

Expert meeting in the Dutch Senate on the European Proposal for a Return Regulation

Contribution by Michele LeVoy, Director, PICUM – Platform for International Cooperation on Undocumented Migrants

30 September 2025

The Platform for International Cooperation on Undocumented Migrants ([PICUM](#)) represents a network of 155 organisations working with undocumented migrants in 34 countries. With more than twenty years of evidence, experience and expertise on undocumented migrants, PICUM promotes recognition of their fundamental rights, providing an essential bridge between local realities and the debates at policy level.

On 11 March 2025, the European Commission presented a proposal for a new “Return Regulation”¹ to replace the current Return Directive. If adopted, this legislation will have an impact on the fundamental rights of [millions of people with irregular residence status](#) living in the EU and on broader society. Nonetheless, the legislation was proposed without a human rights impact assessment or formal consultations.

The proposal outlines measures that would entrench coercion, detention and deportation, while undermining fundamental rights of undocumented people and weakening pre-return safeguards. It illustrates a broader shift in EU migration policy away from protection and inclusion and towards criminalisation, surveillance and punishment.

PICUM, together with a broad coalition of [more than 200 civil society organisations](#) calls for the Regulation to be rejected for several reasons:

1. Punitive enforcement approach with only option being deportation

The Commission’s proposal reflects a false assumption that deportation is the only response to irregularity, focusing on how to improve return rates – a highly [contested concept](#) in itself – exclusively through a punitive enforcement approach. This perspective neglects existing practices that take a different direction.

¹ While presented as neutral, the term “return” masks the reality of what is often a coercive, traumatising, and rights-violating process. The use of this euphemism obscures the impact on individuals and communities, and minimises the systemic violence associated with expulsions and removals. Instead, PICUM adopts the term “deportation”. This term more accurately reflects the coercive nature of these measures, particularly in contexts where people have no, or limited, access to regularisation or regular permits, are deprived of their liberty or forcibly removed.

The proposal requires states to issue deportation orders alongside any decision ending regular stay, without considering whether other grounds for stay are met. This includes assessing grounds for stay available in national law (e.g., grounds linked to humanitarian, best interests of the child, medical or family reasons, work-based or study-based permits, existence of social ties, etc) as well as ongoing statelessness determination procedures or in other cases where deportation is not possible (e.g., for practical reasons).

PICUM stresses that this approach is harmful and unproductive and that these and other provisions raising further barriers to accessing national residence permits should be fully deleted from the text. Equally important is maintaining provisions that preserve member states' ability to grant residence permits, visas, or other authorizations on humanitarian or compassionate grounds to people staying irregularly, in accordance with Article 6(4) of the 2008 Return Directive.

Moreover, the text should be strengthened by including clearer and more robust safeguards to avoid return decisions being issued where there are other existing grounds for stay, where return is not feasible, or in the case of children, where it would conflict with their [best interests](#).

Recent research from the European Commission Horizon funded [Mirrem project](#) has demonstrated that regularization [programmes and mechanisms](#) are effective and have been a frequent policy to resolve situations of longer term, protracted irregularity.

Practice and research have shown that people who saw an initial residence or asylum application refused often do have grounds to stay in the country. However, they often need tailored psychosocial and especially legal aid to apply for the right permit, prepare their application correctly and navigate the complex procedures well.

Data from the [City of Utrecht](#) (2002–2019) shows that 59% of the people they assisted were regularised at a later date. Also when return is the only option, more return and reintegration support is needed than what's included in the proposal: it not only takes time to grieve the negative decision, it also takes time and trust to properly prepare the return and reintegration. Practice from [Stichting Los](#) shows that of the 2,470 people they supported in the past five years (2019 to 2024), more than 65% remained engaged in procedures. Outcomes included 30% receiving residence permits, 10% returning, and 25% with cases still pending. **It is therefore highly regrettable that both the LVV and BBB programmes are being discontinued in the Netherlands despite their proven effectiveness in finding durable solutions for people.**

2. Expansion of detention

The proposal promotes the systematic use of detention by states. It significantly extends the maximum length of detention, from 18 to 24 months. This extension is disproportionate and ineffective, and would only deepen harm to the rights, dignity and [health](#) of the adults and children affected.

The proposal also expands the grounds for detention, including criteria that, in effect, cover most people who have entered Europe irregularly or who are in an undocumented situation, against the principle of proportionality and necessity. For instance, a lack of documents or experiencing [homelessness](#) would be sufficient grounds for detention. The proposal allows for the detention of children, despite [international](#) human rights law and [standards](#) indicating that it is always a child rights violation and never in a child's best interests, and [global commitment](#) by governments to work to end the practice.

So-called “alternatives to detention”² (also called non-custodial measures) would no longer have to be considered before applying detention, as is currently the case under the Return Directive. Rather, they could be used in addition to detention and after its time limit has been met.

