

# Practical Measures for Reducing Irregular Migration The Case of Norway

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**About the European Migration Network and its Norwegian Contact Point**

The European Migration Network provides the main hub for gathering and spreading information in the region. The Network is supported and coordinated by the European Commission. Norway has been a member of EMN since 2010 as the only non-EU country.

The Norwegian contact point to the EMN (NO EMN NCP) consists of Ministry of Justice, the Directorate of Immigration and Institute for Social Research. In addition to providing and spreading comparable information on migration and asylum in Europe, it is the ambition of the Norwegian member-group to bring attention to the link between Norway and the EU in these politically sensitive areas.

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**Abbreviations:**

BLD	Ministry of Children, Equality and Social Inclusion (Barne- og likestillingsdepartementet)
EBF	Yttergrensefondet (External Border Fund)
EEA	European Economic Area (Det europeiske økonomiske samarbeids-område)
EU	Europeiske Union (European Union)
EURODAC	Identification system based on comparison of fingerprints, which makes it possible to identify a person who previously have applied for asylum or been apprehended illegally crossing external EU borders
FAFO	Fafo - Institute for Labour and Social Research ( Forskningsstiftelsen FAFO)
FRONTEX	Frontières Extérieures (European Agency for the Management of Operational Cooperation of the External Borders of the Member States of the European Union)
IA	Immigration Act (Utlendingsloven)
IATA	International Air Transport Association
IGC	Intergovernmental Consultations
ILO	Immigration Liaison Officer (Spesialutsending for utlendingssaker)
IR	Immigration Regulations (Utlendingsforskriften)
IOM	International Organization for Migration
NAV	Norsk arbeids- og velferdsdirektorat (The Norwegian Labour and Welfare Service)
NCIS	Kriminalpolitisen KRIPOS (National Police Criminal Investigation Service)
NID	Nasjonalt identitets og dokumentasjonssenter (National Identity and Documentation Centre)
NPIS	Politiets Utlendingsenhet (National Police Immigration Service)
POD	Politidirektoratet (Directorate of the Police)
PTN	Sambandsmenn for politi, toll Norden (Norwegian Liaison Officers for Police, Customs in the Nordic Countries)
SUA	Servicesenter for utenlandske

	arbeidstakere (Service Centre for Foreign Workers)
UAM	Unaccompanied minor asylum seeker (Enslig mindreårig asylsøker - EMA)
UDI	Utlendingsdirektoratet (Norwegian Directorate of Immigration)
UNE	Utlendingsnemnda (Immigration Appeals Board)
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

## **EXECUTIVE SUMMARY**

Irregular migration to Norway has increasingly become a subject of discussion among politicians and in the media, often in connection with individual cases involving persons who have stayed irregularly for a number of years. There are, however, great uncertainties with regard to the actual number of irregulars staying in Norway. The latest figures are from 2006, where the Central Population estimated the number of irregulars to be somewhere between 10 000 to 30 000 persons, which is about 0,5 percent of the number of residents in Norway, in other words not very different from other EU/EEA Member States.

What has been the main policy against irregular migration? Generally speaking, there have not been extensive measures in the Norwegian legislative framework specifically directed towards reducing the number of irregulars, except from the measures that follows from the Schengen obligations (Returns Directive and VIS among others). In addition to one external land border crossing point in Finnmark, at the border with Russia, the external Schengen borders under Norwegian control are the sea and air borders. This means that there are few illegal extra-Schengen entries into Norway.

Recent reports states that most entries to Norway, legal and illegal, take place at the internal Schengen borders. There are reasons to believe that many of them are regular as they arrive, but become “overstayers” when their visa or permits expire. In addition, a relatively high number with ongoing (or rejected) asylum applications are leaving the reception centers each year, although many of these will later either get permission to stay or will return to the home country.

A large number of asylum seekers will become irregulars, either because they abscond during the asylum process, or because they do not return to the home country after their application has been finally rejected. In 2008 and 2009, Norway had one of the highest numbers of asylum arrivals in Europe. An active return policy combined with readmission agreements with third countries, is believed to have contributed to a decrease of arrivals in 2010 and 2011.

The most important pull factor for migration, regular and irregular, is the possibilities for work. There is generally a demand for labour in Norway, especially within IT and engineering, but also within activities that require less skilled workers, like building and construction and in the health sector. A liberal legislation of work-permits for third country nationals has not proven sufficient to meet the demand of labour. There is still a demand for labour within several key industries,

especially in the export industry. , and the need for a liberal work permit regime is still present. There have been several cases where work permits have been given on false grounds, in some cases without the knowledge of the migrant. The development is followed closely, especially with measures of inspections on work places and by penalties to employers who employ irregulars. Also, environments of organized criminal networks where asylum are being used as a way to do criminal activities are being followed closely.

There is little support of regularization of irregulars in Norway as a pathway out of irregularity. Instead, there are wide possibilities in the legal framework to legalize an irregular stay. Any new information that is put forward by the migrant will be considered by the immigration authorities at any stage of the irregular stay.



# 1 INTRODUCTION

## 1.1 Objectives

This report is the Norwegian contribution to the study by the *European Migration Network (EMN)* to give an overview of *Practical responses to irregular migration*, initiated as a part of EMN's Work Programme for 2011. The national contributions will be compiled into an EMN Synthesis Report. The present study will provide an overview of the mechanisms of irregular migration in Norway, and give an overview of what measures and methods Norwegian authorities use to reduce irregular migration.

The specific aims of the study are to:

- Examine the overall recent historical and political approaches towards irregular migration in Norway.
- Outline the implementation of EU's and national policies and legal frameworks to prevent, detect, address and reduce irregular migration and the presence of irregular migrants, and their driving forces.
- Provide a comprehensive overview of practical approaches, mechanisms and measures developed by Norwegian authorities to reduce the number of irregular migration in the EEA and Schengen area, as well as participation in transnational cooperation to combat irregular migration.
- Explore the effects of EU policies and legislation on national policies, procedures and practices.

In particular, this contribution will identify effective practical measures undertaken to:

- Address irregular migration before the migrant arrives in Norway (i.e. at **pre-entry level**)
- Detect the **entry** of irregular migrants onto Norwegian territory
- Monitor and ensure migrant compliance with the respective conditions of their visitor's visa and / or other permission to **stay** in Norway in order to avoid overstaying
- Address the (legal) situation of irregular migrants by providing **ways out** of irregularity

The study will focus on third-country nationals found to be illegally present according to the following criteria, although there are other irregular situations which are not included in this list:

- Persons who have entered Norway illegally, i.e. by smugglers (facilitators) or with false documents.
- Persons who have overstayed the visa period or refused to leave after a renewal of permission has been denied. This could be in cases where the conditions for the work or residence permit no longer are satisfied. In addition, there are cases where the permission has been revoked because forged identity documents were used or for other irregularities.
- Persons who have not returned to the home country or country of residence after a final rejection of their asylum application.
- Persons who have absconded during the period when their application for asylum was considered, without leaving Norway.

