countries of the EU have become over the last twenty years.

Plan.²⁵ In the Strategy, it was highlighted that Albania should devote special attention to draw a more comprehensive policy on irregular migration, with a specific focus on return.²⁶ This need is even more relevant in light of the implementation of the EC/Albania RA (see below for further explanation). The Strategy calls for progressive approximation towards the EU *acquis* and recognizes the efforts needed to adopt the necessary mechanisms to handle and return irregular migrants, including the legal rules on removal procedures and the creation of facilities for irregular migrants pending their removal.

Indeed, Albania currently has limited capacity and resources to adequately handle, accommodate and facilitate the return of the irregular foreigners, who are neither asylum seekers nor Victims of Trafficking (VOTs). The steps to be taken in these cases (possibility of voluntary return, accommodation pending removal, issuance of travel documents)²⁷ are not clear and properly systematized, but mainly executed on a case-by-case basis. To date, irregular migrants have been mainly treated and returned through programmes of assisted voluntary return, while the government had limited capacity to execute expulsion orders. Also the current legislation is inadequate with regard to return. The appeal procedures against return are vague and leave room for different interpretations. Albania needs to make sure that its procedures do not breach relevant International or European documents. The power of the state authorities and the personal rights and liberties of migrants should be clearly defined in the Albanian legislation. Albania should also increase its cooperation with EU and neighbouring countries in its fight against irregular migration.

III. Readmission policy: EU perspective and Albanian situation

The Green Paper on a Community Return Policy on Illegal Residents (2002)²⁸ introduces the idea of enhanced cooperation with the countries of origin, which should also lead to the **conclusion of Community Readmission Agreements (RAs)**. Since 1999 (in the Tampere conclusions) the European Council referred to the international obligation on

²⁵ The National Strategy and the National Action Plan have been elaborated under the programme Community assistance for Reconstruction, Development and Stabilisation (CARDS), funded by the EC and implemented by IOM. A policy paper containing 132 proposals has been approved by the Council of Ministers in November 2004. The Strategy is complemented by an action plan with concrete measures to be implemented between 2005 and 2010. An inter-institutional Working Group elaborated this action plan that was adopted in May 2005.

²⁶ This need has been recognised in 2003, during the negotiations for SAA, by both the EC delegates and the Albanian officials and it has been also somehow addressed in the Action Plan on free movement (2003), and in the EC partnership priorities for Albania.

²⁷ These issues have been covered in a paper, "Proposal for a System for Handling Irregular Migrants in line with the EU Acquis and International Norms", IOM, 2006..

²⁸ COM (2002) 175 final, 10.04.2002.

States to readmit their own nationals. It was also confirmed that the Amsterdam Treaty confers powers on the Community in the field of readmission. The Council was, therefore, invited to conclude readmission agreements or to include readmission standard clauses in other agreements between the European Community and relevant third countries or groups of countries. This conclusion was based on the recognition that, generally, such agreements constitute a valuable instrument in an active return policy as they set out clear obligations and procedures in order to facilitate and speed-up returns. Moreover, they provide a reliable institutional framework for co-operation and help to undermine the credibility and financial interests of the smuggling networks involved.

The RAs are also related to the idea of cooperation in the area of asylum and immigration often proposed as the central theme in both areas of return, forced and voluntary. This cooperative framework constitutes an attempt to show that the measures and provisions adopted by the EC serve the interests of third countries' governments. This also stemmed from the desire of the EU to further integrate migration issues in its external relations with third countries, by proposing a "global development package"²⁹ to the latter while encouraging them to enter into readmission agreements.³⁰

In light of the above considerations, the European Commission has so far negotiated eleven Readmission Agreements (RAs) on behalf of Member States, with Albania being the first European Country. As reaffirmed in the Thessaloniki Conclusions of 2003, the integration of the countries of the Western Balkans into the European Union has become an EU priority, and a prospect that is enshrined in the forthcoming Stabilisation and Association Agreement (SAA),³¹ which Albania has recently³² signed with the EC. The negotiation and signing of this Agreement is an obligation deriving from article 80 of the SAA and more in general from Albania's identification by the General Affairs Council of

²⁹ COM (2002) 703 final, p. 5.

³⁰ Despite the existence of these incentives, the EU return policy and the Community readmission agreements continue to be viewed by most third countries' governments, including Mediterranean third countries, as responding particularly to the interests of the EU. Some of these countries assert that, this phenomenon should be better tackled by targeted long-term developmental and poverty-reduction programmes designed to lower the differentials between the South and the North of the Mediterranean.

³¹ Along with the other countries of the Western Balkans, Albania participates in the Stabilisation and Association Process (SAP). It benefits from autonomous trade preferences, national and regional financial assistance under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme and the prospect for an enhanced contractual relationship with the EU through a Stabilisation and Association Agreement (SAA). Regional cooperation is also an important element of this process. Following the EU decision in 2001 to proceed with SAA negotiations with Albania and the adoption by the European Council in October 2002 of the EC negotiating mandate, the negotiations for an SAA were officially opened on 31 January 2003. In December 2005 the European Council adopted a revised the European Partnership for Albania, which identifies short and medium term priorities that Albania should address.

³² The agreement has been signed on the 12th June 2006.

the EU as a country of origin of illegal migration.³³

In the **case of Albania**, the coming into force of the EC/ Albania RA represents an important step in the formulation of a common EC return policy as well as in the process of approximation to the EU. It applies to twenty four of the twenty five EU Member States (excluding Denmark) and sets out the procedural aspects for EU Member State to request Albania to readmit nationals or third-country nationals having transited through its territory who do not meet the conditions for entry and residence which apply in the Member State making the request. The provisions of the agreement are reciprocal in terms of the EC's obligations vis-à-vis Albania. It is also important to note that, in addition to the EC/Albania multilateral agreement, Albania has concluded bilateral RAs with different countries.³⁴ However, the EC/Albania agreement takes precedence over the bilateral agreements, as concerns the matters that are covered by both agreements.

Albania is the only country of the region to have signed a RA with the EC. At present, there are concerns about Albania's capacity to implement readmission agreements, notably when these include provisions regarding the readmission of third country or stateless nationals. Therefore, the country should be prepared to fully and successfully implement the agreements through proper resources and facilities. This should also contribute to avoid the *readmission trap* of third country nationals returned to Albania and remaining stranded in Albania due to lack of adequate return procedures as well as readmission agreements with third countries.³⁵

Given the above considerations and the challenges that Albania is facing in these fields, the attention on these issues is rapidly increasing and a number of EC funded projects are contributing to build the capacities needed to fully and successfully address these issues.

³³ The obligation to sign such an Agreement is also expressed in Task Force recommendations, which have articulated the necessity "to sign the Readmission Agreement with the Community as soon as possible, and until achieving this Agreement, Albania must continue signing readmission agreements with all EU countries, if such a thing is requested."

³⁴ Albania has currently signed eleven bilateral and multilateral readmission agreements, but not all of these agreements have been ratified or are in force as of yet. The majority of these agreements are with EU and accession States.

³⁵ Refer also to the Research on Return and Readmission to Albania: The experiences of Selected EU Member States, IOM, 2006.

SECTION A

SHARING EXPERIENCES OF ACCESSION AND TRANSIT STATES IN RETURN, READMISSION AND REINTEGRATION POLICIES

Introduction to the workshop

The first of the three workshops focused on the sharing of best practices from accession and transit states on Return, Readmission and Reintegration. During the workshop, these issues have been treated mainly in general and introductory terms, while the following workshops could explore more in depth the different aspects (i.e. types of return, conditions to be applied in case of vulnerable categories, reintegration mechanisms, etc.).

Examples from Bulgaria and Romania that are shortly to join the European Union³⁶ were mainly analysed, as their practices could be useful for the Albanian government, which is currently following a similar path towards EU integration. Moreover, Bulgaria and Romania have been in the past and still are, although to a lower extent, countries of origin and transit of migration flows, like Albania. This means that they are *countries through which migratory flows (legal or illegal) move*,³⁷ but at the same time, as countries of origin, they are also source of flows of migrants (legal or illegal).³⁸

The workshop could also benefit from the Belgian and Greek policies and practices on return and readmission. The Greek experience was brought by state representatives highly experienced in the field, while the Belgian case was presented by an expert that was previously involved in the elaboration of Best Practices in the field of return.³⁹

In the absence of significant practices regarding the implementation of readmission agreements, the main focus was placed on the implications that the agreement might have at the policy and practical level, the current implementation of return mechanisms from the selected countries as well as the challenges that the future implementation

³⁶ Bulgaria and Romania should become members of the EU on 1 January 2007, if the conditions established by the EU are met.

³⁷ See also Art. 6(c), International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families, 1990), which gives this definition with a focus on employment.

³⁸ See IOM Glossary on Migration, <http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Glossary.pdf>.

³⁹ Compilation of best practices in return management in selected EU Countries and Romania, IOM, 2005.

might bring upon.⁴⁰

What are the definitions of return and readmission from an IOM perspective?

The definition of return provided by IOM, and utilised during the workshop, does not differ substantially from that one agreed upon at the EU level (see section above on the EU policy), however there are some differences. Return is broadly considered as *the act or process of going back; this could be within the territorial boundaries of a country or from the host country (either transit or destination) to the country of origin.*⁴¹

When analysing returns policies, IOM stress the following; the enhancement of effective migration management systems, the reinforcement of legal migration channels; respect for international principles and standards concerning aliens in irregular situations; the safeguarding of migrants dignity and well-being; the preservation of fair asylum procedures; the comprehensive government return policy which include both voluntary and forced return; the responsibilities of origin vis-à-vis the returning nationals; cooperation between sending, transit and receiving countries; the need to focus on the root causes underlying irregular migration; return assistance for all irregular migrants, asylum seekers, refugees and specific return assistance tailored to the needs of certain groups (nationality, age/ethnic groups).⁴² Furthermore, IOM raised attention towards vulnerable categories (i.e. elderly, minorities, disabled, children, etc.), on family life and unaccompanied minors. There is also a need for EU policy on return to address gender and health issues.⁴³

As with the EC, IOM remains convinced that **assisted voluntary return is the most desirable form of return** because it takes account of the person's decisions, allows the returnee to prepare for the return and avoids the stigma of deportation and its negative repercussions for successful reintegration.⁴⁴

By talking about return during the workshop, no specific distinction was made between forced and voluntary return, unless specified, and instead potential state responses were focused upon once ones own nationals and third country nationals have returned to the country of transit or origin.

⁴⁰ For more information regarding the scope of the workshop, please refer to the Workshop report on "Sharing experiences of accession and transit States in Return, Readmission and reintegration Policies" Hotel Mondial, Tirana, Monday 13th- Tuesday 14th June 2005 (unpublished).

⁴¹ Glossary on Migration, IOM, 2004.

⁴² IOM Return Policy and Programmes, 1997.
http://www.iom.int/iomwebsite/Documents/Officialtxt/en/MC_INF236.pdf.

⁴³ IOM's Comments on the EU Green paper on a Community return Policy on Illegal Residents, IOM, 2001, http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf.

⁴⁴ IOM Return Policy and Programmes, 1997
http://www.iom.int/iomwebsite/Documents/Officialtxt/en/MC_INF236.pdf.

As far as **readmission**⁴⁵ is concerned, IOM agrees that readmission agreements can provide a “reliable institutional framework” for cooperation with countries of origin or transit on return of irregular and other migrants;⁴⁶ they can be seen as a useful and evolving technical tool of integrated return management which itself is essential to the integrity of migration controls. There are currently a wide variety of Readmission Agreements in existence, mostly bilateral, mainly focused on forced return. As already explained, the European Community /Albanian Readmission Agreement entered into force on the 1st of May 2006 and it sets out the procedures and mechanisms to facilitate the return of own nationals (Albanian and EU citizens), and of third country nationals (the TCNs clause will enter into force in 2008).⁴⁷

The workshop addressed also the **reintegration** of returned migrants. During the proceeding of the workshop, this issue was only briefly touched upon and will be more comprehensively covered in the last section of this compendium.⁴⁸

Thematic Working Groups

Within the workshop there were two thematic working groups that focused on the following topics:

1. Implementation of readmission agreements;
2. Negotiation and signing of readmission agreements; collaboration among migratory authorities throughout negotiation, signing and implementation of readmission agreements.

The working groups addressed two of the most relevant issues with regard to the matter under analysis. Indeed, in light of the European Community/Albania RA, Albania will be soon requested to sign bilateral RAs with third countries, in order to successfully implement the third country clause of the Agreement itself. Moreover, being the Agreement already entered into force, its implementation represents at the moment an important challenge for the Albanian government.

⁴⁵ For a definition of Readmission please refer to the section on EU policy.

⁴⁶ IOM's Comments on the EU Green paper on a Community return Policy on Illegal Residents, IOM, 2001, http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf.

⁴⁷ Refer to the section on EU policy for more information on this.

⁴⁸ For a more detailed analysis of this theme, refer to the section C below.

1. Implementation of Readmission Agreements

This Working Group discussed and examined the best practices experienced and the bottlenecks encountered in the implementation of the readmission agreements. The analysis focused both on the implementation of the bilateral RAs that Albania has signed with individual States⁴⁹ and on the EC/Albania multilateral Agreement. The working group divided its work into two areas: the readmission of Albanian nationals/own nationals, and the readmission of third country nationals, being the two main components of the readmission process.

i) Return of own nationals/ Albanian nationals (from EU and other third countries)

How effective is the implementation of existing bilateral agreements between Albania and selected third countries?

The discussion held showed that it is difficult to extrapolate best practices of a functioning readmission agreement with Albania. This is due to the fact that the practices regarding the readmission agreements with the selected two countries (Romania and Bulgaria) are limited. It was indeed noticed that the functioning of readmission is mainly based on “gentleman’s agreements”; in other words, the current practice shows that most of the existing readmission agreements function through informal bilateral cooperation. This means, in practice, that procedures, timeframes, documentation outlined in the RAs are not necessarily used. Despite this consideration, it was highlighted that **the provisions of the existing RAs (in particular the multilateral EC/Albania RA) may be more strictly implemented should such cooperation not suffice.**⁵⁰

In the case of the bilateral agreement between **Albania and Romania**, the agreement is still not in force, as it has not been ratified. The Agreement between **Bulgaria and Albania** for readmission of illegal residents was adopted by Decision No. 545 of 19 August 2002 of the Council of Ministers and it is in force from 4 December 2002. At present, the Agreement is not fully operational, as the implementing protocol has not been adopted. As it is stated in the section “Readmission of own nationals” – Article 2, item 2: “citizenship shall be considered proven or reasonably assumed on the basis of documents or other means, enumerated in the Protocol, which the Ministries of the Interior of the Contracting parties shall sign in implementation of this Agreement”. In this context the lack of a signed Protocol pursuant to the provisions of this agreement

⁴⁹ Albania has signed 11 readmission agreements (RAs) and it is in the process of signing seven more agreements.

⁵⁰ Refer to the Section B below.

impedes at a certain stage its practical implementation and the moment has come to prepare such an instrument.