Furthermore, as part of [MORE](#), a European Commission Horizon-funded project, researchers interviewed 131 state implementing agents of return policies in seven EU countries and the UK, including judges, prison custody agents, police, doctors, and social workers. In many cases, the respondents expressed discomfort in implementing these policies due to the stark contrast between the policy priorities and practical realities. Interviewees pointed in particular to numerous obstacles that often make return an unfeasible option. This was particularly evident for detention, where several state agents questioned the "effectiveness" of this practice for return purposes, as it often results in unpredictable processes with serious impacts on the fundamental rights of migrants.

Prioritising legal protections, procedural fairness and social inclusion is essential to creating a more just and effective return and reintegration framework.

3. Universal right to health and risks for public health

The proposal undermines the universal [right to health](#), and risks creating a preventable, politically constructed public health crisis. It has harmful impacts on:

- [Individual physical and mental health](#): the proposed measures (including detention (Art. 6) and expanded grounds of detention) expand the hostile environment in communities that lead to poor health outcomes, including deaths. Research by the Institute of Race Relations identified at least 123 deaths between 2010 and 2014 directly linked to migration policies – including fatalities during polices chases, deaths caused by dangerous restraints during deportation; punishment beatings by guards; and suicides driven by despair.³
- [Public health systems](#): By further marginalising undocumented migrants and expanding barriers to healthcare, the proposal creates barriers with serious financial costs on health systems. The EU Fundamental Rights Agency has shown that, for example, in cases of hypertension and prenatal care, providing access to health care would lead to long-term savings within two years - up to 48% in Germany and Greece, and 69% in Sweden.⁴
- [Service providers](#): The proposal risks placing providers in conflict with their duty of care and professional ethics, by forcing them to share patient data with migration authorities. This undermines professional integrity, erodes trust, and deters people from seeking care.

PICUM and Doctors of the World will be releasing an analysis on the impact of the proposed Return regulation on health in the coming weeks.

² Many of the alternatives to detention proposed by the Commission in the text would not be considered genuine alternatives. For more info on alternatives to detention, see International Detention Coalition, European Alternatives to Detention Network and PICUM, 2020, [Implementing case management-based alternatives to detention in Europe](#)

³ Abu-Hayyeh R. & Webber F., 2015, [Unwanted, Unnoticed: an audit of 160 asylum and immigration-related deaths in Europe](#), Institute for Race Relations, European Research Programme

⁴ European Union Agency for Fundamental Rights, 2016, [Cost of exclusion from healthcare – The case of migrants in an irregular situation](#)

4. Deportations to countries with no prior ties and offshore deportation centres

This proposal would make it possible, for the first time, to deport a person (including children) against their will to a non-EU country to which they have no personal connection, like countries in which they have never even set foot or through which they have only briefly transited (Art. 4). It also opens the door to deportation “agreements or arrangements” outside EU territory (Art. 17).

PICUM observes that it is highly unlikely that these schemes could work without massive use of detention and surveillance, as it has been the case in all the models that have inspired these proposals, such as the [Italy-Albania model](#) or [Australia’s offshore detention schemes](#).

PICUM strongly opposes the idea of externalising return procedures in its entirety.

Adopting such policies would distance EU member states from their responsibilities under international and human rights law, inflicting immeasurable human suffering. These strategies also fundamentally undermine democratic scrutiny and the rule of law by facilitating the expulsion of 'undesirable' individuals. The European Commission itself had [ruled out](#) these measures for the high risk of refoulement and breaching EU values in an [assessment](#) published in 2018.

Additional Resources:

- ◆ [Joint Statement](#) signed by PICUM and more than 200 civil society organisations, “Over 200 Organisations: Inhumane Deportation Rules Should be Rejected”, September 2025.
- ◆ [Joint Statement](#) from the ProtectNotSurveil Coalition, “The EU must stop the digitalisation of the deportation regime and withdraw the new Return Regulation”, June 2025.
- ◆ [Joint Statement](#) from the Horizon 2020 Projects FAiR, GAPS, MIRreM and MORE in Response to the Reference to these Four Projects in the European Commission’s Proposal for a Regulation Establishing a Common System for Returns, March 2025.
- ◆ MIRREM, 2025, [Handbook on Regularisation Policies: Practices, Debates and Outcomes](#)
- ◆ PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#).
- ◆ PICUM, 2022, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)
- ◆ IOM, Unicef, UN Human Rights, Child Circle, ECRE, Save the Children and PICUM, 2019, [Guidance to respect children’s rights in return policies and practices: Focus on the EU legal framework](#)

For further information:

Michele LeVoy, Director (michele.levoy@picum.org) and Silvia Carta, Advocacy Officer Migration Enforcement Policies (silvia.cart@picum.org)