Many third country nationals who apply for asylum in Norway already have a permit to stay in another Member State, and therefore will not be entitled to have their case considered on its merit in Norway. In these cases, the person will often seek to hide their identity and the fact that he/she has a legal stay in another Member State. These persons will often be in a limbo, since lack of evidence of legal stay makes it impossible to return the person to the Member State. It is still unclear how these cases should be handled, and they will not be discussed further in this report.

## **1.2 Definitions**

The term “irregular” will be used in this report when referring to a person without legal stay. The use of the term “irregular” instead of “illegal” was specified in Resolution 1509 (2006) of the Council of Europe Parliamentary Assembly. However, in most of the relevant Norwegian legislation the term “illegal” is used to describe the status of a person. In this report the terms “illegal stay” (ulovlig opphold) and “illegal entry” will therefore be used when referring to a person’s status according to the national legislation.

The terms which are in accordance with definitions provided by the EU *Aquis* (see EMN glossary) will be used in this report as long as the terms correspond to the different topics or concepts.

### 1.3 Methodology

The National Police Immigration Service (further: NPIS) was given the task to produce this report, because of its involvement with irregular migration in its different phases. First, Norwegian police officers participate in the EU external border control through the FRONTEX-cooperation and with verification and identity work at the Norwegian diplomatic missions. Second, there is close cooperation between the different branches of the Norwegian police controlling the entry-phase, through border control at airports and risk analyses on the sea borders and at the Schengen border with Russia. Third, the police have authority to do checks and apprehensions on the territory in accordance with the Police Act and the Immigration Act, and have an important role in detecting human trafficking, forced labour and other border-crossing criminal activities. Fourth, the police are responsible for identity checks and removal of irregulars to the country of origin. This includes coordinating return transports, both national transport initiatives, and joint charter flights with other countries.

Since most irregulars in Norway arrive across the internal Schengen borders, the first encounter an irregular migrant will have with Norwegian authorities is likely to be with the police, either to be registered as an asylum seeker, or to be subject to an identity check.

All the reports<sup>1</sup> and studies used for this report are from open sources, and most are available on the Internet. The presentation of the legal framework and national policies towards irregular migration build on contributions from The Ministry of Justice and Public Security (further JD), while the Norwegian Directorate of Immigration (further UDI) has supplied statistics and other relevant data material. Also, the UDI have contributed with information on how irregular migration is detected during the application processing stage, and how the different cases are handled. The Police Directorate and the Police Districts have been valuable in sharing supplementary information on border control issues and the work to combat criminal activities, including identity fraud and the uses of counterfeit documents, while the National Police Immigration Service (further NPIS) has provided assessments and analysis regarding return issues and identity work in general.

Several relevant topics within the field of migration have been analysed by independent researchers, and their reports have been helpful in providing data and to understand the drivers of irregular

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<sup>1</sup> See Bibliography

migration and which mechanisms that are in force. Besides, previous research has been useful for defining measures to reduce irregular migration in its different phases. Some studies and reports are based on interviews with irregulars who stay in the territory; others have been with persons who have returned to the home country. These reports have been useful for understanding reasons for migration and why migrants choose one country instead of another.

## **2 POLICIES AND LEGAL FRAMEWORK IN RELATION TO IRREGULAR MIGRATION IN NORWAY**

### **2.1 National policy and legislation towards irregular migration**

The Norwegian approach to irregular migration is by and large the result of a combination of international obligations and the desire to have an effective return policy for those who are in Norway irregularly. To illustrate this, the Norwegian parliament (Stortinget) has in 2012 allocated 150 million kroner (app. € 18, 75 mill) to strengthen the work to return persons without legal stay.<sup>2</sup> The government will thus continue the work to motivate rejected asylum seekers to return voluntarily, in addition to carry out forced returns.

Despite Norway being a non-EU-member, a broad majority at Stortinget sees that the affiliation with EU institutions has safeguarded Norwegian interests, particularly within the area of justice and home affairs policy, including border controls, immigration and police cooperation.<sup>3</sup>

Norway participates in the work of several international organizations involved with border-control, return measures, visa-regime management and so on, the most important being the Schengen- and Dublin cooperation.<sup>4</sup> Norway has also been accepted in the Prüm-cooperation, which is a police cooperation management with special focus on combating terrorism, cross-border crime and illegal migration.<sup>5</sup>

A recently published official Norwegian Report on the effects of Norway's agreements with the European Union concludes that there is relatively little awareness among the general public about the area of justice.<sup>6</sup> Border control and the EU policy on how to reduce irregular migration at borders, is rarely discussed, despite border control issues being a traditional core task for the state.<sup>7</sup>

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<sup>2</sup> See Draft Resolution (Prop.) 1 S (2011-2012) p 9 ([www.regjeringen.no](http://www.regjeringen.no))

<sup>3</sup> See Official Norwegian Report NOU 2012 ([www.regjeringen.no](http://www.regjeringen.no))

<sup>4</sup> See White Paper No 9 (ST. Meld) (2009-2010)

<sup>5</sup> For the Prüm Treaty, see [www.consilium.europa.eu](http://www.consilium.europa.eu). The agreement means that police authorities have access to other MS databases for DNA, fingerprints and vehicles. Meld. St. 9 p. 49 ([www.regjeringen.no](http://www.regjeringen.no))

<sup>6</sup> See NOU 2012:2 p. 693. Also, presentation at KRIPOS 31.01.2012 by Professor Katja Franco Aas, University of Oslo on Migration and Crime Control.

<sup>7</sup> See NOU 2012:2, Chapter 22.2. It is important to note that for Norwegian participation in the Schengen Agreement there is a requirement that all Schengen-relevant Directives should be implemented in Norwegian legislation.

An active return policy will inevitably lead to media focus on individual cases, especially when families with children who have stayed in Norway for many years are involved, but there is general support for the main principles of EU policy and national legislation concerning the handling of irregular migration.<sup>8</sup>

The irregulars as a group, though, have increasingly become a subject of public debate in Norway during the last few years. On the one hand, within the construction of the Norwegian legal framework in the migration field, there is a presumption that an individual who has an order to leave Norway will do so voluntarily. On the other hand, relatively few persons are registered as having left voluntarily.<sup>9</sup> Although there are reasons to believe that while some will remain in Norway irregularly,<sup>10</sup> the cold climate and general transparency of the Norwegian society will lead many to return to the home country, to another Member State or a third country.