The return of Albanian nationals from **Greece** is based on a police collaboration agreement between the competent Hellenic and Albanian authorities. According to a specific provision in an Agreement between Greece and Albania in the field of combating crime, illegal migration, etc., readmission of Albanian nationals is possible. During the presentations, the Hellenic representatives expressed their satisfaction concerning the existing removal procedures, adding, however, that progress should be made in the case of third country nationals. Likewise in the case of Belgium, the return of Albanian nationals is also based on informal contacts between the two authorities, although a bilateral Readmission Agreement between Belgium and Albania has been in place since 2004 and, moreover, the Benelux countries (Belgium, the Netherlands and Luxemburg) are the only ones that have already signed the implementing protocol to the EC RA with Albania.

What are the advantages of negotiating/utilising Readmission Agreements?

During discussions held it was mentioned on a number of occasions that States do not necessarily utilise readmission agreements that are in force, but instead, **utilize readmission agreements either as a form of bargaining power with the Consuls of the countries of origin and to facilitate aspects of the return which are sometimes problematic (i.e. time framework of the case, exchange of information between the concerned authorities, etc.)**. In the **case of Romania**, it was explained that existing readmission agreements are mainly being used in order to readmit Romanian nationals.

During one of the presentations (Bulgarian), it was pointed out that from a policy perspective, the **signing of readmission agreements improves the climate of trust between countries, and may represent an important component of good relations between the two States**. It was also pointed out that the negotiation of **readmission agreements brings direct benefits to the population of the contracting States by ensuring facilitation of the regime of mutual visits of officials**. This may be valid also in the case of Albania.⁵¹

As concerns more specifically the EC/Albania RA, it was also stressed that the signing of the EC/Albania RA represents a crucial step in the relationships between EC and Albania and in the process of approximation to EU.⁵² On the other hand, for a **procedural**

⁵¹ For a further analysis of this issue refer to Return and Readmission: the case of Albania, IOM, 2006.

⁵² This principle was often clarified in other meetings held within the project, and gathering together EC representatives and Governmental officials and experts from other EU countries.

perspective, it was pointed out that the **EC/Albania Agreement represents an important legal framework of reference** for the return procedures. In principle, Albania should implement the return according to the text of the RA, also because this gives uniformity to the different procedures and ease some of the aspects. Procedures that differ from the agreement can be applied only as long as both parties agree. It was also clarified that MS are allowed to apply their bilateral procedures of return and readmission (often enshrined in bilateral readmission agreements or based on informal gentleman agreements) only as long as these procedures are not conflicting with the provisions contained in the EC RA. **The EC RA, in other word, takes precedence over the provisions of existing bilateral agreements or similar arrangements**, but only as far as concerns the issues that are covered by the EC RA (art. 20 of the EC/Albania RA).

What are the considerations regarding Readmission that can be drawn from the experience of Bulgaria?

In the case of Bulgaria, the readmissions agreements signed and now in force with EU countries⁵³ represent a contribution to the regime of visa facilitation. In other words, the signing of readmission agreements is usually accompanied by a process of visa facilitation between the two parties involved, as it also broadly represents an instrument of state good will to improve migration management and fight illegal migration. As explained before, as far as the Bulgaria/Albania readmission a greement is concerned, although this was signed and ratified, there is currently no implementing protocol to the agreement.

The competent authority for the implementation of the provisions of the readmission agreements by the Bulgarian party is the Ministry of the Interior. The emergence of the Migration Directorate at the Ministry of the Interior is a new stage in the strengthening of the administrative capacity to carry out migration policies, including implementation of readmission procedures. This calls for a **high level of coordination between the mentioned state authorities, caused by the common objective they are faced with**. The case of Bulgaria suggests that **lack of joint actions of the concerned authorities would lead to uncertainty, insufficient explicitness and gaps in the formulation and implementation of the migration policies of the state**. This is the guiding principle when assigning the functions of the readmission administration.

The Bulgarian experience suggested that the **signing of readmission agreements with as many countries as possible was recommendable, in particular with the neighbouring countries, also as condition for the improvement of the climate of trust in the relations**.

⁵³ Bulgaria signed readmission agreements with the European Union Member-States and with her neighbouring States except Turkey (at this moment negotiations on the drafting of an agreement with this country are in an advanced stage).

What are the considerations regarding readmission that can be drawn from the experience of Romania?

So far, Romania has concluded 31 readmission agreements, of which 28 have been ratified. The Romanian representative explained that during the process of negotiation of the RAs, the priorities to be discussed were set taking into account the migratory potential of the other party State and its status within the EU. With regard to the future integration of Romania into the European Union, the Romanian Government has closely followed the Council Recommendation of 1994 concerning a specimen bilateral readmission agreement between a Member State and a third country, in all the readmission agreements it has concluded. The international documents on human rights such as the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome (1950), the 1951 Refugee Convention, the Protocol relating to the Status of Refugees signed in New York (1967) were also taken into account when the readmission agreements were concluded.

Owing to the fact that the Albania/Romania RA is not in force, there is no practice to draw upon, however more generic examples of the return process were given. **The importance of having a clear return procedure**, from the identification of the irregular migrant to the removal, was emphasised. There is also a need to have a **clear division of roles and responsibilities** between the different actors and also **an efficient system of referral from the return mechanisms to other fields**, for those cases that require a different treatment (i.e. asylum seekers, victims of trafficking, etc.).

Moreover, the current experience from Romania suggests that there were **few third country nationals who have been returned from EU Member States to Romania**, rather, the flow concerns more Romanians who are returning to Romania.

Other interesting aspects raised during the Romanian case refer to **exit and re-entry bans** and **post-detention measures**, further elaborated below.

What are some of the general components to consider in the return and readmission process?

Looking at the experiences of the countries under analysis, it was highlighted that some components are crucial for the proper and successful implementation of the return/readmission process. The following aspects were highlighted, *inter alia*:

- **A good system of data management (creation of a database, etc.);**
- **Fruitful and well established relationships with the Consular Offices;**
- **Well trained staff, that have knowledge of foreign languages, in particular English (for the staff to be able to communicate adequately with the requesting authorities of EU or other States);**
- **Proper infrastructures and resources (both human and financial);**

- **Efficient system of identification (linked to the above issue of data registration);**
- **Efficient border management;**
- **Clear institutional framework and institutional cooperation.**

Institutional and legal changes and capacity building for authorities in preparation for implementation of returns and for reintegration assistance are some of the specific measures for the return to Albania of third country nationals, proposed under the Albanian Action Plan on Migration.⁵⁴ These measures foresee some further actions, which include the following:

- **Clarification of structures' responsibilities in dealing with irregular migration;**
- **Creation of reception facilities for irregular migrants at the country's main border points;**
- **Preparation and dissemination of leaflets on voluntary return through Consular services throughout the EU;**
- **Drafting and implementation of joint employment programmes with small businesses and other reintegration services;**⁵⁵
- **Capacity building in the National Employment Service and its regional and local offices.**⁵⁶

What should be improved in the data management system in Albania?

In the case of Albania one of the main bottlenecks regarding returned migrants is the system of identification of citizenship/personal information of the returnee. It was stated that in many cases the returned migrant does not have identity documents. Indeed, most of the returned migrants are only provided with an EU laissez-passer, which does not clearly state all the personal details of the individuals concerned. The accomplishment of the full process of identification is then made very difficult due to the lack of an efficient, appropriate and comprehensive data management system. At present, the civil register in Albania is not computerised, so the identity of the returnee is searched manually, with the border police contacting the local municipality where the individual comes from in order to verify his/her identity.⁵⁷

⁵⁴ Refer to Return and Readmission: the case of Albania, IOM, 2006.

⁵⁵ For more details on the issue of reintegration refer to section C.

⁵⁶ Ibid.

⁵⁷ The issue of identity verification is explored in greater detail in the research on Return and Readmission: the case of Albania, IOM, 2006.

In particular, according to the participants, the main shortcomings of the data management system in Albania are as follows:

- The recorded data relate only to flows which occur through the most important border points (not all the borders are covered with databases);
- The system in place does not utilise the most recent technology in the field (i.e. scanner equipment to check photos);
- The data system of other countries (i.e. Belgium and Romania) make use of fingerprints, while the Albanian system does not utilise this method;
- The database available in Albania show a discrepancy between the flows of entry and exit, as only the entry flows are recorded.

From the discussion held during the conference and the experiences shown by other countries, it is clear that **a central, comprehensive database is crucial for the management of the migration flows through Albania.**

Moreover, as mentioned in one of the presentations,⁵⁸ a specific recommendation could be to **notify as soon as possible to authorities at the level of implementing agencies** – i.e. informing the authorities handling the migrants at the border in advance of return movements being made, and alerting the authorities of any special needs of migrants returning. This could be done through higher-level collaboration between homologue Ministries.

How the “exit” and “re-entry bans” can be used in preventing circular irregular migration?

During the presentations of the Romanian case, the concept of exit and re-entry bans were introduced as effective means in preventing circular irregular emigration of own nationals. On this issue, examples were given from the Bulgarian and Romanian experience with their own nationals.

A re-entry or exit ban is an *administrative or judicial decision or act preventing the exit or the re-entry into the territory of a State for a specified period.*⁵⁹

Regarding exit-bans, the Bulgarian system does not foresee this kind of measure in case

⁵⁸ Presentation given within the framework of the workshop entitled: Return and reintegration experiences countries of origin: special focus on Albania Ms. Elizabeth Warn, IOM Tirana.

⁵⁹ Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals, COM (2005) 391 final - http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0391en01.pdf. At the EU level, it has been recently affirmed that the use of re-entry bans can be considered a way to protect the interests of the state in cases of serious threat to national and public security. The need to give a European dimension to the effects of national return measures by establishing a re-entry ban valid throughout the EU and the need to rewarding good compliance (including an option to withdraw any re-entry ban) have also been highlighted.

of readmitted nationals who repeatedly violate the conditions of legal migration (i.e. illegal stay/entry/residence). Instead, the Bulgarian system envisages monetary sanctions and a certain period of detention (for a maximum of two years).

The Romanian case shows a system of exit bans which is proportional to the gravity of the violation committed. Once the return of a Romanian citizen residing illegally in an EU Member State is completed, the Authority for Aliens may order, in some specific cases, the removal of his/her passport. In the case of third country nationals, having resided illegally in Romania and then removed from the Romanian territory, the authority can order the interdiction to re-entry in Romania. The penalty can be the restriction on the freedom of movement for a period of between 1-5 years.

Some participants suggested **considering the possibility of the use of an exit ban for Albanian citizens as a means of combating irregular migration, to potentially curb the future use of the Readmission Agreement**. The hypothesis that the application of exit bans might represent a bargaining tool vis-à-vis visa facilitation was also expressed, as showing good will to fight illegal migration. However, following considerable discussion, it was suggested to reduce **the possible use of exit bans only to the most serious violations** and referring to the discretionary role of the prosecutor who can make a judgement on a case-by-case basis. Moreover, due to the high level of irregularity of Albanian migration, and owing to the difficulties with the border controls, this may be difficult to implement in reality. It was also mentioned that controls on the exit of Albanian citizens could help to increase irregular flows through individuals resorting to illegal means to migrate again.

ii) Readmission of Third Country Nationals (from EU and other third countries)

How is the handling of irregular migrants in Albania and how this is linked to the third country clause of the RA?

One relevant aspect of the multilateral EC/Albania RA is the provision regarding the return of third country nationals, under specific conditions, to Albania as country of transit. The third country clause will facilitate EU Member States to return to Albania irregular third country nationals who transited or stayed in Albania before entering an EU Member State. This clause will come into force in 2008, after two years of derogation period, aimed at preparing the needed structures for the implementation of this provision.

In this regard, it is important to note that during the discussion it was stressed that in principle **EU countries will send irregular migrants directly to their country of origin, rather than to countries of transit**.

The current practice shows that the implementation of this aspect of the agreement is one of the most sensitive and problematic. As highlighted in a European Parliament report of 2005, the implementation of the clause relating to TCNs is likely to create its own set of difficulties. The implementation of the third country clause could create a readmission trap for TCNs returned to Albania without being able, or willing, to return to their countries of origin (and with little possibility to re-enter the EU because of their irregular status there). As explained above, at present, return from Albania is only possible through the existing IOM Assisted Voluntary Return Programme, or by the Embassy of the concerned national directly.⁶⁰

Indeed, Albania currently has limited capacity and resources to adequately handle irregular foreigners, who are neither asylum seekers nor Victims of Trafficking (VOTs), or to accommodate and return them.⁶¹ In particular, concerning the handling of irregular migrants in Albania the following concerns were raised by the participants:⁶²

- Lack of appropriate facilities/well trained human resources and high financial costs for the temporary accommodation of irregular migrants prior their removal;
- Unclear and insufficient legal basis for the handling of irregular migrants;
- Limited capacities in implementing expulsion orders;
- Unclear institutional framework and need to foster the institutional coordination;
- Need of strengthening borders control and clarify the visa regime;
- Difficulties in the process of identification and acquisition of travel documents;⁶³
- Difficulty, which could occur in the future implementation of the third country clause, in returning those irregular migrants that can not be returned directly to their country of origin from the EU MS (i.e. most difficult cases).

IOM recognizes the need to address the above shortcomings in order to facilitate the return in full compliance with the human rights and dignity of the irregular migrants concerned (not asylum seekers neither victims of trafficking).⁶⁴

⁶⁰ Refer to the report on “The return of Irregular Migrants to Albania: a assessment of case processing, reception and return - needs and modalities”, under this project, IOM, 2006.

⁶¹ Through special programmes, such as the HLWG project, of irregular migrants returning from the EC some assistance is provided to help with the return process.

⁶² For a more detailed analysis of the existing gaps and shortcomings, refer to the report on The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities, IOM, 2006.

⁶³ The Compilation of best practices in return management in selected EU Countries and Romania, IOM, 2005, notes that the acquisition of travel documents has been identified the main obstacle for a smooth return process. Since identification proves to be a hindrance as well, it is argued that in-depth interviewing and using the assistance from diplomatic representations and experts of countries of origin are very important. The use of biometrics could be improved by establishing a separate exchange database or by modifying the EURODAC system. The same document also identifies some best practices in this field.

⁶⁴ All these issues have been fully analysed in the report on The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities, IOM, 2006.

During the workshop some general aspects regarding the return process (as also recommended at the EU level) were highlighted, as Albania should take them into high consideration in constructing its own system.⁶⁵ As mentioned in the section on the EU policy, the last development at the EU level calls for a two step approach, according to which a voluntary return decision is a first step and – if necessary – it is followed by the issuing of a removal order as a second step.⁶⁶ In compliance with this principle, also in Albania, generally, **individuals should be provided with the option to remove themselves voluntarily and then, in case this is not done, forcibly removed.** In case of forced removal, then this can be immediate or carried out after a certain delay, which might be needed to prepare the departure (i.e. acquisition of travel documents, identification, etc.).⁶⁷ It was also noted that there are two separate procedures for detention and for removal and consequently for the appeal's process.⁶⁸

Concerning the entity authorizing removal, in most of the cases presented the entity responsible is of an administrative nature. In the **Romanian example**, removal can be ordered by an administrative body, whereas detention, which is a restriction on the freedom of movement, is ordered through a judicial act. In the case of Albania, the competencies regarding removal and detention should be better clarified at the institutional level.⁶⁹

Moreover, **precise steps and procedures for return management (both voluntary and forced) should be developed between Albania and third countries. Institutional and legal mechanisms for the return of the third country nationals should be put in place** and the existing gaps addressed, in line with EU and international standards. **Albania should also engage into negotiations with third countries**, in particular with countries of origin, in order to sign bilateral RAs, which will enable Albania to avoid irregular migrants stranded in the territory after having been returned from EU.

During the discussion, it was also stressed that **common standards of professional practice of the staff involved in the return (i.e. border officers, escorts, etc.) should be identified and implemented to facilitate the return process and to avoid maltreatment. This should include adequate information sharing, observation**

⁶⁵ The Action Plan of the National Strategy on Migration presents specific measures that are devoted to the return of third country nationals (n. 11, 12, 13).

⁶⁶ Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals, COM (2005)/391 final. http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0391en01.doc.

⁶⁷ Refer to Proposal for a system of handling irregular migrants in line with the EU acquis and international norms, IOM, 2006.

⁶⁸ More details on this can be found in the report on The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities, IOM, 2006.

⁶⁹ Ibid.

missions to Member States, and training of all staff involved (including Consular officers).⁷⁰

*What are the aspects to consider with regard to the accommodation of irregular third country nationals prior to removal?*⁷¹

As the experience of EU Member States shows, when the use of less coercive measures (i.e. regular reporting to the responsible authorities; deposit of a financial guarantee; handing over of documents; obligation to stay at a designated place, etc.) is not sufficient, irregular migrants can be held in temporary reception facility pending removal in order to secure the implementation of the removal. As it was explained by other studies,⁷² none of the Member States considers this detention as punishment or sanction. Detention is only considered and used as a means to prevent migrants' absconding and to prepare and effectuate physical return of irregular migrants. Therefore, **the grounds for detention should be clearly stated in the law and its duration should be as short as possible**, and aimed at ensuring the return operation. Moreover, **the returnees should be accommodated in proper facilities and not mixed with criminals**. However, according to international and EU standards, **alternatives to detention should be given priority**.⁷³

In the **Bulgarian case**, irregular migrants are accommodated in houses, which are the property of the municipality since closed reception facilities for this purpose are still not in existence. The **Romanian system** foresees two accommodation centres for irregular migrants pending their removal. Currently, in Albania no appropriate facilities for irregular migrants pending their removal exist. The two National Reception Centres (NRC) currently existing are the National Reception Centre for Asylum-Seekers and the National Reception Centre for Victims of Trafficking. In the NRC for VoTs also irregular migrants have been accommodated so far in the time needed for organizing their departure.⁷⁴ During the workshop, participants recognized the need of proper **reception facilities for irregular migrants pending their removal**.

The aspect of post-detention measures was also raised, as **detention should cease and the individual released when detention conditions no longer exist and it is clear that the removal can not be executed**. In this regard, in the **Romanian example**,

⁷⁰ Refer to the Section B below.

⁷¹ Ibid.

⁷² Compilation of best practices in return management in selected EU Countries and Romania, IOM, 2005.

⁷³ For a more detailed qualification of this issue, refer to the report on The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities, IOM, 2006.

⁷⁴ Ibid.

it was mentioned that individuals in these conditions are provided with ‘a **tolerated stay**’ by means of a document, which ensures that the individual can be identified by the police, without incurring in further problems. This however does not give the individual the possibility for legal stay, and the individual can be removed from the territory of the State at any stage should the reasons for non removal no longer be in place. Participants recognised that this might be a replicable practice in case of Albania.

2. Negotiation and signing of readmission agreements; collaboration among migratory authorities throughout negotiation, signing and implementation of readmission agreements

This Working Group was requested to discuss the best practices experienced and the bottlenecks encountered in the negotiation and signing of the readmission agreements, and provide recommendations for future negotiations. Participants agreed that the negotiation phase is of high relevance particularly in the case of the multilateral agreement with the EC, as it represents the platform for non EU States to negotiate some advantages in view of a future progressive approximation to the EU (i.e. visa facilitation, labour agreements, etc.).

What are the main issues of consideration during negotiation?

The working group examined in particular the negotiation of readmission agreements with the EC. In the case of Albania, it was explained that the experience of negotiation has been conditioned by the EU requirements, as the EC/ Albania Readmission Agreement was negotiated within the framework of the Stabilisation and Association Agreement between Albania and the EC.⁷⁵ In this framework, Albania’s bargaining leverage was limited.⁷⁶

Furthermore, the EU template⁷⁷ has been used as the negotiating template, not only in the case of negotiations with Albania. In examining existing agreements that the EC is in the process of negotiating, it was pointed out that there are articles that are different from the text of the EC/Albania RA. In the Albanian case, for example, a two-year derogation for the third country clause was negotiated, but the same clause is not present in other

⁷⁵ For more details on the SAA, refer to the section on the EU policy.

⁷⁶ Current EU policy dictates that readmission standard clauses will be included in all future association and cooperation agreements.

⁷⁷ The specimen Readmission Agreement adopted by the Council of Justice and Home Affairs Ministers in November 1994.

agreements or it is slightly different.⁷⁸ The European Council also produced, on the 24 July 2005, guiding principles to be followed in drawing up protocols on the implementation of readmission agreements, which, however are not binding for the Member States.⁷⁹

It was agreed during the working group, that **in negotiating agreements with the EC, concerned countries should be aware of their real capacity to implement in the future the agreement.** From the experience of Albania, it has been recommended in various forums to consider the following aspects in the negotiation process:

- **Ensure that negotiations for a readmission agreement are undertaken by qualified personnel, who are not necessarily the same who were involved in the negotiation of cooperation and Stabilization and Association Agreement with the European community;**
- **Ensure that a single negotiating body is involved in all the negotiation process. The continuity of the teamwork is of high relevance, as the Committee members can take advantage of the experience acquired in other negotiation process;**
- **Conduct needs assessment and implementation capacities research during the negotiation phase;**
- **Negotiate on an article-by-article basis, according to need;**
- **Ensure adequate implementation structures are in place and coordination between such entities (see below);**
- **Make the link between visa facilitations and readmission agreements clear and relevant;⁸⁰**
- **Better balance the international pressure and the real capabilities of the country involved;**
- **Consider incorporating a reintegration clause in future readmission agreements, as in the case of the RA between Switzerland and Nigeria.**

The working group also found that in the Albanian case there was a **need for a stronger role to be taken by civil society and by opposition groups**, in particular in ascertaining the long-term impact that the agreement may have upon Albania.

⁷⁸ For example in case of the EC/Russia RA, recently signed the derogation period is 3 years, with some specific conditions.

⁷⁹ The implementation protocol of the Benelux countries does not follow the Council Recommendation on the contents of implementation protocols for RAs. Refer in this regard to "The Readmission Agreement between the European Community and the Republic of Albania - Manual for Application", IOM, 2006.

⁸⁰ This link has recently been clearly stated by Commissioner Frattini in his speech on "The role of internal security in relations between the EU and its neighbours" Ministerial Conference, May 4th 2006. <http://europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/06/275&format=HTML&aged=0&language=EN&guiLanguage=en> [last accessed 21st May 2006].

The above considerations on negotiation are relevant for the implementing protocols that Albania might sign with EU Member States, as provision of the EC/Albania RA, as well as for the RAs that Albania has to negotiate with third countries.

What kind of coordination between governmental entities should take place during the negotiation of Readmission Agreements?

The Albanian case shows a lack of coordination among the institutions concerned in the negotiation and implementation of Readmission Agreements, of knowledge of the obligations undertaken under the same Agreements and of appropriate resources to meet these obligations. It was shown that it is necessary to involve not only the entities traditionally responsible of negotiations (i.e. the Ministry of Foreign Affairs), **but also to involve the main institutions responsible for the implementation of this specific kind of agreement** (in the Albanian case the Ministry of Interior).

The Albanian case (although this was not fully examined in the framework of the discussions held within this working group) also shows the **need for a special entity to handle readmission requests and return issues**, which has been suggested in the Albanian National Strategy for Migration and better explored in other documents.⁸¹

What will be at the policy level the impact of the Readmission Agreements on Albania's migration policy?

Given also the experiences of other countries, the working group foresaw that the signing and implementation of the Readmission Agreements would probably produce, *inter alia*, the following effects on the country involved:

1. Harmonization of the national legal system with the EU *acquis*;
2. Incentives for internal reforms;
3. Progressive liberalization of the visa regime;
4. Signing of Labour Agreements with EU countries.

What kind of reintegration measures should be put into place for individuals who have been readmitted?

Participants agreed that the reintegration of returnees is an essential part of the return and readmission process, as reintegration is the last step of the return flow, which can make the return itself more sustainable.⁸² Considering the type of reintegration

⁸¹ The return of Irregular Migrants to Albania: an assessment of case processing, reception and return - needs and modalities, (institutional component), 2006, IOM.

⁸² Refer to section A for more details on sustainable return.

assistance that currently Albania is able to provide to its returnees, participants identified that an **appropriate and comprehensive needs assessment for returned migrants is completely lacking and should therefore be carried out.**⁸³ Generally, it was recognized that Albania lacks the capacities and infrastructure to undertake successfully a reintegration process and that, **prior to any kind of reintegration assistance, basic resources (both human and material) should be made available.**

For more detailed recommendations on the reintegration assistance, refer to Section C below.

General Recommendations

From the overall discussion held in the workshop and in the working groups, it is possible to extrapolate the following recommendations:

- Readmission agreements should be seen as a positive element, a kind of “facilitator”, for the removal process in general;
- From a procedural perspective, RAs (in particular the EC/Albania) represents an important framework of reference for the return procedures to be standardized and facilitated;
- Most of the existing Readmission Agreements function through informal bilateral cooperation, although the provisions of the existing RAs (mainly the multilateral EC/Albania RA) may be more strictly implemented should such cooperation not suffice;⁸⁴
- Readmission Agreements should be signed with as many countries as possible, in particular with neighbouring countries, to face the arrival of TCNs and to improve the climate of reciprocal trust and cooperation;
- A high level of coordination of the activities of concerned state authorities in the fields of return and readmission should be ensured;
- The two step approach should be used in the return process (involving a return decision as a first step and - if necessary - the issuing of a removal order as a second step);
- For handling the presence and the return of third country nationals, Albania should consider, *inter alia*; a good system of data management; good and systematic relationships with the Consular Offices; well trained staff; proper infrastructures

⁸³ Refer to section C below and to the Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

⁸⁴ Refer to the Section B below.

and resources (both human and financial); efficient system of identification and acquisition of travel documents; efficient border management; clear institutional framework and cooperation.

- Exit bans might be used for Albanian citizens as a means of combating irregular migration, but this system should be used only for the most serious violations and referring to the discretionary role of the prosecutor;
- Proper reception facilities for irregular migrants pending their removal are needed;
- Temporary detention of irregular migrants should cease and the individual released when it is clear that the removal can not be executed and post detention measures should be put in place;
- Common standards of professional practice should be applied to facilitate the return process and to avoid maltreatment (i.e. adequate information sharing, observation missions to MS, training of staff involved);
- In negotiating agreements with the EC, concerned countries should be aware of their real capacity to implement in future the agreement;
- Negotiations for a readmission agreement should be undertaken by qualified personnel;
- The link between visa facilitations and readmission agreements should be raised as clear and relevant;
- Regarding reintegration, attention should be put on assessing returnees' needs. Prior to any kind of reintegration assistance, basic resources (both human and material) should be made available.

SECTION B

SHARING BEST PRACTICES OF RETURN POLICY AND LEGAL PRACTICES FROM THE EU AND FROM COUNTRIES OF DESTINATION

Introduction to the workshop

The second of the three workshops focused on the sharing of best practices of return policy and legal practices from the EU and from countries of destination. This workshop is a follow up to the first workshop that focused on readmission issues and is also a precedent of the third workshop focused on reintegration. As previously mentioned, these workshops were conceptualized to take place in a logical chain by following the main steps of the return process.

In particular, the workshop looked into the return and readmission experiences of four EU Member States: Belgium, Greece, Italy and the United Kingdom.⁸⁵ It focused not only on the policy level and legal framework, but also on the practices that these countries have in this field. Recently, these four EU countries have become countries of destination for migratory flows, both legal and illegal ones.⁸⁶ For this reason, the best practices on return policy identified during the workshop could serve as best examples to be replicated in other countries, in particular in transit and accession countries.

The workshop also acted as a forum for a greater understanding by the Government of Albania of the EU policy on return, in particular in lessons learned concerning the negotiation of other EC readmission agreements. The workshop also created the opportunity for policy makers in Albania to share their experiences in the formulation of return policy with EC officials as well as to benefit from the best practices identified and their potential applicability in the Albanian policy.

As the focus was mainly put on return policies, this workshop was also the occasion for presenting the initial results of the research on return policies and practices undertaken

⁸⁵ For more information regarding the scope of the workshop, please refer to the IOM Workshop report on "Sharing of best practices of return policy and legal practices from the EU and from Countries of Destination" Hotel International, 3rd –5th October 2005 (unpublished).

⁸⁶ Glossary on Migration, IOM, 2004.

in the four above-mentioned EU Member States and Albania.⁸⁷ The scope of the research was to take stock of current readmission agreements and return practices between EU States and Albania as well as to examine Albanian practices and policy on return mechanisms.

Thematic Working Groups

Following the structure of the previous workshop, the main discussions were held in three different thematic working groups, which included all the participants from the plenary session. The reason for this division was based on the complexity of the issues discussed and the need to cover the main aspects of the return process: (i) sustainable return, (ii) rights and vulnerabilities, and (iii) mechanisms of return. However, all issues discussed in the three working groups were closely interlinked with each other and thus the discussions held and the conclusions reached contributed to the creation of a better understanding of the EU return policy.

Due to the complexity and very sensitive nature of return issues, this section presents only the discussions held during the working groups, and as such it does not cover all aspects connected to the field of return.

1. Sustainable return

What is return?

As elaborated on in the previous sections of the compendium, there are numerous sub-categories of return, which can describe the way that the return takes place.⁸⁸ This section will focus on voluntary return, as the IOM's preferable way of returning migrants to their country of origin.⁸⁹

The voluntary return is defined by IOM as:

*“the assisted or independent return to the country of origin, transit or another third country based on the will of the returnee.”*⁹⁰

⁸⁷ For more information on the research results, please refer to Return and Readmission to Albania: The experiences of Selected EU Member States, IOM, 2006.

⁸⁸ For more information on the sub-categories and the way return takes place, please refer to the section on EU acquis.

⁸⁹ Workshop on Sustainability of Voluntary Assisted Return: the experience of the Balkans, IOM, 14.09.2004.