Reports from the police show that most entries to Norway, legal and illegal, take place from other Schengen-member states.<sup>11</sup> In addition, many leave the accommodation centers or their reported private address following a final negative decision.<sup>12</sup>

The focus on promoting an active return policy is motivated by the following concerns:

- There is a need to protect the asylum institute.
- Returning irregulars with criminal records who have been expelled from Norway.
- Reduce public expenses
- Prevent irregulars from developing strong ties to Norway, especially families with children

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<sup>8</sup> See Brekke et al. "Innvandring og flukt til Norge" p. 32. Available at <http://www.samfunnsforskning.no/Publikasjoner/Rapporter/2010/2010-002>. One of the conclusions of this report is that there are no updated studies that analyze the Medias' role in the presentation of the field of refugee- and migration. It is therefore no exact evidence to claim that politicians and the public are far apart in the return policy of irregular migrants.

<sup>9</sup> Statistics from the National Police Immigration Service show that in 2010 1118 rejected asylum seekers left voluntary, while the police forcefully returned 4615. (Politiets utlendingsenhet. Årsmelding 2010) .  
[https://www.politi.no/politiets\\_utlendingsenhet/statistikk/arsmeldinger/](https://www.politi.no/politiets_utlendingsenhet/statistikk/arsmeldinger/)

<sup>10</sup> See e.g. the estimates reported in Zhang, L.C.(2008): Developing Methods for Determining the Number of Unauthorized Foreigners in Norway.  
<http://www.udi.no/Global/UPLOAD/Publikasjoner/FOU/FoU.rapport.Learning%20About%20Illegal%20Migration.Issues%20and%20Methods.08.pdf>

<sup>11</sup> See report from NCIS on National Risk Analysis: Nasjonal risikoanalyse. Norges yttergrense mot Schengen 2011 p 3, and Government White Paper 2009-2010 p 5 (Meld. St. 9 2009-2010).

<sup>12</sup> Asylum seekers who leave the accommodation centres are considered in a recent report from the Institute for Social Research. Of the total of 9200 "missing" persons in the period from 2008 to 2011, only 1254 had not subsequently been reported in any system after they had left the centre (Brekke 2012 p. 51).

Based on these concerns, resources have been allocated to reduce processing time for asylum applications in all stages. The work on returning irregulars, and especially those with a criminal record, is a priority for the Norwegian government, and expulsion is one of the fields where there is legal precedence.<sup>13</sup>

Large resources are being spent on providing housing facilities for asylum seekers. Since it is an objective to limit public expenses, the immigration authorities aim to reduce the length of stay in accommodation centers and reduce the total costs of having persons in the centres with an order to leave.<sup>14</sup> The rejected asylum seekers are allowed to stay in the accommodation centre until they leave voluntarily, with or without assistance, or are deported. The large amount of money that is spent on deporting rejected asylum seekers and others without permission to stay is a frequently debated subject in Norwegian media. The immigration authorities' response is that although the costs of deportation are high, the total costs of accommodating rejected asylum seekers in Norway are much higher. By the end of September 2010 there were 17 200 residents in such centres, of whom almost 4 000 had an order to leave Norway.<sup>15</sup>

In addition, there is a humanitarian aspect. For families with children especially, it is argued that the length of stay should be as short as possible, to limit the trauma of a break-up from the communities where the centres are located and in which the children often are well integrated.

Despite the policy-makers' focus on return policy, there is a growing awareness of the irregulars as a marginalized group in society and the need to provide them with access to basic school/education and health services, and to investigate how children are effected by living as irregulars for a long period. Children with irregular stay have almost the same legal rights as Norwegian citizens, with some exceptions, such as the right to register with a general practitioner on a permanent basis.<sup>16</sup> The Norwegian Research Council have funded an interdisciplinary project where one objective is to investigate the Norwegian welfare system's provision of services to irregular migrants and their social and health situation.<sup>17</sup>

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<sup>13</sup> Brekke et al.: *Innvandring og flukt til Norge* pp. 77 - 79

<sup>14</sup> See EMN Conference 08.10.2011. Presentation on Norwegian implementation of the Return Directive by the Head of Department in Ministry of Justice Ellen Sofie Terland.

<sup>15</sup> For further reading see "International Migration" 2009-2010. SOPEMI Report for Norway

<sup>16</sup> Irregular children do not have a right to go to kinder garden, but often the child will be given a place as long as they stay in accommodation centres.

<sup>17</sup> The Research Council of Norway. Programme on Welfare, Working Life and Migration. [www.forskningsradet.no](http://www.forskningsradet.no). New Projects 2009-2010 pp. 27 – 28. Project owner: UNI research AS, Rokkan Centre. Project No.: 207201/H20

## **National policy and approach towards irregular migration in its different phases**

Irregular immigrants are persons without a valid permit to visit or stay in Norway, in accordance with the Immigration Act (IA) and Immigration Regulation (IR).

In the following, the national policy and approach towards the phases of irregular migration will be explored.

### **The pre-entry phase**

Irregular migration can be minimized in the pre-entry phase by focusing on border control on the external Schengen borders, but also by trying to identify the factors that determine the flow of asylum seekers to one country and not to another.

As a part of our Schengen commitments, and to prevent irregular migration in the pre-entry and entry phase in general, Norway focuses on controlling entries on the external borders and in general preventing irregular migrants to enter the Norwegian territory. The preventive work in the pre-entry phase, before the migrant arrives in Norway, is therefore decisive. The Norwegian Embassies will do the initial processing of applications for visas and permits of residence of third country nationals. Embassies that receive high numbers of applications have Immigration Liaisons Officers (ILOs) from the Norwegian Directorate of Immigration (UDI) to do consular work at the Embassy in addition to verification of documents to determine whether the preconditions for entry is fulfilled. 98 percent of all the visas to Norway are issued at Embassies or consulates.<sup>18</sup>

Furthermore, there is ongoing work to make establish the identity of persons applying for residence permits in the pre-entry phase (establishing identity is important also in the stay and return phase). The Government decided in 2009 to establish the National Identity and Documentation Center (NID) to strengthen the immigration authorities' work in determining the identity of foreign nationals.<sup>19</sup> The increasing number of identity fraud and persons arriving without identity documents was the reason for establishing the new institution.

As a part of the work on irregular migration and organized crime, the government has developed an action plan to stop human trafficking. The action plan is based on co-operation between several ministries and agencies. In addition, the police districts in border areas have been strengthened.<sup>20</sup>

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<sup>18</sup> White Paper no. 9 (2009 – 2010).