⁹⁰ Glossary on Migration, IOM, 2004, <http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Glossary.pdf>

Return can be independent when the individual has the possibility to return without any support to the country of origin, and assisted for other migrants who do not have the logistical and financial means to return. IOM assists the individuals who want to return to their country of origin through various Assisted Voluntary Return programmes.⁹¹ Thus, the focus of the discussions in this working group was mainly on assisted voluntary return, based also on the IOM's expertise in assisting returnees who want to return to their country of origin.

As mentioned in the Albanian National Strategy on migration, the kind of return (voluntary or forced) clearly has an impact on the sustainability of return and the ability and willingness for return migrants to reintegrate.⁹²

What does sustainable return mean?

Participants did not decide upon a clear definition of sustainable return as the notion is contested and can be conceptualized in different ways.⁹³ As participants did not come up with a common definition, they agreed to use the IOM definition as working definition that refers to sustainable return as “achieved when returnees are able to integrate in the community of return, without immediate inducement to leave again”.⁹⁴

There are two approaches towards return, which consists of the consequences return has both for the individual and the community in the country of origin. In the individual context, it was acknowledged that the needs of individuals vary from one another, and in this regard there exists a big gap between the returning migrant and the population that remained in the country.

As mentioned, another approach of sustainable return is to focus on the consequences return has for the community of the country of origin. Voluntary return is linked with investment opportunities and new job opportunities in the country of origin, as some kind of social responsibility and assistance should be offered to the local population of the country of origin, such as promoting private enterprises, investment opportunity and production. This means that instead of focusing on individual returns, it is important to place return in a wider context that includes the community being affected by the

⁹¹ IOM's comments on the EC Green Paper on a Community Return Policy on Illegal Residents, http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf.

⁹² National Strategy on Migration, IOM, 2005.

⁹³ For definitions regarding Sustainable return, please refer to the Workshop report on The Sustainability of Voluntary Assisted Return: The experience of the Balkans, Tirana 14th September 2004, Issued by the Development Research Centre on Migration, Globalisation and Poverty, <http://www.migrationdrc.org/news/reports/SustainableReturnBalkans.pdf>.

⁹⁴ <http://www.migrationdrc.org/news/reports/SustainableReturnBalkans.pdf>.

return process. In this way return might contribute to the socio-economic development of country of origin. But, on the other hand, as relations between returnees and the actual population are not always harmonious, this might influence negatively on the sustainability of return.

Even though it is difficult to measure sustainable return, participants gave a number of criteria for defining it from the perspective of the migrant: if the individual does not re-immigrate, achieves certain living conditions and has guaranteed his/her rights such as the right to public and social services, property and freedom of movement, etc. Yet, it has been contested whether the living conditions or access to such rights could promote sustainable return.

During the workshop it was acknowledged that in order for the return process to be sustainable, some procedures should be taken into consideration. **Counselling is one of the most important elements of return process, and to this regard, information about the possibility of AVR should be passed on the migrants at the earliest stage possible.** This will balance targeted counselling with information dissemination and this will have impacts in the return actions and providing sustainability not only in the host country but also in the country of origin. **It was recommended that a three-pillar approach to information dissemination should be taken into consideration: written information, individual and group counselling, and the creation of an institutional knowledge of AVR in respective organizations.**⁹⁵ The return counsellors play an important role in this process and they should have the required knowledge of the legal system both in the host country and the country of origin. As mentioned during the presentation of the representative from IOM Vienna, the return counsellor should also have multicultural background and intercultural competence.

Participants recommended that the development of awareness campaigns is very important in tackling the irregular migration and the possibilities for assistance upon return. The campaigns should be done both in the host country and in the country of origin. Such campaigns are also considered important in the prevention of the risk to become a victim of trafficking while being subject of illegal migration. The more information available on motivating factors, the more targeted a return action is.⁹⁶ Also the EU perspective puts emphasis on awareness raising campaigns as an important tool in giving information about legal ways to migrate in order to fight irregular migration.⁹⁷

⁹⁵ Presentation on "Assisted Voluntary Return: Examples of best practice in Selected EU Member States", Erika Laubacher –Kubat, SLM Vienna, 3-5 October 2005, Tirana.

⁹⁶ For more information please refer to the presentation on "Return assistance as a Migration Management Tool", Nicoletta Giordano, Tirana, 2005.

⁹⁷ For more information please refer to EC Green Paper on a Community Return Policy on Illegal Residents, April, 2002, http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf.

Another important element is the **establishment of a monitoring system in order to measure the effectiveness of the return programmes**. During the workshop, reference was made to Romania, where a monitoring system is in place in order to monitor how work different programmes focusing on the development and inclusion of orphans work in the Orphanages.

During the return process, **importance should be given also to the time needed for preparing the return of the migrant**. It is necessary to give the needed time to each step of the process, in order to then contribute to the sustainability of return.

Links between readmission and sustainable return and the implications on return policy

The return is also facilitated through readmission agreements, both those operating at state and community level. The Laeken European Council emphasizes that:

*“true common asylum and immigration policy would depend, among other things, on the conclusion of EU readmission agreements with some targeted third countries and on the consolidation of instruments aimed at securing the effective removal of illegal migrants”.*⁹⁸

As the initial results of the research shows, there are differences existing between return and readmission.⁹⁹ While readmission agreements operate at state or community level, the return affects the individual per se.¹⁰⁰ However, one of the important distinctions between readmission agreement and return are third country national clauses, which oblige States to take back people who transited through their country.¹⁰¹

Not only return, but also readmission of own nationals has implications on the development process. Individuals readmitted through the existing bilateral readmission agreements, and also through the EC/Albania agreement once it will enter into force, should be reintegrated in the local community.¹⁰² During the workshop specific examples were not given, but it was pointed out that in Albania reintegration of their own citizens is taking place only in the framework of IOM Assisted Voluntary Return project.

What are national practices on Assisted Voluntary Return?

The European AVR context is highlighted in many EU instruments that takes in

⁹⁸ Laeken European Council, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/68827.pdf

⁹⁹ Summary report on return and readmission from selected EU Member States to Albania, IOM, pg 14, 2006 (unpublished).

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² For more information please refer to the section A of the Compendium.

consideration and promotes assisted voluntary return. As Voluntary Return is generally not enshrined in national law, many measures have been undertaken by EU Member States to intensify cooperation on return as well as to broaden and strengthen AVRs in Europe. This was pointed out also by the representative from IOM Vienna, who mentioned that voluntary return really takes the form of administrative, operational agreements with partner agencies such as IOM, NGOs and others. The lack of voluntary return provisions in legislation leaves a lot of room for interpretation, but the measures undertaken and the existing EC directives on this issue are binding for the Member States.

The UK government representative informed participants that in the UK there are two separate and distinct Voluntary Return Programmes. The first is the Voluntary Assisted Returns and Reintegration Programme (VARRP), which offers assistance to those migrants already in the state of migration and asylum system, such as asylum seekers. The VARRP is funded by the Home Office and the European Commission's Refugee Fund and is implemented by IOM, with the support of the NGO Refugee Fund.¹⁰³ This programme promotes return and reintegration of asylum seekers of any nationality who want to return to their country of origin. Reintegration has since then been developed as a strong component of VARRP, and participants may benefit from job training, education, and where possible employment opportunities and assistance in establishing small businesses.¹⁰⁴ Financial assistance is offered to VARRP Programme through the Return Fund, which was created in June 2002 and is implemented by IOM London.¹⁰⁵ It was pointed out that **the categories of migrants entitled to benefit from the Return Fund, must be increased in order to create the possibility for many persons to benefit from the system.**

The second programme is the AVRIM Programme that assists irregular migrants to return to their country of origin.¹⁰⁶ This programme was launched by IOM in November 2004.

Regarding, in particular, the relationship with Albania, it was pointed out that in the UK there was not enough time to start implementing AVR early in the process of removing the Albanian migrants that entered the country illegally. This happened due to the sudden increase in the number of migrants as well as due to the emergency of the issue. In this case, when efforts are put place to solve such problems quickly it was difficult to think of sustainability, but in most of the cases people who were returned by force did not come back.

The Italian experience concerning AVR is quite different from that in the UK. In Italy the voluntary returnees are not assisted and no legislation exists which guarantees the

¹⁰³ Return Migration: Policies and Practices in Europe, IOM, January 2004.

¹⁰⁴ Ibid.

¹⁰⁵ Stories of Return, IOM, 2005.

¹⁰⁶ Summary report on Return and Readmission from Selected EU Member States to Albania, IOM, 2006 (unpublished).

assistance for this category of migrants. Only asylum seekers are provided assisted voluntary return in Italy, through the assistance of international organizations such as UNHCR and IOM. The latter handles assisted voluntary repatriation for asylum seekers who withdraw their asylum claims or if the claims have been rejected.¹⁰⁷

However, it was acknowledged that lately the number of people who emigrate from Albania has been reduced due to the assistance that the Italian authorities have given to the Albanian border authorities. This has been done through different trainings; provision of new equipment, installation of the Total Information Management System (TIMS), etc. **However, it was recommended that further assistance and support should be given to Albanian authorities, in particular in training the border officials.**

In the case of the relationship with Albania, return to Albania has been mainly conducted through the bilateral readmission agreement with Albania. Only Albanian women trafficked for the sex trade have been returned to Albania through IOM Voluntary Assisted Return and Reintegration programme which has been in place since 1998.¹⁰⁸ As the representative from IOM Geneva pointed out, while different programmes assist Albanian voluntary returnees and those who seek asylum in the UK, in the Italian case there are no possibilities to assist all the Albanian voluntary returnees.

Greece does not have a system of AVR programmes in place and the relevant discussion is not as developed as in other receiving countries. It was acknowledged that the phenomenon of foreign immigration in Greece has a number of characteristics, linked to both the migration history of the country and the type of immigration flows, which differentiate it from most Western European countries. However, the Greek representative mentioned that the situation is now mature enough for Greek authorities to consider future proposals for collaboration on several issues, including Assisted Voluntary Return.

Belgium sees voluntary return as the preferred return option proving to be more cost and human effective, and conducting to the improvement of the relations among all the parties involved. As the initial results of the research have shown, Belgium is one of the countries with the largest Assisted Voluntary Return (AVR) programmes to Albania.¹⁰⁹

Albanian perspective on AVR

The Albanian policy in the migration field is to assist returned migrants. Parallel to the massive emigration from Albania to other countries, there has been return migration to

¹⁰⁷ Summary report on Return and Readmission from Selected EU Member States to Albania, IOM, 2006, (unpublished).

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

Albania, ranging from voluntary to forced return.¹¹⁰ Although assisted voluntary return of Albanians to Albania represents a smaller figure, it is an important part of providing individuals with the choice to return based on an informed decision.

At present there is a commitment by the Albanian Government to assist returnee migrants returning to Albania. The focus is on voluntary return as per the Law on Emigration for Employment Purposes.¹¹¹ Article 3 of the law states that “*The Government promotes voluntary return of emigrants in their home country and their economic and social reintegration through the creation of legal, financial and fiscal initiatives, including the implementation of business development, employment and vocational training*”.¹¹² However, there is no parallel provision with regard to non-voluntary return and no definition in the legislation concerning voluntary return.¹¹³ **In this regard, participants in the working group recommended to Albanian authorities to include in the national legislation the definition of voluntary return, in accordance with the international instruments in this field.**

As the IOM representatives mentioned, provision of assistance to returned migrants so far has only been undertaken within the context of Assisted Voluntary Return (AVR) programmes such as VARRP and within the HLWG 2003 project.¹¹⁴

In the light of discussions on the assistance that should be given to the education system in the country of origin, **it was recommended that in the Albanian case, assistance should be given, in particular to the schools.** Participants referred to the example of Albanian teenager migrants in the UK, who started the school there and when returned to Albania they found themselves unable to reintegrate in the local education system. There were also mentioned cases of Albanian migrants in Belgium, who do not want to return due to the good education system that this country offers to their children.

Examining the spectrum between Voluntary Return/Forced Return

Participants in the workshop acknowledged the priority of voluntary return over forced return. This was mainly pointed out after discussions focused on a number of distinguishing

¹¹⁰ Summary report on Return and Readmission from Selected EU Member States to Albania, IOM, 2006, (unpublished).

¹¹¹ National Strategy on Migration, IOM, 2005.

¹¹² Ibid.

¹¹³ The Sustainability of Voluntary Assisted Return: The experience of the Balkans, Tirana 14th September 2004, Issued by the Development Research Centre on Migration, Globalisation and Poverty, <http://www.migrationdrc.org/news/reports/SustainableReturnBalkans.pdf>.

¹¹⁴ Project entitled “Combating irregular migration in Albania and the wider region. Targeted support to capacity building within the framework of readmission support to Albania”, which is funded by the EC and co-funded by the Ministry of Interior, Public Administration and decentralization of the Hellenic Republic.

characteristics of these two types of return. While forced return takes place between concerned States and includes reciprocal approaches, voluntary return depends on the individual's own decision and no agreement has to be signed in order to return.

Another distinguishing characteristic between forced and voluntary return is the role of the individual and of the State. In cases of forced return, it is the State's binding obligation to return illegal migrants against their will, if they no longer fulfil the conditions to stay in the host country. In order to carry out the forced return, the concerning State does not necessarily send the migrants to their country of origin, but sometimes to a third state. However, this is not the case with voluntary return, when the individual returns to his/her country of origin.

When a person is returned by force, country level inducements are put into place and the country of origin has a binding obligation to readmit that person. In the case of voluntary return, the person takes the decision to return spontaneously and is assisted in this process.

As the representative from IOM Geneva pointed out during her presentation, there are various shades of volition between voluntary and forced return.¹¹⁵ In the clearest case of voluntary return it is the individual him/herself who wants to return to the country of origin spontaneously and voluntarily. However, at the other end of the spectrum, "voluntarily return" may have degrees of compulsion. The latter can take place when the individual does not necessarily wish to return home, but is obliged to return and considers the voluntary return as the best option over the forced return.

There are many benefits in voluntary return rather than in forced return. Voluntary return offers financial savings both in logistics and arrangements, in particular in transportation costs, social security assistance and administrative costs. It offers also external benefits such as sustainability and better public opinion than the forced return.

Also the *EC Green Paper on a Community Return Policy on Illegal Residents* states that voluntary return must be given priority over forced return, and the latter may be necessary as a last resort.¹¹⁶

During the workshop it was acknowledged that Assisted Voluntary Return has significant advantages over forced return not only for governments but also for migrants. For governments, the benefits of voluntary return are not simply that they are more cost

¹¹⁵ For more information please refer to the Presentation on "Return assistance as a Migration Management Tool", Nicoletta Giordano, Tirana, 2005.

¹¹⁶ EC Green Paper on a Community Return Policy on Illegal Residents, April, 2002, http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf.

effective than enforcing forced return. Voluntary assisted return is politically palatable and contributes to the enhancement of cooperation between countries. AVR also assists in addressing root causes of migration, contributes to growth and development in the country of origin and influences the integrity of asylum and immigration system.