<sup>19</sup> For further information, see the web page: [www.nidsenter.no/](http://www.nidsenter.no/)

<sup>20</sup> For further reading, see [http://www.regjeringen.no/en/dep/jd/dok/rapporter\\_planer/planer/2010/sammen-mot-](http://www.regjeringen.no/en/dep/jd/dok/rapporter_planer/planer/2010/sammen-mot-)



The new visa system, VIS, was implemented in Norway and other Schengen countries on 11 October 2011. The VIS-system will be significant in the pre-entry phase. VIS will help prevent visa fraud and visa shopping by applicants between EU member states, and can be seen as a tool to prevent irregular migration.

A pre entry measure will be to find ways of analyzing the choice of destination for asylum seekers. Norway did experience a surge in the number of asylum seekers in 2008 and 2009, and one policy aim was to find measures to reduce the number of unwarranted asylum applications. An important study addressing the question “Why Norway?” was published in 2009, concluding that there are several factors beyond the control of the national government that may be decisive for the choice of where to lodge the asylum application.<sup>21</sup>

### **Entry phase**

Border control is one field within the justice sector where the agreements with the EU are most extensive. Through the Schengen Agreement, EU regulations are fully implemented in Norway. The main arguments for participating in the Schengen Cooperation have developed from a desire to take part in international police cooperation, in 1995-96, to a greater focus on “fighting” organized crime and illegal migration, in 1998-1999.<sup>22</sup>

In the entry phase, risk analysis at the external borders is crucial. The Norwegian external Schengen borders consist of the sea and air borders as well as the border with the Russian Federation (a 196 km land border in the north-east).

The sea borders of Norway are normally not used for irregular entries, because of the great distance to countries outside Schengen, the relatively harsh climate and a not easily accessible coast line.<sup>23</sup> One exception is near the Russian border in the far north, where the sea border to Russia is extensive. The police cooperate with the Coast Guard to control the sea borders and the main harbors. There have not been reports of significant numbers of illegal entries along the coast.

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[menneskehandel.html?id=629869](#) (accessed 11.12.2011)

<sup>21</sup> Brekke, Jan Paul, Aarset, Monica Five (2009)

<sup>22</sup> NOU 2012:2, p. 692

<sup>23</sup> Nasjonal Risikoanalyse – Norges yttergrense mot Schengen 2011. KRIPOS. NCIS yearly report of national risk analyses on external Schengen borders p. 7

However, the possibility of the coastline being a line for illegal entry of persons cannot be excluded, and the ship traffic along the coast has always been of concern to the authorities.

The external border crossings from the Russian Federation at Storskog, Finnmark, have increased by 75 percent from 2009 to 2011.<sup>24</sup> The National Police Criminal Investigation Service (NCIS) follow closely all trends and modes that are being reported at the borders. There are yearly reports from FRONTEX and yearly reports from NCIS. In addition, the Eastern Finnmark Police District reports regularly on the traffic across the border. The border has fences and is guarded with control posts, and there is only one border crossing point. The Norwegian view is that a liberal visa regime for inhabitants of these border areas is important to maintain a good relationship with Russia. For this reason, multiple visas are given to inhabitants on both sides of the border.<sup>25</sup>

The Schengen Border Code does not allow controls at the internal Schengen borders. However, as a Schengen compensating measure, the police shall conduct controls within the territory to combat illegal immigration, human smuggling and cross-border crime in general. Directive 01/021 from the Police Directorate “The exercise of police checks within the territory, including in border areas” gives instructions for ensuring that police districts plan and conduct complete controls within the territory in accordance with existing legislation. The police districts shall “*Conduct checks in border areas (close to internal borders) on the basis of national and local risk assessments and intelligence*”<sup>26</sup> Asylum seekers who cross the internal borders will often have travel documents or other documents that can confirm their identity. Random controls in certain areas near the border is therefore given high priority and considered to be important, especially for identification purposes, as identification documents frequently are destroyed or hidden after entry to Norway.<sup>27</sup>

### **Stay phase**

There is ongoing work and projects to reduce the number of persons staying irregularly in Norway, working in the informal economy or taking part in illegal activities.

Several measures have been implemented to protect the asylum system and prevent it from being abused by people who are not in need of international protection, but merely are hoping for a better

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<sup>24</sup> Nasjonal Risikoanalyse – Norges yttergrense mot Schengen 2011. KRIPOS. NCIS yearly report of national risk analyses on external Schengen borders p. 4-5.

<sup>25</sup> Citizens living in border areas on both sides (50 kilometres) will be issued a border pass in 2012. This provides free access to cross the border without the need for visa. This will be studied in more detail in chapter 3.

<sup>26</sup> Directive 01/021 from the Police Directorate. Available at [www.politi.no](http://www.politi.no) and Directive 2010/009

<sup>27</sup> Report to the Odelsting Ot.Prp. No 75 p. 263 and Directive from the Police Directorate 2001/021

future and standard of living. One example is a 48-hour procedure for asylum seekers with obviously unfounded claims. Another measure is to put pressure on employers in the formal economy to demand that third country nationals present valid residence permits and tax deduction cards when they are hired and at the beginning of the (tax) year.<sup>28</sup>

There is currently no political will to implement a regularisation process in Norway. The approach towards amnesties and systematic regularisation is that it will be detrimental to return efforts, and that it could attract other irregular migrants who may not be in need of international protection. However, Norwegian legislation contains clauses that after an individual consideration of the case an irregular immigrant may be granted a residence permit, for instance on the basis of strong humanitarian considerations.<sup>29</sup>

For several years there has been a stated need for foreign labour in Norway.<sup>30</sup> In the preparatory work for the new Immigration Act, it is clearly stated that bureaucratic rules and long processing times should be avoided in order to meet the needs of employers recruiting foreign workers. Positive economic prospects for Norway combined with economic stagnation in major European countries are expected to lead to increased work related immigration to Norway, but mostly from member countries of the EU.

When realizing that the possibility for work is one major driver for irregular migration, there is obviously a potential for abuse. Estimates show that Norway lacks about 16 000 engineers in the work force, and that a liberal legislation is not a sufficient remedy to meet this demand. Media cases have revealed that migrants have used specialist permits to obtain work permits on false grounds. Third country nationals who get work permits as specialists have, despite of high skills, in a number of cases been offered work as low skilled workers with little pay, which result in unintentional irregularity for the migrant. In order to reduce the potential for abuse, the government has proposed to exclude work permits to employers in most sectors except for the IT and export industry. Further,

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<sup>28</sup> Several cases have revealed that false documents have served as a basis for obtaining tax cards. This will be discussed in chapter 3.