From the migrant perspective, AVR prepares the migrants for their return, offers a faster solution than forced return as well as dignity safeguards. AVR also contributes to a more sustainable return to the migrant's country of origin.

2. Rights and vulnerabilities

The working group looked at the different issues related with vulnerabilities and human rights, and it was stated that some vulnerable groups need more attention than others with some facing problems once returned to their origin countries. As *IOM Comments on EC Green Paper on a Community Return Policy on Illegal Residents* mentions under the categories on immigrants there are also vulnerable groups in need for assistance to return to their country of origin. This group includes: the aged, infirm, mentally handicapped, abandoned partners, minors, ethnic minorities, women, and especially trafficked people.¹¹⁷ Due to time limitations and the scope of the seminar itself, not all vulnerable categories were covered. Discussions mainly focused on four categories: elderly, unaccompanied minors, victims of trafficking and ethnic minorities.

The Elderly

It was acknowledged that many elderly persons emigrate with their children in the host countries. Some of them are not able to work, and are maintained by their families. Upon return to their country of origin they face many problems such as loneliness, social and financial problems, such as pensions, social services, transfer of other entitlements, etc. Yet, there are different views on whether problems related to this category make them a vulnerable group or not. To this regard, the Belgium Government representative mentioned that elderly category do not pose any problem because they are not trafficked. In **Belgium**, elderly migrants are not considered as a group in need of protection.

Another problem concerning this category is related to the definition of “elderly” with regard to age and health conditions.

In the case of Albania, it was mentioned that over the last 15 years in which Albanians mainly have been emigrating abroad, there has started to be a steady trickle of individuals

¹¹⁷ IOM's comments on the EC Green Paper on a Community Return Policy on Illegal Residents, http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf.

of pensionable age, who are returning to Albania in order to retire. Concerns were raised that, despite having contributed to pension plans in the EU Member States, there is a lack of reciprocal arrangements to ensure that these individuals can benefit from the pensions that they accumulated abroad. In the light of these concerns, **it was recommended that Albania should reach an agreement with EU Member States to ensure that the returned migrant that contributed in these States, could benefit from the pensions accumulated.**

Unaccompanied Minors

Participants in the working group discussed the definition of a minor in the Albanian legislation. In some pieces of legislation, minors (sometimes referred to as children) are considered to be individuals who are under 16 years old, and in other pieces of legislation as under 18 years old. **The use of terminology**, as age is therefore not consistent, **should be aligned to international norms.**

According to the Council Directive 2003/9/EC (January 2003) unaccompanied minors are defined as:

*“persons **below the age of eighteen** who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person: it shall include minors who are left unaccompanied after they have entered the territory of Member States”.*¹¹⁸

Even the *Council Resolution (97/C 221/03)* calls for common principles to be applied for dealing with unaccompanied minors who require special safeguards and care.¹¹⁹

It was pointed out that there are many unaccompanied minors in host countries who should be returned to their country of origin. There is the State's obligation to assist their return and to ensure their safety and reintegration in the local community. Yet, there are many problems related to the fact that they cannot be sent directly to their country of origin. To this regard, the Italian researcher mentioned that unaccompanied Albanian minors are sent to Italy by their families, so there are a lot of problems in terms of safety and security to turn them back.

Regarding the way the unaccompanied minors are returned to their country of origin, the representative from IOM Geneva mentioned the case of Rwanda during the genocide.

¹¹⁸ Council Directive 2003/9/EC of 27 January 2003, on laying down minimum standards for the reception of asylum seeker, http://www.ecre.org/eu_developments/reception/recdirfinal.pdf.

¹¹⁹ Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries (97/C 221/03), <http://www.childoneurope.org/activities/unaccompanied/b/pdf/B%201.1.4.pdf>.

There were flows of migrants to Italy, and Rwanda government was not able to afford the immediate reintegration of unaccompanied minors. On these conditions, with the consent of Italian and Rwanda governments, reception and residence centres were set up. The orphans were also assisted before their return to the origin country and they could integrate in the society. It was pointed out that the same efforts were done also in the case of Angola, but during that time there were not enough funds to set up orphanages for orphan minors.

Some concerns were raised since there is no specific regime in place for minors who are returned to Albania. At present, in specific circumstances, minors are sometimes housed at the National Reception Centre for Victims of Trafficking. It was acknowledged that **special regimes and facilities should be put into place for minors that return, especially in the case where individuals do not have family members.**

Meanwhile, in the EU countries, unaccompanied minors are accommodated in shelters for long periods of time. Yet, it is still contested whether minors should be accommodated in close or open reception centres. In the open centres there are two main problems: 1. the security of minors and, 2. it shows that suicide of minors is higher in the open centres. For this reason, it was agreed that **shelters are the best option to accommodate minors because they are under special and careful attention.** In most of the cases these shelters are managed by the government, **but also NGO-s can take the lead in the management.** In the case of Romania, that government has set up and runs a host centre for minors, but there are also charity-private organizations that deal with unaccompanied minors.

Another sensitive issue related to this vulnerable group is the protection system. In case minors would wish to testify, protection systems are not in place to ensure that they or their families will not be in danger any longer. Some countries offer citizenship in exchange for testimony, but as participants in the workshop acknowledged, this is unfair since those in most danger may not wish to put themselves and their families under risk.

In the case of minors trafficked by their parents or other family members, they will obviously find it difficult to testify against their own family and it is also important not to return them to their parents.

The protection of minors is not only important to provide their security in the process of declaring their traffickers, but also in protecting them to be trafficked again. This category is posed not only to sexual trafficking but also to labour abuses. Minors could be recruited by criminal groups for financial profits and then being abused.

Victims of Trafficking

This is another vulnerable category that requires special care and treatment when returned to the country of origin. As in the case of unaccompanied minors, even this

category is difficult to be returned to the country of origin due to many social, financial and security factors. For this reason, international organizations such as IOM offer assistance to victims of trafficking before and after they return to their country of origin.

In Albania, victims of trafficking are accommodated in a special rehabilitation centre, which is run by the Ministry of Labour, Social Affairs and Equal Opportunities. In addition, different international organizations and NGOs offer their assistance to them. The victims of trafficking are offered medical assistance, legal assistance, counselling, psychological assistance in order to ensure their rehabilitation, and as a second step, their integration in the local community.

Sometimes their rehabilitation in the country of origin is difficult because they are faced with the same danger and conditions that led them to be trafficked. Even the protection systems are not in place in case they want to denounce their traffickers. For this reason, they stay in the reception centres for long periods of time.

Ethnic minorities

Minorities are also considered a vulnerable group who needs special treatment and protection. According to the *Framework Convention for the Protection of National Minorities*:

“the protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international cooperation”.¹²⁰

Even if it is acknowledged that there is no universally accepted definition of minority in the international law, IOM defines it as:

“a group which is numerically inferior to the rest of the population of a state and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity directed towards preserving their culture, traditions, religion or language”.¹²¹

In relation to the concern of the lack of a universal definition, **it was recommended to work on the establishment of a definition not only at the national level, but also at the international one.**

¹²⁰ Framework Convention for the Protection of National Minorities, Strasbourg, 1995, <http://conventions.coe.int/Treaty/EN/Reports/Html/157.html>.

¹²¹ Glossary on Migration, IOM, 2004, <http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Glossary.pdf>.

Despite the fact that no examples were brought to the workshop of best practices regarding the handling of this group, **it was acknowledged that unified procedures should be followed by national States in accordance with the international instruments on this particular issue.**

It was acknowledged that confidentiality and privacy are also important during the treatment of these vulnerable groups. In the case of Albania, confidentiality and privacy are settled in the national law. However, the legislation is not properly implemented in regard to this issue, and more efforts should be put on this field. Based on experience of Member States, there is not a single model that can be used to ensure confidentiality and privacy. Countries use different practices, but the importance is the **monitoring of this process in order to ensure an effective implementation.**

3. Mechanisms of return

The aim of this working group was to discuss the possible problems at the border points as well as to provide information on the sharing needs. For this reason, the session was divided into two sections, pre departure and arrival in the home country.

What are the most difficult aspects of the pre-departure phase of return?

The participants stated that the most problematic aspect of returning migrants is identifying the person and his/ her nationality. This poses an obstacle for an effective return process. If the individual is not properly identified, the travel documents for the return cannot be issued. To this regard, a wide variety of identification techniques exist and are applied, illustrating the challenge identification presents and the inventiveness displayed in meeting this challenge.¹²² Some of the techniques used by the majority of Member States are:¹²³

- in depth interviewing by trained police;
- seeking assistance from Embassies/Consulates of countries of origin in the form of interviews;
- assistance by experts of the countries of origin, etc.¹²⁴

All participants acknowledged that in the return process, identification and acquisition of travel documents are very important and should be improved in order to have an effective return of migrants to their countries of origin. As the IOM

¹²² Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005.

¹²³ Ibid.

¹²⁴ Ibid.

Vienna representative mentioned, there are some key recommendations to be taken into consideration for an effective collaboration among Consular authorities in regard to the acquisition of travel documents.¹²⁵ As a first step, a coordination contact should be set up with different units within the embassy of the country of origin in order to involve everybody concerned. Second, **mutual cooperation should be established with the embassy of the main countries of origin of the migrants as well as personal contacts, which are considered to be important elements of this process.** Another aspect to be taken into consideration is to involve the own Consular representations in the countries of origin as this has proved to facilitate the issuance of travel documents.

The UK government representative brought the example of the difficulties in identifying the Albanian migrants who do not wish to return voluntarily. In most of the cases they claim to be Kosovars, and once sent to Kosovo they reveal their true identity, which causes many problems regarding logistical arrangements.

Other aspects to be taken into consideration are the human and material needs of migrants, the high cost of detention pending removal and the importance of cooperation with the country of origin. It was acknowledged that during the pre-departure phase migrants should be well treated and assisted psychologically and financially if need be, in particular in the case of vulnerable groups. The illegal migrants should be detained for the shortest time possible in the detention facilities, and their return will highly depend on the cooperation with the country of origin.

What is the relationship with the Consular authority in return?

Participants acknowledged that the success of the return process depends mainly on the cooperation with the Consular authorities in return. The EU agrees and emphasizes the fact that the cooperation with the country of origin is essential in the management of migration in general, and in particular in the field of return.¹²⁶ As the *EC Green Paper on a Community return Policy on Illegal Residents* mentions, the success of the return policy depends on fruitful cooperation with the countries of origin or transit concerned.¹²⁷

One form of mutual cooperation are the readmission agreements, bilateral (between individual Member States) and multilateral ones (between individual States and EC). The readmission agreements are a positive element for the removal process in general and for the identification process in particular.¹²⁸

¹²⁵ For more information please refer to the presentation on "Assisted Voluntary Return: Examples of Best Practice in Selected EU Member States" by Ms. Erika Laubacher-Kubat, Tirana, October 2005.

¹²⁶ Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005.

¹²⁷ EC Green Paper on a Community Return Policy on Illegal Residents, April. 2002, http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf.

¹²⁸ Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005.

Another frequent form of cooperation with Consular authority in return is the requesting of documents from the Consular representations of the countries of origin.¹²⁹ This form of cooperation is mainly used when the representation for the country of origin is not present on the territory of the Member State. Participants remarked that this form of cooperation has been proven difficult, mainly due to the limited expertise the Consular officials have while dealing with these cases. Sometimes, Consular officials are not well trained and lack information and this creates a lot of difficulties in the identification process and acquisition of travel documents. **It is important to stress the fact that readmission practices foster mutual trust and country cooperation and should not be considered contrary to the personal interest of a citizen, but as a “facilitator” in the return process. Consequently, good relations amongst Consular authorities depend on the expertise of the Consular officials.** Thus, it was acknowledged that assistance should be given also at the administrative level in order to obtain travel documents for irregular migrants who do not possess such documents.

Belgium can be taken as **best practice** to be replicated in regard to Consular relations. In Belgium, the migration office organises every year a social evening with all Consular Offices in order to foster their professional relationships. In the case of the relations with Albania, the Belgium government representative mentioned that they have excellent collaboration.

Making a distinction between migrants identified on the territory and those apprehended within the territory

Participants in the working group focused their discussions on the procedures carried out during the process of the identification of an irregular migrant in the territory of Albania. They both agreed on the lack of a comprehensive system for dealing with migration in Albania. Currently, the pre-screening system is applied to individuals identified on the territory and those apprehended within the territory. The pre-screening system makes possible the identification of the individual in case of being an asylum seeker, victim of trafficking or irregular migrant.¹³⁰ If the person falls within the first two categories (asylum seeker and victim of trafficking), he/she is referred to the relevant authorities and is admitted to the territory.

Different procedures are followed when the individual identified on the territory is an irregular migrant. In this case, he/she should be returned immediately to the country of origin (forced or voluntary return), unless his/her departure cannot be undertaken (because of the risk of being executed, or exposed to torture or inhuman or degrading

¹²⁹ Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005.

¹³⁰ Proposal for a system for handling irregular migrants in line with the EU acquis and International Norms, IOM, 2006.

treatment or punishment,¹³¹ need for international protection, health conditions, etc.). Individuals, who cannot be returned immediately, are temporarily accommodated to the check point borders pending their return.

In the meanwhile, individuals found within the territory, after being submitted to the pre-screening process, are temporarily accommodated in National Reception Centre for Victims of Trafficking,¹³² until the necessary travel documents are provided to carry out their return to the country of origin. Participants acknowledged that it is still very difficult for the Albanian authorities to carry out the forced return, and so far the returns have been supported by IOM through AVR programmes.

Escorts

Escorting means accompanying forced returnees during the whole journey to the port of entry in the country of origin.¹³³ Returning States should provide maximum protection to the escorting staff.¹³⁴

In the UK, the escort staff¹³⁵ are well trained in order to react to potential violent behaviour of the returnees and the presence of paramedic is also foreseen on board. The use of charter flights can be envisioned, but needs to be well organised and planned in advance. The role of the country national authorities starts at the arrival.

In the case of Greece the police are always responsible for all the phases of the procedure and usually two policemen accompany one deportee. They have very strict instructions for the police officials who work in the field and cases of abuse and maltreatment are prosecuted.

As best practice to be applied in Albania were suggested the IATA guidelines on deportation and escort. These guidelines are not binding and can be also used by airlines as standards of industry.

Arrival in the home country

The third phase of the return process is the return to the home country. Upon return, the migrants pass through the procedure of verification of documents, this takes place in the

¹³¹ Art. 3, European Convention on Human Rights.

¹³² As mentioned in the other sections, a closed reception centre for irregular migrants does not exist in Albania.

¹³³ Compilation of Best Practice in Return Management in Selected EU Countries and Romania, IOM, 2005.

¹³⁴ Ibid.

¹³⁵ In the UK escort staff is mostly provided by private security companies.

Police Commissariats of the checkpoint borders. In case the returnee is known to be a victim a trafficking, then he or she is sent directly to the National Reception Centre for VOTs and relevant international organizations and NGOs are informed as well to follow up with the specific case.

As the Albanian government representative mentioned, the considerable number of returnees from Italy are Kosovars, in most of the cases they are migrants who entered Italy and overstayed.