<sup>29</sup> On the EMN Conference in Oslo 08.10.2011, the deputy Secretary of State, Pål Lønseth stated the Norwegian view on this subject. A conference proceeding is available at [www.emn.no](http://www.emn.no).

<sup>30</sup> The then minister for labour and social inclusion Bjarne Håkon Hansen initiated a report to Stortinget in 2006 where the need for foreign labour, skilled and unskilled, to Norway was stated. This resulted in White Paper No 18, 18 April 2008 on labour migration ([www.regjeringen.no](http://www.regjeringen.no))

there is a proposal to increase the fines towards companies that hire employers without legal stay for longer periods.<sup>31</sup>

Several police reports point to the challenge that an increased supply of inexpensive labour, combined with a strong increase in less serious companies within the labour-intensive industries, have resulted in an increased number of irregulars in the labour force, especially in urban areas.<sup>32</sup>

### **Removal phase**

Applicants for a residence permit who are present on the territory and who do not fulfill the requirements for legal stay in Norway, are obliged to return to their country of origin or country of residence. It is argued that a low probability of return for irregular migrants can undermine the public support for the asylum system. It is also claimed that it will be unfair to those rejected asylum seekers who return to their home country, if staying in Norway illegally eventually is rewarded with a residence permit. It is also argued that to do so except in exceptional cases may attract an increased number of unfounded asylum seekers to Norway. The policy on return need, in other words, to be consistent and have a high degree of predictability.

### **Legislative framework and penalties in cases of irregularity, and legislation on health, employment and education for irregular migrants**

Foreign nationals' entry into Norway and their presences in the realm are regulated in the Immigration Act (Act of May 15<sup>th</sup> 2008 No. 35) and its corresponding Regulation of Immigration (IR of October 15<sup>th</sup> 2009 No. 1286). It is stated in the Immigration Act that it aims to provide a basis for *regulation and control* with foreigners' entry to and exit from, as well as stay in the realm in accordance with Norwegian immigration policy and international commitments (article 1). In accordance with this, it is stated clearly in article 55 and 56 that a foreigner, who wants to stay and/or work in the realm, needs a resident permit and that a first time resident permit should be granted prior to entry.

### **Penalties/sanctions to be imposed in cases of irregularity**

To secure compliance with the legislation and to prevent misuse, there are sanctions for violating the law: It is stated in the Immigration Act article 66 a that a foreigner without a valid residence

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<sup>31</sup> <http://www.Aftenposten.no/job/Vil-innfore-millionboter-for-overtramp-i-arbeidslivet-6725657.html>

<sup>32</sup> See Police Report: Tvangsarbeid – Kartlegging av indikatorer. Utlendings- og forvaltningsseksjonen Oslo politidistrikt, juni 2011

permit, may be expelled for violation of the act (e.g. if s/he has entered without a valid travel document) or has presented false information or documents, or if the person evade the implementation of a decision to leave the country. Normally, an entry ban accompanies the expulsion decision. The entry ban can be permanent or temporary, but not for a shorter period than one year.<sup>33</sup> In all cases involving expulsion, there must be an assessment of the proportionality of such a decision, cf. article 70. Under this assessment one takes into account the severity of the offence as well as the attachment and affiliation that the foreigner has to the country, etc.

An attachment to Norway based on irregular stay, cannot, in most cases, prevent an expulsion decision. Irregular stay and other violations of the law may also influence the assessment whether or not there should be granted permission based on humanitarian grounds, (article 38 in the Immigration Act). In addition to this, the act has provisions regarding penalty (a fine or imprisonment, or both) for persons who willful or through negligence contravenes listed provisions in the Immigration act, or regulations made pursuant to this act (article 108). The provision also regulates punishment of people who willfully or through negligence contribute to the foreigner's violation of the act, e.g. makes use of a foreign national's labour when the foreign national does not have the permit required under this Act, or willfully helps a foreign national to stay illegally in the realm or in another country participating in cooperation under the Schengen Agreement.

### **Recent changes to our legislation**

As mentioned above, VIS (a database containing information, including biometrics, on visa applications by Third Country Nationals requiring a visa to enter Schengen) has been implemented in Norway. The use of the VIS-system will be significant in the pre-entry phase, since it aims to prevent visa fraud and visa shopping by applicants between EU member states, and can be seen as a tool to prevent immigration on false grounds (2011). A new section 102 is implemented in the Immigration Act and was put into force 11 October 2011.

Immigration Regulation article 1-1A: A provision that give migrants without legal stay, but with a permission to remain in the accommodation centre, ” the right to work without payment (2011) for charity and other voluntary organizations<sup>34</sup>. According to the Immigration Act, it is a precondition for paid work that the person has a permit to stay. When it comes to voluntary work, i.e. unpaid work for humanitarian organizations, sport teams etc, unpaid work at the accommodation centre etc,

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<sup>33</sup> The Return Directive has a minimum entry-ban of one year and will be described in more detail in chapter 5.

<sup>34</sup> The change was implemented 23. May 2011

some “irregular” migrants have now equal opportunities as asylum seekers waiting for a decision, e.g. those that remain at an reception centre with an obligation to return to their home country.<sup>35</sup>

The Ministry of Justice has proposed<sup>36</sup> that an already sanctioned amendment to the Immigration Act, which clarifies the legality of providing humanitarian aid to persons without a residence permit, shall enter into force in the near future. This provision states that providing humanitarian aid is only unlawful if intended to enable the foreign citizen to evade return, and if it obstructs the police’s efforts to carry out forcible return. The provision was sanctioned by the Parliament in 2009, but was to enter into force simultaneously with the new Penal Code, which has been delayed.

There has also been a development towards better access to health care for irregular migrants. The changes have been made to the Patients' Right Act and its corresponding Regulation of Priority article 1 (2011). It follows from these changes that all necessary health care should be given to all persons staying in the realm, regardless of their residence status.<sup>37</sup> Irregular children under the age of 18 will have equal access to health care as Norwegian citizens and those who have legal residence.<sup>38</sup>

The Return Directive has been implemented in Norway (2010), and was put into force 23 December 2010. For section 14-2 the minimum period for ban on entry for expelled persons has been changed from two to one year.<sup>39</sup>

In the assessment of article 38 in cases *involving children*, IR article 8-5 – the child's ties and connection to Norway shall be given particularly weight (2007).<sup>40</sup> The background for this change was a proposal from the parliament (Stortinget) that the government should (as a one-time solution only), pay special attention to families with children who had been in accommodation centers for three years or more. These families should be given renewed consideration with a strong

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<sup>35</sup> White Paper No 39 (2006-2007) and the government declaration (the Soria Moria-declaration) which states that all groups should be included when it comes to voluntary work for ideal purposes.