General recommendations

Following the overall discussions during the workshop, the following recommendations could be mentioned:

- For a sustainable return, migrants should be informed at the earliest stage possible about AVR. The information can be disseminated through awareness campaigns and the return programmes should be monitored to ensure the effectiveness of the return process.
- For the developing of reintegration scheme the profiling of the migrant is necessary, and collaboration should be enhanced between national authorities and local NGO-s to enable this.
- To assist reintegration, migrants should be provided with in-kind assistance rather than cash payments. This assistance can consist of trainings, job opportunities, assistance to create small enterprises, etc.
- Vulnerable groups such as the elderly (under certain health conditions), unaccompanied minors, victims of trafficking and minorities fall under another regime than that of irregular migrants, and consequently they should be accommodated in special reception centres.
- Unaccompanied minors and elderly people should be properly defined in Albanian legislation and this definition should be aligned with international laws.
- Protection systems (including data protection) should be in place in order to ensure protection to vulnerable groups.
- Vulnerable groups should be informed about their rights such as the right to legal and medical assistance, to have materials translated in different languages, etc.
- Mutual cooperation between Consular authorities of country of origin and transit and countries of destination should be fostered.
- Training of Consular officials is necessary in order to meet the required standards.
- Different procedures should be applied when migrants are identified on a territory and when they are apprehended within the territory.
- Escorts should be specially trained and returning States should provide to them maximum protection.

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SECTION C

REINTEGRATION EXPERIENCES AND APPLICABILITY IN ALBANIAN RETURN POLICIES

Introduction to the workshop

The third and last workshop focused on reintegration of Albanian nationals.¹³⁶ As reintegration is the last link in the return chain, this workshop represents the natural and logical follow up of the first two workshops (refer to Section A and B), which were focused on return and readmission policies and practices.¹³⁷

The workshop took place few days after the EC/Albania readmission agreement came into force (on the 1st of May 2006), and the interlink between the two processes was stressed. The EU perspective on readmission agreement is not only focused on the procedural mechanisms of return and law enforcement of regular migration, but also on other related aspects, such as the reintegration of returnees, which makes the return itself more sustainable.

In recent years, interest in reintegration has increased among IOM Member Governments and within the European Commission. For this reason, IOM has carried out a number of research projects on return and reintegration.¹³⁸ Despite the increasing volume of studies on the topic, the question of the long-term sustainability of return and effectiveness of reintegration remains open. The European Commission, as well, has given special attention to this topic.¹³⁹ Based upon the Commission's Green Paper and the intensive discussion surrounding it, a Communication was issued by the European Commission in

¹³⁶ For more information regarding the scope of the workshop, please refer to the Workshop report on "Reintegration experiences and applicability in Albanian Return Policies" Tirana International Hotel, Tuesday 03rd - Wednesday 04th May 2006 (unpublished).

¹³⁷ The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants, IOM, 2001.

¹³⁸ Return Migration: Journey of Hope or Despair, ed. Bimal Ghosh. IOM: 2000; The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants, Khalid Koser, No. 4 Migration Research Series. IOM: 2001 (available at: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/mrs_4_2001.pdf); Harnessing the Potential of Migration and Return to Promote Development, Savina Ammassari and Richard Black, No. 5 Migration Research Series. IOM: 2001 (available at: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/mrs_5_2001.pdf); "The Return and Reintegration of Migrants to the South Caucasus: An Exploratory Study." IOM: 2002 (available at: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Caucasus_study.pdf); Return Migration: Policies and Practices in Europe. IOM: 2004 (Preface available at: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/return_migration.pdf).

¹³⁹ Green Paper On A Community Return Policy On Illegal Residents, Brussels, 10.04.2002 COM(2002) 175 final. Available at: http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf.

October 2002,¹⁴⁰ which, among other things, noted that reintegration “*will require both a firm commitment on the part of the third country and the readiness of the European Union and its Member States to provide the necessary assistance where required*”.¹⁴¹

The issue of reintegration and sustainable return was already touched under a previous regional project (funded by the European Commission as High Level Working Group for 2004) on *Fostering sustainable reintegration in Albania, the Kosovo and Former Yugoslav Republic of Macedonia (FYROM), by reinforcing local NGO capacity service provision to returnees*. While this previous project focused mainly on the capacity building of local NGOs to provide reintegration assistance, the focus of the current project is in examining the role that the State Employment Offices can and should play in this regard and in improving their services to best serve the returned migrants.

The purpose of the workshop was to look at the reintegration of Albanian returnees from a policy and institutional perspective, in particular in light of the priorities arising from the Readmission Agreement.¹⁴² As explained above, the Readmission Agreement clarifies the procedures that may facilitate the return of irregular Albanian nationals to their country of origin, Albania in this case. Once they will be readmitted, care should be taken to ensure that the ground is prepared for profitable reintegration both for the returnee and for the place of origin.¹⁴³ It should be considered that return migrants have specific needs and characteristics compared to other jobseekers. In addition to the human, financial and social capital they may have acquired abroad, their have particular expectations, due to their attitude towards national institutions and their experiences with employment services in the foreign countries.

The workshop represented the first occasion in which Albanian Government institutions, representatives from the migrants and business community and representatives from NGOs gathered at the same table and discussed joint strategies. Furthermore, the workshop provided also the platform for presenting a policy paper, drafted in the framework of the project and aimed at institutionalising assistance to returned migrants in accordance with labour market needs.

This section follows the same structure of the previous ones. The main issues discussed during the workshop are condensed in a number of questions. It brings up

¹⁴⁰ Communication on a Community Return Policy on Illegal Residents (COM (2002) 564), October 2002, Available at: http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0564en01.pdf .

¹⁴¹ (COM (2002) 564. p. 5.

¹⁴² Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁴³ (COM (2002) 564. p. 5.

the concerns raised on the topic under analysis, along with the best practices presented. The recommendations and best practices provided are highlighted in the text and then summarized at the end in a systematic list.

What is the definition of reintegration?

There is no uniform concept concerning the reintegration of migrants that can be applied. Reintegration of returning migrants may be defined as the *process of individuals making an effort to adapt to circumstances in their country of origin after returning from abroad, as determined by objective and subjective factors and encompassing both the micro-level of the returnee and the macro-level of the local community and the home country as a whole.*¹⁴⁴

Reintegration may have several different components: social, economic, political and cultural. Indicators of economic reintegration may include, for example, unemployment rates, wage levels, job security etc. Social reintegration may be measured in relation to indicators such as access to housing, health care, and education. The concept of reintegration also has a time dimension and should be considered in comparison to the situation before and after migration.¹⁴⁵ The IOM response also states that approaches to reintegration can vary considerably, including vocational training, “go and see visits”, information provision on the country of origin and general post return assistance follow-up.¹⁴⁶

The analysis and discussion conducted in the workshop, and in particular during the three thematic working groups, focused mainly on one specific aspect of the reintegration process; **employment**. As results of previous studies conducted in Albania and other countries of the region,¹⁴⁷ it appears that **secured employment is one of most significant factor in impacting the reintegration process and that potential returnees often identify as the most crucial.**¹⁴⁸ The aim of the workshop was also to highlight previous experiences on reintegration conducted by NGOs and other institutional actors in Albania as well as in neighbouring countries.

¹⁴⁴ Identification of Sustainable Approaches to voluntary return and reintegration of asylum seekers and persons with temporary protection status: Albania, Romania and Russia, IOM, 2003.

¹⁴⁵ Return, Reintegration and Sustainability: developing a Matrix of understanding, IOM (unpublished).

¹⁴⁶ Refer also to the Green Paper on a community return policy on illegal residents, COM (2002) 175 final, 2002.

¹⁴⁷ Project “Fostering sustainable reintegration in Albania, the Kosovo and Former Yugoslav Republic of Macedonia (FYROM), by reinforcing local NGO capacity service provision to returnees”, IOM, 2004.

¹⁴⁸ According to this research, in addition to secured employment, other primary circumstances under which migrants would be willing to return permanently to their countries are, on the other hand, acceptable level of security and, third, acceptable living standards.

Thematic Working Groups

The discussion held during the workshop was subject of further analysis within three smaller working groups, which focused on the following topics:

1. Roles of concerned stakeholders (i.e. REO's, NGO's, local stakeholders, etc.) and the coordination among them;
2. Types of services to be provided to return migrants: skills assessments/vocational training (evaluating the individual and local skill demands); job placement (matching skills, knowing employers); entrepreneurship support (local development plans, identifying sectors, candidates, resources, etc.);
3. Planning for different return groups: voluntary successful migrants; forced returns; voluntary "unsuccessful" or assisted returns.

The choice to have these three working groups was the result of an initial assessment on reintegration assistance that is currently provided and/or should be provided by the Employment Offices (EOs). This assessment was carried out under the current project, through a number of study visits and interviews directly held in these Offices. The initial findings of this analysis are contained in the *Policy paper on Institutionalising assistance to returned migrants through local Employment Offices and local NGOs*.¹⁴⁹

1. Roles of concerned stakeholders (i.e. REOs, NGOs, local stakeholders, etc.) and the coordination among them

What the policy and institutional framework on migration and employment is in Albania?

In Albania, the policy platform available on reintegration of returned migrants refers mainly to the National Strategy on Migration, approved by the Albanian Government in 2005.¹⁵⁰ Some of the measures foreseen by the National Strategy on Migration and its Action Plan (e.g. measures 8 and 9) call for an expansion of the reintegration services, in order to guarantee permanent return, and for the capacity building of the relevant institutional bodies. These measures are particularly urgent, given the application of the Readmission Agreement between Albania and the European Community and the need to guarantee

¹⁴⁹ Policy paper on Institutionalising assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁵⁰ For a further explanation of the political platform of this issue please refer to the National Strategy on Migration and National Action Plan on Migration, IOM, 2005 – http://www.migrantinfo.gov.al/NSM_ENG/web-content/PAGES/WORD/Final%20eng-version%20approved%20by%20CM-%2019%5b1%5d.11.2004.htm#_Toc8612473.

reintegration services for returned migrants. In addition to this, The National Strategy on Employment and Vocational Training (approved in 2003) highlights the challenges faced by the Employment Offices proposing a series of priorities for improving these services. This strategy does not have a specific focus on return, and returning migrants are mentioned only as part of the vulnerable groups that should be profiting from vocational training, if upon return they are facing economic difficulties.¹⁵¹

As concerns the institutional framework, the Ministry of Labour, Social Affairs and Equal Opportunities (MOLSAEO) is responsible for all labour-related aspects of migration. It has a Directorate for Migration Policies, which deals directly with migration issues. In addition, other institutions dependent on this Ministry deal with issues relevant to migration, such as the National Employment Service (NES), the State Social Service and the Institute of Social Insurance. Among those bodies, the role of NES is particularly relevant. The NES is an autonomous institution, with the status of a central state administration entity.¹⁵² The NES has the mission to fulfil the right of all citizens resident in Albania to gainful employment through employment services and participation in state labour market programmes.¹⁵³ In particular, NES, *inter alia*, provides mediation service for jobseekers; professional career guidance services; Unemployment Benefits Services to those entitled; undertakes referral to vocational trainings; registers, reports and uses information on the labour power, on employing activities/companies, individuals or groups in need of special services and carries out study on the labour market.

NES directly supervises the Regional Employment Offices (REOs) and the regional vocational and educational training offices (VETs) in the country. The institutional framework is completed by the Local/District Employment Offices, which are formally subordinated to the regional offices.¹⁵⁴ In 2003, within NES, the Migration and Employment Sector was established with the aim of assisting REOs in implementing migration-related aspects of employment policy and services.

¹⁵¹ Currently, a new strategy on Employment and Vocational Training is being drafted. It will incorporate measures related to return migrants and their reintegration in the country. For more details on this refer to the Policy Paper on Institutionalising assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁵² The NES was created by law Nr. 7995 date 20.09.1995, "On the encouragement of employment" changed with law Nr. 8444 date 21.01.1999, changed with law Nr. 8862 date 07.03.2002. These laws govern its operation. Its major structures and competences are regulated by the Statute of the National Employment Service approved by the Decree of the Council of Ministers No. 42, date 17.01.1998 "On the approval of the statute of the National Employment Service", changed by Decree No. 263 date 25.05.2000.

¹⁵³ <http://www.shkp.gov.al./histori/php>.

¹⁵⁴ For a more detailed explanation of the role of these institutional bodies, as well as of other issues, refer to the Policy Paper on Institutionalising assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

Since employment and vocational training services are part of the duties of the National Employment Service, the government has targeted this last one as the institution that will be responsible for the provision of assistance for returned migrants in light of guaranteeing sustainable return. However, it is worth mentioning that, to date, mostly non-governmental organizations (NGOs) have provided special services to return migrants, whilst the State Employment Offices only recently have started to distinguish, within the broader category of job seekers, the special subcategory represented by returned migrants. Under this consideration, the functions of these State entities are still to be strengthened and improved, especially with regard to the groups of individuals with special needs.

How could the relationship between different EOs (at the national, regional and district level) be improved?

Participants in the open discussion explored the relationships between the above offices (from the centralised to the local levels). It was explained for example that NES receives information from the regional offices along with their recommendations for the future policy to be established, while the Directory of Vocational Training (VET) makes the decisions on the courses that will be offered. Apart from NES and VET, the regional Employment Offices have contacts with the local government, which however do not always report vacancies to the REOs and use alternative ways of recruiting their personnel.

Although the structure seems officially clear, many gaps were identified in the patterns of communication and flows of information among the offices. It was suggested that the **NES should strengthen its links with the bottom level** (i.e. represented by the Regional and Local EOs) and the **overall institutional coordination should be reinforced**. This coordination is indeed sometimes made difficult by the limited resources (i.e. lack of computers, of internet access, etc). It was also highlighted that the relationships between NES and MOLSAEO should be improved, and, in particular **NES should have a more active role in the MOLSAEO elaboration of strategies for migrants**.

As far as concerns the information flow, the **need to collect more data from the local offices** was raised (i.e. on the status of unemployment, on the profiles of returnees, etc.) in order for the NES to prepare policy and strategies, which might be more in line with regional and local needs. On the other hand, **the referral mechanisms from the REOs to the NES should be made more systematic and regular**. Participants mentioned that in the implementation of certain activities, this referral has not been fully accomplished, as the flow of information was not perceived as a binding obligation, rather as a volunteer action, both within REOs and in the local offices, which did not have functional obligations to re-submit the forms to the Regional Offices, once the forms had been filled by the clients.

Moreover, also the **coordination between different ministries should be improved.**¹⁵⁵ As outlined in other studies on reintegration and return,¹⁵⁶ the programmes that have been the combined efforts of a number of government ministries, usually including the Ministry of Interior and the Ministry responsible for development, have not been successful often due to a lack of coordination at ministerial level.

How could the relation with public institutions, especially EOs, and other concerned actors be improved?