<sup>36</sup> Draft Resolution. 141 L (2010–2011) Changes in the Immigration Act etc. (consultation of children etc.), from the Ministry of Justice and the Police 24. June 2011, accepted by the government decision the same day.

<sup>37</sup> The change was put into force 30.06.2011. For further reading see press release 47/2011 on government. no / Ministry of Health and Care Services. It should be noted that children are not entitled to register with a general practitioner, This is one reason why the health Centre for irregulars has been established. [www.bymisjon.no/papirlose](http://www.bymisjon.no/papirlose)

<sup>38</sup> Changes in the health service for irregulars is elaborated in a study by Karl Harald Søvig: *Provision of Health Services to Irregular Migrants with a Special Focus on Children*. European Journal of Health Law 18 (2011) p. 43-54.

<sup>39</sup> [www.regjeringen.no/nb/dep/jd/dok/rundskriv/2010](http://www.regjeringen.no/nb/dep/jd/dok/rundskriv/2010) dated 23.12.2010

<sup>40</sup> The change was put into force 1.6.2007

presumption that residence permit should be given. The Ministry responsible for immigration in May 2006 proposed this change.<sup>41</sup>

### **Irregular migrants' rights in Norway**

As a general rule, a person without a valid residence permit will not have rights under the Immigration Act. However, an irregular immigrant is not completely without rights in Norway: A person with a final rejection of an asylum application "may be offered accommodation pending the departure" (The immigration Act article 95). In practice, persons with rejected asylum applications may stay in the accommodations centers until they leave the country. Here they also are provided with food and "pocket money", and they are not considered to be irregulars as long as they are staying there.<sup>42</sup>

IR article 17-26: A person with a final rejection of an asylum-application may be given a temporary work permit, if certain conditions are met, among others that the person's identity has been established and that it has not been possible to implement the return decision (this criterion only applies to persons who have cooperated with the authorities to facilitate their return).

As mentioned above, Norway has recently reviewed its regulations regarding irregular migrants and health care, with the purpose of clarifying existing rules (in the Patients' Right act and its corresponding regulations). As described earlier, the right to engage in voluntary work corresponds with the governments' aim that all groups of society should be given the opportunity to participate in such work. Another aim of this change is to let asylum seekers have the opportunity to use their skill or get new ones, and to reduce the passivity in the accommodation center while waiting for a decision..

### **Regularization provisions**

Stay on humanitarian ground; article 38, is a provision that determines that a residence permit may be granted in cases where there are strong humanitarian grounds or strong ties to Norway. Long-time irregular residents in Norway may be granted a residence permit under this provision. However, an overall assessment must be made, where other considerations must also be taken into

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<sup>41</sup> The background is the Dokument 8: 69 (2005-2006) [www.stortinget.no/nm/sakerogpublikasjoner](http://www.stortinget.no/nm/sakerogpublikasjoner)

<sup>42</sup> The payment for single adults will be reduced from 3158 NOK each month to 1910 when they receive an negative decision followed by an order to leave.

account, e.g. ties to the country of origin, degree of collaboration with Norwegian authorities and possible effects on irregular immigration.

In cases involving children, the IR article 8-5 states that the child's ties and connection to Norway, shall be given particularly weight. This also applies in cases where ties to the country have been established largely during an irregular stay.

A permit might also be granted under article 38, in cases where there are practical obstacles for returning the person to the country of origin (IR article 8-7). This only applies when the person has assisted in the efforts to return to the country of origin, by e.g. having sought to obtain travel documents. There is also a condition that the identity is clear, that three years has passed since the date of application, and that it is unlikely that implementation of the decision will be feasible. Experience shows however, that this provision is rarely used. This indicates that almost all those who wish to return are able to do so.

## **2.2 Institutional framework**

The complete immigration control process involves several government agencies. Usually, an application starts at a diplomatic mission abroad and the application is then examined and supporting documents are verified before they are forwarded to Norway for a decision. The responsibility for policies and the regulation of migration at the pre-entry level is with the Ministry of Justice. The ministry is responsible for all procedures in this phase, to ensure that the necessary preconditions for entry are satisfied and in this way prevent illegal entry. The Norwegian Directorate of Immigration (UDI) implements the rules and regulations. The Immigration Appeals Board (UNE) is an independent appeals body for all applications that has been rejected in the Directorate of Immigration, as well as for expulsion decisions. The decisions made in the Board will set a precedence for similar cases.

The Norwegian embassies and consulates are the responsible units for the reception and initial processing of applications of visa or residence permits (verifications etc.). The Embassy may use Norwegian employees from the UDI or the Police, (Immigration Liaison Officers - ILOs) depending on the workload at the Embassy. The staffs are handling applications of residence permits (work, family reunification etc) and issues visas. The ILOs from the Police have a



responsibility to verify identity, combat human trafficking etc. There are also representatives from the National Criminal Investigation Service (NCIS) working in some embassies, to deal with issues regarding crime and custom affairs, but also in cases involving other criminal activity that has a link to irregular migration.

In accordance with the Immigration Act (IA) section 22 it follows that:

“The police shall be responsible for border control” and “The Customs and Excise Service shall assist the police in controlling the entry and exit of foreign nationals in pursuance of this Act”.

According to the IA article 21-second section, the custom officers can hold a person until the police arrive if there is reason to believe that the person’s entry is illegal.<sup>43</sup> The main task of border control is to check identity and valid entry permits.

The Ministry of Justice and The Directorate of Immigration (UDI), are the central institutions in formulating immigration policy and the guidelines for its implementation – also for irregular migration in the entry-phase. The operational responsibility rests with the national police service in Norway, which consists of seven special branches and 27 Police Districts. There is no appointed border police in Norway, and the local Police District are responsible for border control at the airports with external-Schengen flights, the sea borders and the land border with Russia and for territorial checks on internal Schengen flights.<sup>44</sup> Risk analyses and intelligence information for border control issues are provided by the National Criminal Investigation Service NCIS while the National Police Immigration Service (NPIS) is responsible for establishing identity of the persons who apply for asylum.<sup>45</sup>

The Ministry of Justice is the leading policy making body for border control. On the external-Schengen borders the police are responsible for detecting false travel documents and take fingerprints for the EURODAC, and NPIS then will do identity and document inspections.

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<sup>43</sup>See Ot.prop. nr 75 p. 19

<sup>44</sup> The term “Police” in this report refers to the 27 Police Districts. Norway has the following seven special branches; National Criminal Investigative Service (NCIS), National Police Immigration Service (NPIS), National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM), National Police Computing and Material Service (PDMT), National Mobile Police Service (UP) , Norwegian Police University College (PHS) and Border Commissioner – Norwegian/Russian Border .

<sup>45</sup> Directive from the Police Directorate 2012/005

The Police have authority to guard the Russian border, with support from soldiers from the Military Garrison in South-Varanger, which has been given limited police authority in case of border violations. In addition, the Police have a unit in the district, which is specially trained for handling conflicts at the border. At the coastal borders, the Police together with the Coastal Guard are authorized to control ships and boats if they suspect that persons will enter the territory illegally. There are several harbors in the area, and between 600 and 700 third-country ships arrive every year, the majority of them from Russia, and the largest number of these are coming to Kirkenes. Every ship has a crew of around 20-50 persons; which means that a great number of police and soldiers are needed to do entry-checks of the harbors.

The Ministry of Justice is responsible for making and implementing the legal framework regarding all phases of stay in the territory. The Police is authorized to control any foreign national in the streets and other public places (General immigration control) <sup>46</sup> According to the Directive of Border Control for the Police District cf. Immigration Act art.21, the police are entitled to do “ordinary control of non-nationals” on the territory and in the border areas (internal Schengen borders). The police may demand that all foreign citizens document their identity and their residence status.

In cases where a person do not have legal stay, and has not applied for asylum, the Police District is responsible for his/her return, and will be assisted by the NPIS when there is a need for contact with home country’s authorities for establishing the person’s identity or the acceptance for return to the home country. <sup>47</sup>

The Norwegian Central Population Register is responsible for registering all non-nationals who are residents in Norway, i.e. those who intend to stay (legally) for 6 months or more. To be registered with legal stay is a precondition for obtaining the universal national personal identity number which is needed to open a bank account, to pay taxes and social security contributions and to have access to all welfare provisions; health services, schooling, education and so on.

The Ministry of Labour is responsible for all policies regulating labour markets and working conditions. A residence permit in Norway includes the right to work if not otherwise stated, and a

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<sup>46</sup> Other terms used for this activity are “territorial control” and “internal control of foreigners”

<sup>47</sup> Directive from the Directorate of the Police 2012/005

permanent residence permit for persons who have come to work in Norway is normally granted after three years of residence providing certain conditions are met. If the conditions for renewal are no longer present, the UDI should reject the application, and the person will be asked to leave.<sup>48</sup> The Norwegian Labour Inspection Authority will, when inspecting work places, report to the police if they find that foreign nationals are working without a required permit, e.g. because the person does not have a valid residence permit. It will also be reported if there are other irregularities, often regarding safety at work places or persons working for pay that is lower than required for the work permit.

The Minister of Finance is responsible for formulating and implementing taxation and fiscal policies. The regional tax office will take action if there is information about persons working without a valid tax-card, or if there is information indicating that an employer has employees who are not registered as taxpayers.

The Ministry of Justice is also the leading policy making authority for return policies. This includes participation in negotiations of readmission agreements and employment of ILOs and other representatives working in the field of return abroad. However, the Ministry of Foreign Affairs is the formal negotiator of all bilateral agreements.

The NPIS have a leading role in preparing the return cases of all irregulars who are waiting to get deported. This include facilitating forced return, i.e. in the negotiation of readmission agreements, consultative body in all law amendment proposals, while the Norwegian Directorate of Immigration (UDI) is responsible for voluntary assisted return. The representatives from the NPIS or UDI (the ILOs) in countries of origin have an important role in the return phase. They make certain that the home country's authorities have accepted to receive the deported persons. In countries where there are no ILO representatives, the Norwegian Embassies will in many cases be important coordinators of return operations, together with the NPIS.

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<sup>48</sup> In the new Immigration Act and Immigration Regulations, the term "residence permit" replaces the former "residence permit and work permit". The term "work permit" is no longer used, and as from 1 January 2010 the only permit issued are residence permits.

Trandum Police Holding Centre for foreign nationals is a detention centre run by the NPIS where the deportees will stay if there is risk of absconding. The typical duration of stay at Trandum is 4-5 days.

### **Other stakeholders and their role in policymaking and implementation of policy**

There are several organizations and agencies involved in the field of migration, where some are more important for reducing the number of irregulars than others. The Norwegian Welfare and Labor Organization (NAV) is responsible for all payment of welfare benefits to persons residing in Norway, and has an important role in detecting when payments are made to, or claimed by, irregulars who are not entitled to benefits. The Norwegian Central Population Register is subordinate to the Tax Administration, and is responsible for issuing the special tax cards (D-number cards) to non-residents with a tax obligation to Norway. The Norwegian Labour Inspection Authority will initiate and carry out inspections on work places and report any irregular workers found, but the authority is primarily concerned with security and working conditions, payments for workers etc.

Service Centres for Foreign Workers have been established in Oslo, Stavanger and Kirkenes. At these centres both employers and employees can obtain information about how to initiate a fast-track handling of applications.<sup>49</sup> The Centres consists of officials from the Labour Inspection Authority, the Police, the Tax Administration and the UDI, all gathered at one place. The Centres are meant to serve workers and employers who need a permit fast, but have also been effective when it comes to detect false documents and irregular migration.

The International Organization of Migration (IOM) is a service provider of voluntary return, and is important in the work to encourage rejected asylum seekers to return voluntarily to their country of origin. The IOM is involved with irregulars in the sense that they initiate information campaigns aimed especially to those who are residing illegally, informing them about the possibilities and benefits of voluntary, assisted return.<sup>50</sup>

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<sup>49</sup> [www.sua-no](http://www.sua-no)

<sup>50</sup> The IOM had several information campaigns on public transport in 2009, especially addressing young persons. For further reading see IOM's webpage [www.IOM.no](http://www.IOM.no).

### **3 PRACTICAL MEASURES TO REDUCE IRREGULAR MIGRATION**

In this chapter we will in more detail present the challenges of irregular migration, followed by some measures that have given positive results in reducing the extent of irregularity. It should be noted that to define some relevant methods and tools is not sufficient to reduce irregular migration. The responsible authorities will always have to set priorities when actually applying these tools, and measures to reduce and detect irregulars may often compete with measures used to detect and reduce other forms of illegal behaviour.

#### **3.1 Pre-Entry: practical measures undertaken to address irregular migration before the migrant arrives in Norway**

The task of reducing irregular migration in the pre-entry phase largely focuses on two groups. The first group consists of those applying for a residence permit from abroad, and the second group consists of the asylum seekers coming to Norway, who are not irregular as long as they register after upon arrival, but who will be irregular when they get a final negative decision and overstay the deadline set for departure.