The discussion of the working groups highlighted that the relationship between institutions, EOs and other stakeholders (business companies, NGOs, etc.) is limited to specific issues and project lines. Relationships between the EOs and other entities are mainly due to personal contacts and initiatives by the officials working within the EOs and based on case-by-case contacts. In this frame, the exchange of information between institutions is carried out on the basis of an informal agreement and the coordination is not formalized. It was pointed out that a close relationship exists between the Employment Offices and the vocational training agencies, although the relationships are bilateral and based on the good will of the partners and the links with private centres are still weak. For the reasons exposed, **the relationships between EOs and other entities (i.e. vocational training agencies, etc.) should be made more systematic and the channels of communication should be made clearer.**

During the open discussion, it was also stressed that employers associations represent important contacts, with which cooperation should be strengthened. At the current stage, these contacts are somehow institutionalised, as the private businesses are usually involved in the so-called “employment incitement programmes”, which are run by NES. However, **the group recommended that the regional Employment Offices should expand their collaboration with the businesses/private sector. They should also take a more proactive and inclusive approach, as well as to find ways to increase the participation of private business in different initiatives.** In this regard, in particular, the following was suggested:

- **Representatives of the businesses should be invited to joint initiatives;**
- **National, but most urgently regional agreements between regional Employment Offices and the businesses should be signed in order to expand their collaboration;**

¹⁵⁵ The New Draft Law On the emigration of the Albanian citizens for employment purposes, also stressed that The state authorities, which mission includes dealing with the emigration issues have the obligation to cooperate concerning the creation of concrete conditions for the reintegration of the Albanian emigrants into the society (art. 34,d).

¹⁵⁶ The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants, IOM, 2001.

- **Periodical meeting should be organized in order to keep track of the standpoints of each of the involved parties.**

According to one of the NGO attending the workshop and working in the field, one of the main gap in the above is represented by the employers' attitude, that ignore the work carried out by the EO's and that do not list job openings. While private-sector employers are required by law (the Law for employment incitement says that job vacancies should be declared within 7 days) to list job vacancies with REOs, many still perceive this obligation as voluntary. It was also recognised that this problem might be even more relevant in case of returned migrants, due to the employers' perception of returned migrants and to the specific needs of the migrants themselves, and the consequent employers' unwillingness to employ them (i.e. as the returnees might ask for higher salaries, in line with the standards they are used to, or the employers might be prejudiced against them).

What is the role played by NGOs in this field?

To date non-governmental organizations are the only ones that have provided special services to return migrants. These NGOs were, moreover, the main beneficiary of the above mentioned project *Fostering sustainable reintegration in Albania, Kosovo and the Former Yugoslav Republic of Macedonia (FYROM), by reinforcing local NGO capacity service provision to returnees*, implemented by IOM in 2004. For this reason, the work done by Albanian NGOs in the field of Reintegration assistance may provide good examples that should be taken into consideration by the State Offices. The best practices suggested by NGOs' experiences are in brief as follows:

- **Importance of establishing a network of collaboration with other organizations with similar goals;**
- **Importance of involving directly the returnees themselves in the process of reintegration and in the creation of the informative network among the group of returnees;**
- **Profiling the assistance to the most vulnerable categories (i.e. single women, etc.);**
- **Undertaking information campaign on reintegration assistance and deployment possibilities in the country of origin to be started in the host country and at the crossing points.**

As explained above, this assistance should be properly integrated with that one offered at the institutional level.

2. Types of services to provide to return migrants (i.e. skills assessments/vocational training, job placement, entrepreneurship support)

What are the current services provided to returned migrants and/or what kind of new services can be provided?

As explained above, the different institutional bodies involved have different duties and tasks, which are meant to complement each other, in order to offer a proper employment services. It has also been clarified that so far the Employment Offices have not specifically tailored their employment services to the returned migrants, who use the Employment Offices as any other jobseeker does. The readmission agreement opens new challenges for Albanian institutions, which might be expecting considerable numbers of readmitted citizens, who will need assistance in order to reintegrate in Albania. While the return migrants should be treated as any other kind of unemployed jobseeker, the identification of their needs will highlight the specificities of their conditions, which would then demand for special services.¹⁵⁷

During the workshop, some recommendations were provided on how to improve the services currently delivered, also based on the experiences of other countries. An analysis of the **experience and working methods of Greek organizations** in this field, presented during the workshop,¹⁵⁸ showed that **an individualised approach to the assistance** is suggested, in order to ensure a high level of services and a simplification of counselling procedures. Moreover, interviewing the job seeker is a key element in the process of assistance and, as such, **special attention should be devoted to prepare and carry out the interviews** (in the case of the Greek model, the interviews consist of three different phases: preparation; request of information; summary and elaboration of data acquired). Furthermore, **the intervention should be followed-up** through a specific monitoring activity, in order to verify the effectiveness of the services provided. The Greek representative also stressed that qualitative surveys allow a proper assessment of the needs and skills of job seekers that need to be matched with the employers' requests, while the profiling of the assistance allows a better matching of labour offer and demand and, consequently, sustainability of results.

Participants of the working group also underlined that **returned migrants should**

¹⁵⁷ Refer to the Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁵⁸ Presentation given by the First General Director of the Hellenic Manpower Employment Organization.

be treated as a special category within that of unemployed individuals. A sensitive issue raised by the participants is that of returnees who come from rural areas, and who according to the law on employment, are not considered unemployed (as per the definition accepted in the REOs) when in possession of land. In order for this category to be facilitated, the law needs to be amended and services specifically tailored for its needs.

It was generally agreed that **the establishment of an electronic database for matching the demand and the offer** is of high importance for all Employment Offices, because it would simplify and distinctively improve the quality of services provided. To this regard, the database, which has been elaborated by the REO in Durres, was brought as an interesting model to be extended to other offices.

The main aim of the database is to record information on the returnees as well as to register the requests of the employers, in order to facilitate the match between the demand and the offer and provide, in this way, reintegration assistance to returned migrants, focusing on employment. The registration of the Albanian returnees encompasses general information (name, civil status, address, etc.); type of emigration, causes for emigration and type of return. The information is then specifically focused on the educational and professional past experiences of the returnees. The system also provides information to the returnees on the legal framework of the labour market, whose knowledge is relevant for returned migrants who want to set up their own business. The clients are also provided with a list of public and vocational training centres and of the current vacancies as well as with contact details of job posters. The system tries to involve all the business entities, which operate in the District of Durres, so that the returned migrant can be put in contact with local companies. Regarding the employers' perspective, the system represents a good source of information. Moreover, being that this database is a source of information about the returnees, it could also be used for other research and statistical purposes. All the information is divided into two groups; confidential information and public information, which is shared upon agreement of the individual concerned.

How can a system of referral to other service providers be developed?

The services required by the returnees are different and do not refer exclusively to the employment sector. For this reason, considering that the Regional Employment Offices offer only services related to employment, they should be able to refer individuals to other relevant institutions, which can best serve their interests, in particular those related to non-employment issues (i.e. health care, education, etc.).

For this reason, participants acknowledged that returned migrants could be better assisted if a **referral mechanism was put into place to provide information and access to services being offered by other providers**, different from the EOs.

It was suggested that a position could be created for a **Trainer/Instructor within every regional Employment Office**. This new position could be responsible for the establishment of networks and provision of information to the sector of services within REOs, in conjunction with service providers in the area. Such a specialist should be appointed to handle all matters related to migrants and offer Employment Office services to the categories of return migrants. The separate counter will guarantee that the person in charge will always be available for return migrants and able to offer them services.¹⁵⁹

An alternative suggestion (in case the above may not be feasible) is to **establish a specific Unit within the Migration Sector of the National Employment Service** to conduct the above-described functions. Suggestions were also provided to **expand the migration counters** that were established in some regions by IOM to all the regional Employment Offices, in order to provide accurate information to potential returning migrants.¹⁶⁰ A good example, in this regard, is provided by the **experience of the Ministry of Labour and Social Welfare in Kosovo**. This Ministry has a Unit that is devoted to dealing with their citizens who are willing to migrate for the purpose of employment, and which also deals with returned migrants. This Unit has only recently been established and as such its functions still need to be further developed.

Which role should be played by the staff of the Employment Offices?

The improvement of infrastructure must be accompanied with capacity building of the staff working at REOs. In order to provide services of quality, the specialists of the Employment Offices need professional training. There should be experts with a distinct profile; however, people should be welcomed at the information point, and then referred to the experts. Continuous legal reform demands for a continuous update of the information the Employment Office's employees possess. The above recommendations underline the necessity for close and efficient collaboration between all the institutions involved in the process.

Finally, it was raised that in Albania face-to-face communication is much more efficient and reliable than other more technological means of communication. Consequently, regional Employment Offices should be able to communicate directly to their clients who are either employers and/or unemployed jobseekers, or return migrants of all categories.

Furthermore, as the tasks of the regional offices with regard to reintegration services to returned migrants are not yet specified, it is difficult for the personnel to identify all the

¹⁵⁹ For a more detailed explanation of this issue, refer to the Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁶⁰ Ibid.

priorities on migration related training. However, there are some issues that might be considered, such as: training on migration legislation, the national strategy on migration, the readmission agreement, the other agreements and opportunities for labour migration offered to the Albanian citizens. It was raised that, in fact, the limited knowledge of migration-related information, ranging from the new Readmission Agreement to the Albanian legislation, suggests that returning migrants and potential migrants cannot at present receive the necessary information regarding possible choices.¹⁶¹

What other factors should be considered for a better reintegration assistance to be provided by the EOs?

All working groups mentioned the lack of resources (both human and material), inadequate infrastructures and the limited budget devoted to work undertaken by the EOs, as some of the main constraints to an efficient assistance. **Prior to the implementation of reintegration services, the office would need basic resources** (i.e. computers, desks, internet access, etc.). In this regard, the Ministry of Labour Social Affairs and Equal Opportunity should play (in the participants' view) a role to address these basic concerns.

On the other hand, participants recognized that the **assistance that International Organizations, such as IOM, may provide in terms of technical support and capacity building, is very significant**. For example in the previously mentioned Kosovo case, the experiences of the Ministry of Labour and Social Welfare, shows a good synergy between different stakeholders (in particular government agencies and international organizations, such as IOM, UNDP, ILO, etc.) which are currently organizing joint strategies on employment mediation, professional training, analysis of the labour market, professional orientation, and assistance for people who have set up their own activity. Furthermore, the results of previous studies showed that NGOs consider IOM's support "very satisfactory," or "satisfactory", mainly in terms of the constant availability of IOM and its expertise in providing training.¹⁶²

As mentioned above, the gaps in cooperation between policy-makers, State entities and other practitioners (i.e. NGOs, business actors, etc.) were raised as key factors of the low level of reintegration assistance being provided by all the actors. In addition to this, there is **the need to strengthen the communication between the different Employment**

¹⁶¹ For further details refer to the Policy Paper on Institutionalising assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

¹⁶² NGO Capacity Building and returnee evaluation, under the Project "Fostering Sustainable Reintegration: Potential Returnees from Kosovo, Albania and the Former Yugoslav Republic of Macedonia in Belgium, Italy, the United Kingdom and Germany", IOM, 2004.

Offices and between the National Employment Office and the Migration Department within MOLSAEO, in order to ensure a proper institutional coordination and a complete and not fragmented flow of information.

Another aspect that should be taken into consideration is the fact that return and reintegration of returnees have a clear impact on the country and communities of origin, in terms of social and economic implications. In this light, the reintegration assistance should be, on one hand, included in the broader frame of the development of the community where the migrant returns and, on the other hand, particular attention should be paid to avoid positive discrimination. This risk of positive discrimination against the other jobseekers, in particular within the community of origin, has been raised during the workshop and it requires further analysis. Participants highlighted the risk to prioritise outcomes for returnees, rather than for the countries and regions to which they return, as one could point out that returnees are competing for (often scarce) resources with local populations.

How to enhance the credibility of the Employment Offices?

One of the main problems raised during the workshop was the lack of credibility of the Employment Offices. The attitude of returned migrants towards Albanian institutions is, at present, very sceptical, which means that many potential beneficiaries do not even visit the offices to receive information. Scepticism also accompanies the ones who dare to go to the REOs, in particular because they are not interested in getting only the information, but most of them desperately need to work. Others who have experienced in Western Europe's comprehensive public services, in contrast, may have expectations of similar treatment that might be frustrated by the existing conditions and capacities.¹⁶³

In order to enhance the credibility of the Employment Offices, the following was suggested:

- **The collaboration with NGOs that manage issues of migration should be strengthened, and they should be encouraged to advertise the services of the REOs and refer people to them;**
- **More publicity and more public informative campaigns of the services offered by the offices should be offered (i.e. through the distribution of brochures; construction of a web-page, etc.);**
- **The creation of information points in Albanian Embassies and Consulates abroad would be an important channel of information to reach the above;**

¹⁶³ Coslovi L. and Piperno F. (2005), Forced Return and then? Analysis of the impact of expulsion of different categories of migrants, Cespi Working Paper 3/2005, Rome.

- **Services should be improved, in particular as concerns the ethic and the marketing of services;**
- **The cooperation between Work Inspectorate and REO should be increased in order to best implement the law on employment incitement and have the vacancies declared by private businesses within the time line envisioned by the law;**
- **REOs tasks should be clarified by keeping the main focus on the issue of job placement and by releasing these offices from the task of delivering economic aid for families/individuals in need. This task, which is actually a municipalities` responsibility, at present jeopardizes the main service of REOs, as most of the unemployed individuals are keen to get economic aid rather than work.**

3. Planning for different return groups: voluntary successful migrants; forced returns; voluntary “unsuccessful” or assisted returns

Which are the possible categories of returned migrants concerned?

An initial assessment of the return process (both voluntary and forced) shows that returning migrants have specific needs and characteristics, in terms of reintegration assistance, in particular employment, compared to other job seekers. In addition to the human, financial and social capital they may have acquired while abroad, their expectations are influenced by their experiences in the foreign countries where they have lived. Return migrants are also difficult to identify, since they cannot be identified at border crossings and may hide information about their past migration, especially if their migration ended in prison or forced return. An initial assessment conducted under this project in the EOs and NGOs through interviews, showed that the main categories of returned migrants, which are expected to require assistance, are the following:¹⁶⁴

- A. Voluntary Successful Return Migrants
- B. Voluntary Unsuccessful Return Migrants
- C. Forced Return Migrants
- D. Assisted Voluntary Return Migrants (returned through specific programmes)

Participant of the working group agreed that assistance **should be tailored and programmes diversified according to the specific features and needs of the**

¹⁶⁴ The above categorization is also a theoretical and practical simplification, which might not be always consistent with the reality.

returnee. Indeed, it was agreed that in all instances of return, the most important consideration when determining which services should be provided, is the profiling of the returnee. There are concerns that in fact different categories of irregular migrants, and even different groups within a single category, may both “deserve” and “require” different forms of protection and levels of assistance.¹⁶⁵

Regarding this aspect, **EOs should be able to propose a customised reintegration package.** This means identifying return migrants in terms of those who are successful and unsuccessful, and among the latter, addressing the means of return (voluntary, forced, and assisted). Each profile will have different priorities and objectives. **For each individual, history and capacities should be analysed, ideally through referral for a skills assessment, but at least through a structured interview.**

Who is a successful return migrant?

A discussion took place regarding who could be defined as a successful return migrant. In essence, a number of benchmarks were put forward as indicators of success. A **successful migrant** may be defined as a person who has had a legal status in the host country, a good and well-paid job and has been socially integrated in the host society. However, s/he has decided to come back to the country of origin with skills and probably income. Another indicator of success given was the level of skills/ education gained in the host state, skills which could be transferred upon arrival home.

Conversely, **an unsuccessful migrant** was defined as an individual with the following characteristics: downgraded, badly paid, working in menial jobs, having no fixed job, not integrated in the host community.

What kind of services should be provided in general to successful return migrants?

It was agreed that successful return migrants might be specifically interested in acquiring information related to the starting up of a private business, as they might enjoy the availability of financial resources acquired abroad and might be willing to invest. To this purpose, **the services offered to them should include orientation and support for entrepreneurial activities,** such as:

- Delivery of information on the legislative and regulatory framework, in particular on the procedures and the steps for setting up a business;
- Referral to training activities, specifically focused on how to open and manage a business (i.e. project development, grant writing, tax and accounting, etc.), if necessary;

¹⁶⁵ The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants, IOM, 2001.

- Provide investment counselling;
- Delivery of information on the features and trends of the Albanian market, both at the national and regional level;
- Briefing about and referral to the available business packages/loans offered by banks or other institutions in Albania;
- Distribution of informative brochures on the above.

What are the specific services to deliver in case of unsuccessful return migrants?

The second group is composed of voluntary unsuccessful return migrants; those who have returned because they no longer wanted reside in the host country. Their hopes in migration were frustrated and their conditions abroad were no better than those of the country of origin. This group is to be treated as all the other unemployed jobseekers. **Following an in-depth skills assessment, they should be offered job placement, training or re-training, as appropriate.** They should be **carefully interviewed**, as in their specific case, random skills they may have acquired abroad and of which they may not be fully aware, i.e. knowledge of a foreign language, can represent an interesting basis for matching their profile with job vacancies.

What kind of services should be provided in general to forced return migrants?

Forced return migrants were considered by the members of the working group as the most difficult group. The participants of the working group noted that it does not seem sufficient to know that the return was forced in order to tailor the most appropriate service package in terms of employment needs. However, forced return migrants might have some specific needs, due to potential difficulties in the host state or upon return. According to the participants, the nature of their return is not of importance to the EO, but the key distinguishing factor is that they arrive suddenly, unprepared, without a job and without financial resources.¹⁶⁶ **They should be interviewed on their priorities and objectives and referred for a skills assessment.** The assessment is meant to understand whether the individual has funds available, which are his/her skills and his/her future plans.

Some forced migrants may be considered to be vulnerable, and may require specific assistance. Some individuals from this category may consider employment as a priority, so it should be considered as such. Therefore, the Employment Office could provide:

- Appropriate referral to the social services (for counselling and psychological assistance, accommodation and health care if needed, etc.);

¹⁶⁶ Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished).

- Provision of general employment services, including: information, training, referral and placement, including placement in active employment schemes where applicable;
- Training and referral to training initiatives;
- Orientation to employment;
- Provision of economic assistance, according to the categories eligible for assistance.

What kind of services should be provided in general to assisted voluntary return migrants?

While voluntary return can be defined as a return based on the voluntary decision of the individual, “Assisted Voluntary Return”, which goes under the same category, can be broadly described as where financial and organizational assistance for the return, and sometimes reintegration measures, may be offered to the individual by the State or a third party such as an international organization.

Concerning those individuals that have benefited from Assisted Voluntary Return (AVR) Programmes, the working group concluded that there is no difference between this group and the other three, so the recommendations listed above could be applied for them as well. The difference is that, in many cases, individuals who returned through voluntary return programmes, have already been prepared for their return and informed about the opportunities existing in the country of origin. In order to better reach these clients, **the Employment Offices should identify the organisations providing assistance in their area and make sure that the reintegration assistance complements and do not duplicate the AVR package.** In this light, while selecting the services to be provided, attention should be paid to prevent any kind of discrimination with other categories, as those individuals have already benefited from the Assisted Voluntary Return package.

General recommendations

From the overall discussion held during the workshop and in the three working groups, it is possible to extrapolate the following recommendations:¹⁶⁷

- The local and Regional Employment Offices demonstrated a strong willingness in strengthening the quantity and quality of reintegration services, specially tailored for returnees, in addition to the other services already provided to job seekers;

¹⁶⁷ The Policy Paper on Institutionalizing assistance to returned migrants through local Employment Offices and local NGOs, IOM, 2006 (unpublished), addresses more specific recommendations to all the stakeholders involved in the process (i.e. NES, RES, NGOs, etc.).

- The institutional coordination between the EOs at the different levels (national, regional and local) should be strengthened and the flow of information should proceed in a clear and more systematic way;
- The cooperation between institutions and other actors (i.e. NGOs, business companies, etc.) should be improved and expanded;
- A number of reforms are recommended, within MOLSAEO, in order to bring general policies at a more concrete level, and in order to increase the credibility of the EOs (in particular of the NEO, through a better quality of services, more specialized staff, marketing of the services and encouraging multiple use of the same services);
- Prior to the implementation of reintegration services, the office would need basic resources (i.e. computers, desks, internet access, etc.);
- The personnel of the Employment Offices should be qualified and well trained on matters of migration and legal procedures;
- The establishment of an electronic database for matching the demand and the offer should be considered of high importance and be available for all offices;
- More attention should be paid on the specific categories of individuals returned as result of the Readmission Agreement and to the specific concerns that rise in their cases (i.e. positive discrimination, reluctance of business companies to be involved, need of delivering information also in the host countries, balancing between new skills and expertise and the national labour market, etc.);
- The assistance should be tailored and programmes diversified according to the specific features and needs of the returnees;
- There is a shared belief among the representatives of Regional Employment Offices, NES, MOLSAEO and the NGOs that return migrants should be treated as any other kind of unemployed jobseeker; however, the identification of their needs will highlight the specificities of their conditions, which would then demand for special services.
- A detailed assessment should be carried out in order to identify the needs of returned migrants in terms of employment and vocational training;
- The information on the reintegration assistance available in the country of origin, Albania in this case, should be provided in the host country as well, prior the departure¹⁶⁸ (i.e. on opportunities and conditions of employment in Albania; financial aid provided for economic reintegration; how to maintain the social insurance rights obtained abroad; steps to be taken to facilitate housing; equality of the qualifications obtained abroad and all the tests to undergo in order to

¹⁶⁸ Previous studies shows that half of the returnees seem to be aware of the overall conditions in the country of origin prior to departure there, but not specific assistance is offered to them, unless they are involved in programme of Assisted Voluntary Return. However, it is worth to note this information derived primarily from two sources: friends and family and television, and not from State Offices or agencies.

reach their official recognition; equality of the educational qualifications obtained abroad, for the children of the migrant workers to be admitted at school without any decrease of level, etc.);¹⁶⁹

- The Employment Offices should undertake specific measure to enhance their credibility vis-a-vis the general public, employers, job seekers and return migrants.

Only if such conditions are met, Employment Offices can promote their services as a significant offer to job seekers, including return migrants.

¹⁶⁹ The New Draft Law On the emigration of the Albanian citizens for employment purposes, clarifies that for the purpose of the reintegration of the returned emigrants to the Republic of Albania, the respective state authorities will communicate to the host country, which will keep available for the interested persons, a number of information.

C CONCLUSIONS

Return and Readmission of migrants are issues of growing interest and systematization for EU Member States as well as for third and accession States, like Albania. They are considered as a necessary component of a well-managed and credible policy on migration. In these fields, the European Union is currently promoting common and transparent standards, in order to uniform the fight against irregular migration whilst respecting the human rights and fundamental freedoms of the persons concerned.¹⁷⁰ In this light, a proper implementation of the return process and of Readmission Agreements, in particular those promoted and signed by the EC, require a continuous cooperation between States of origin, transit and destination of migratory flows. This is even more important in the case of Albania, who recently started to implement the Readmission Agreement with the EC, which came into force on the 1st May 2006.

This compendium has analysed some best practices on the subject of return, readmission and reintegration of migrants from EU accession and Member States, and can represent an interesting model for Albania to consider replicating as reference for the improvement of the current Albanian policies and practices in the field. The return process has been observed from different perspectives (i.e. in countries of origin and destination) and in its different components (from the execution of the return itself to the reintegration of returnees). In general terms, based on the policies and practices considered, one could conclude that the EC/Albania Readmission Agreement can represent for Albania a “facilitator” of the return process and an important framework for the return procedures to be standardized.

In terms of implementation of the RAs, certain elements were highlighted as best practices from the experiences of other States. In particular, it came out that a good system of data management; well-trained staff, proper infrastructures and resources (both human and financial) and clear institutional framework and cooperation are crucial aspects for a successful implementation. Moreover, the negotiation of RAs with third countries is a process to be conducted in parallel in order to deal with the return to Albania of third country nationals. To this purpose a qualified negotiation team should be created and systematic relationships with the Consular Offices should be established, also in order to facilitate the system of identification and acquisition of travel documents.

¹⁷⁰ Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals, COM (2005)391 final. http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0391en01.doc.

The voluntary return, both individual and assisted, has been recognized as a priority to be considered before resorting to forced return, as it is more human and effective. To this purpose, other States' experiences show that a period for voluntary return should be granted to each irregular migrant and programmes of assisted voluntary return should be promoted (also through awareness and informative campaigns in the host countries). It was also noted that vulnerable groups (such as elderly, unaccompanied minors, victims of trafficking and minorities) fall under a special regime of returns and consequently require a special care. Finally, the issue of the training (for field staff, border officers and escorts, and for Consular Offices) has been raised as being crucial for a successful return and readmission process.

As far as reintegration of the Albanian returnees is concerned, it is clear that returnees may face obstacles in resettling in their home country and this may hamper the sustainability of their return. This represents a common challenge for countries of origin of migratory flows, as the experience of Bulgaria and Romania shows. This is even more relevant, if one considers that the EC/Albania Readmission Agreement opens new challenges for Albanian institutions, which might be expecting considerable numbers of readmitted citizens, who will need assistance in order to reintegrate in Albania. Although some of the factors that determine the sustainability of the return are outside the control of institutions, it was recognized that an efficient employment services can significantly contribute to the reintegration process. To this regard, in Albania a new institutional commitment was expressed in the National Strategy on Migration, to support returning migrants through the Employment Offices, whose role is evolving. An effective reintegration will be possible only when certain conditions will be improved. These conditions are, *inter alia*: cooperation between institutions and other stakeholders (NGOs, business companies, etc); the acquisition of basic material resources; the training of personnel. The establishment of an electronic database for matching the demand and the offer, in place in many countries and also in place at one of the Albanian Regional Employment Offices, is a crucial tool as it allows to better tailor and diversify the reintegration assistance, according to the specific returnees' needs. The reintegration assistance provided by the EOs should be located within a broader employment and development strategy.

As the EC/Albania Readmission Agreement has just entered into force, the process of identification of best practices may be still relevant in particular as concerns the implementation of the agreement itself. Many accession States are currently involved in the readmission process, often in the framework of a Readmission Agreements and as such, their experiences can be shared and be mutually beneficial. The implementation of return and readmission practices (which should be in line with EU *acquis* and international and human rights principles) represents a relevant challenge for Albania, as well as the creation of sustainable reintegration mechanisms for return migrants. In light of the numerous gaps and shortcomings still existing in the current system (which are

highlighted also in this Compendium), a further analysis of best practices in these fields may be still useful and as such it is suggested.¹⁷¹

¹⁷¹ Under the project Building on mechanisms to effectively and sustainably implement Readmission Agreements between Albania, the EC and concerned third countries, funded by the EC and that will be implemented by the Hellenic Ministry of Interior, Public Administration and Decentralisation, in conjunction with different partners, in particular IOM (AENEAS 2005 budget line), the analysis of the best practices in the same fields will be further developed (with a focus on other EU MS and their relationships with third countries).

International and Albanian Legal Acts

EU *acquis*

- 1950 European Convention on Human Rights.
- 1995 Framework Convention for the protection of national Minorities, Strasbourg.
- 1997 Council Resolution No. 97/C221/03 on *Unaccompanied minors who are nationals of third countries*.
- 2001 Common Policy on illegal migration, COM, 672 final.
- 2002 Green Paper on *A community return policy on illegal residents*, COM (2002), Brussels, 175 final.
- 2003a Action Plan on free movement.
- 2003 Council Directive 9/EC on *Laying down minimum standards for the reception of asylum seeker*.
- 2003b EC partnership priorities for Albania.
- 2003c Presidency Conclusion, Thessoloniki European Council.
- 2005a Presidency Programme on *Asylum and Immigration*, Council doc. 10703/05.
- 2005 Directive of the European Parliament and of the Council on *Common standards and procedures in Member States for returning illegally staying third country nationals*, COM, 391 final.

Acts of the United Nations

- 1990 International Convention on the protection of the Rights of All Migrants Workers and members of Their Families.

International Organization for Migration

- 1997 Return Policy and Programmes.
- 2000 Return Migration: Journey of Hope or Despair, ed. Bimal Ghosh.
- 2001 The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants.
- 2003 Identification of Sustainable Approaches to voluntary return and reintegration of asylum seekers and persons with temporary protection status” Albania, Romania and Russia.
- 2004a Glossary on Migration.
- 2004b NGO capacity building and returnee evaluation, under the project *Fostering Sustainable Reintegration: Potential Returnees from Kosovo, Albania and the former Yugoslav Republic of Macedonia in Belgium, Italy the United*

Kingdom and Germany.

- 2004c Return Migration: Policies and Practices in Europe.
- 2004d Workshop on *Sustainability of Voluntary Assisted Return: the experience of the Balkans.*
- 2005a Compilation of Best Practice in Return Management in Selected EU Countries and Romania.
- 2005b National Strategy on Migration and National Action Plan on Migration.
- 2005c Stories of Return.
- 2006a Proposal for a system for handling irregular migrants in line with the EU *acquis* and International Norms.
- 2006b Return and Readmission to Albania: The experience of Selected EU Member States.
- 2006c Report on *The return of Irregular Migrants to Albania: an assessment of case processing reception and return - needs and modalities.*
- 2006d The Readmission Agreement between the European Community and the Republic of Albania – Manual for Application.

Albanian Legislation and Documentation

Laws

- 1995 Law on The encouragement of employment No. 7995/1995, as amended by Law No. 8444/1999, as amended by law No. 8862/2002.

Decisions of the Council of Ministers (DCM)

- 1998 DCM No. 42/1998 on The approval of the statute of the National Employment Service, as amended by Decree No. 263/2000.

Other Works

Coslovi, L. and Piperno, F.

- 2005 *Forced Return and then? Analysis of the impact of expulsion of different categories of migrants*, Cespi Working Paper 3/2005, Cespi, Rome.

Workshops

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