##### **Strengthening the first-line processing of entry permits**

In chapter 2, the ILOs role was mentioned, and their work is largely meant to secure that entries into Norway are legal and based on current rules and regulations. There are two kinds of Immigration officers: The immigration liaison officers from the police are officers who are particularly charged with verifying identities abroad, preventing smuggling of human beings and assisting involuntary return. The immigration liaison officers from the UDI are involved in the visa application process, investigating the intention to return etc. Further, they interview applicants for family migration. There are ILOs from the UDI in eight Embassies.<sup>51</sup>

The NPIS is responsible for 3 liaison officers (police officers), working at the Embassies in Amman, Addis Ababa and Bangkok. A 4<sup>th</sup> liaison officer is to be sent to the Embassy in Algiers by mid 2012. These officers are mostly involved in the removal phase, but will also do work that is to

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<sup>51</sup> There are ILOs from the UDI in the following Embassies: Nairobi, Amman, Damascus, Islamabad, Teheran, Moscow, Bagdad and Kabul

have important preventive effects, like identity checks. The ILOs have built a network with the host country's authorities and cooperates with them on relevant issues.<sup>52</sup> In addition, there are Norwegian PTN liaison officers (Police, Customs in the Nordic countries) who are officers subordinate to the Ministry of Justice and the National Police Directorate. They have been seconded to main source or transit countries of organized crime, in addition to be involved with investigating migration-related issues.

### **Airline sanctions**

To penalize airlines that carry passenger with "obvious" false documents or who do not have of legal entry provisions (visas) has proved to be an important measure. Such passengers will represent economic loss for the airlines, not only because of the fines, but also because the passengers who have false documents often have paid the air ticket with stolen credit cards and the payment thus will not be honoured by the credit card company. The International Air Transport Association (IATA) agrees with migration authorities that migrants with illegal documents may represent a security risk and weaken the reputation of an airline. The Police have the authority to fine airlines that carry passengers without legal entry permits. This is regulated in the IA section 108-second paragraph b, cf. IR article 18-13 second section, cf. the Criminal Code article 48a.

The use of false or misuse of real documents is often very hard to discover and thus represents an important challenge. The controls that are done at the point of departure by third-country airport personnel is often superficial, as they will only check if there is a visa stamp, and / or if the passport is an obvious counterfeit.

The airlines that carry passengers without legal travel documents to Norway are penalized with a fine that is currently NKR 25.000 per person (€ 3125).<sup>53</sup> According to police reports, at Gardemoen airport (the main international airport in Norway) in 2008 there were 26 such violations, in 2009 21, in 2010 46 and in 2011 there were 35 violations.<sup>54</sup>

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<sup>52</sup> Politiets Utlendingsenhet: Årsmelding 2010.

<sup>53</sup> The amount of the fine, NKR 25.000-for each person has not increased the last 10 years, and the amount is on the same level as in other European states.

<sup>54</sup> Interview with police inspector Jan Eirik Thomassen on the Romerike District Police on 30 November 2011.

## **Information campaigns and other measures to reduce irregular migration in the pre-entry phase**

The asylum policies dominate the media discussions about immigration in Norway, especially in times with high numbers of arrivals of asylum seekers. As for other European states, there are few “available tools” to reduce the number of arrivals.<sup>55</sup> To reduce the number of unwarranted asylum applications to Norway is an important policy aim, and measures to do so were introduced following the relative high number of asylum seekers in 2008 and 2009. Together with Malta, Norway these years received the highest number of asylum seekers per capita among the countries in Europe. Thus, there were reasons to investigate which factors that were important when asylum seekers choose Norway as a destination.<sup>56</sup>

The question “Why Norway?” was addressed in an important analysis made by Norwegian researchers in 2009.<sup>57</sup> It seems clear that some measures have proved to be effective in reducing the number of asylum seekers from certain countries, such as those in the Balkan region: media coverage of charter return flights and fast track processing of asylum cases did reduce the flow of asylum seekers from these countries. The above mentioned 48-hour procedure has in itself reduced irregular migration. The fast track asylum procedures are, however, used only for a few nationalities. For most third country nationalities the fast track procedure is not possible because of the complexity of these cases and the difficult security situation in the origin countries of the largest number of asylum seekers in Norway.

One of the findings in Brekke et.al.s study is that most nationalities have no clear opinion of where they want to apply for asylum at the time of departure from their home country. For some nationalities, like Iraqis, a Diaspora living in Norway will have an effect on their decision, but for others, the decision is based on factors that are hard to identify precisely.<sup>58</sup>

Brekke et al. argues there are forces outside a national government’s control that will influence flows of asylum seekers to one country and not another.<sup>59</sup> Unpredictable factors, like the actual duration of the journey, people they meet, and the facilitators (smugglers) are more decisive for

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<sup>55</sup> Brekke, Jan Paul and Aarset, Monica Five (2010)

<sup>56</sup> See White Paper (Meld. St. 9) p. 21.

<sup>57</sup> Brekke, Jan Paul and Aarset, Monica Five (2009)

<sup>58</sup> *ibid* p. 90

<sup>59</sup> *Ibid.* p. 94. At a press conference in September 2008, the Norwegian Government presented 13 points of restrictions in the asylum policy that was meant to have the effect of reducing the number of arrivals. Nevertheless the arrivals continued to increase in 2009, both the total number and the number of UAMs. This has been explained by a poor communication strategy and internal disagreements within the government.

where the asylum seekers end up presenting their claims, than an initial idea about Norway as a (possible) destination.<sup>60</sup> There are reasons to believe, however, that an actual change in practice and policy, or simply media coverage of a future change of policy, may have an effect on the choice of destination for an asylum seeker. The media coverage of the possibility that reception centres may be established in Afghanistan illustrates this.

### **Example 1: The planning of reception centres in Afghanistan**

In 2009, the Norwegian government started the planning of establishing reception centres in Afghanistan for returned UAM (including young adults) from Norway. Referring to the need to minimize the arrivals of UAM to Norway the centres should house unaccompanied minors who had got a final negative decision on their asylum claim, There was broad media coverage of these new plans, and the Government in Norway stated they would allocate enough resources to execute the plans. The proposed plans for reception centres became an issue on the political agenda. The plans were criticized by several NGOs, amongst these Save the Children, which partly explains the great media attention which they received.<sup>61 62</sup>

The background for the initiative was the high numbers of unaccompanied minors from Afghanistan to Europe in general and to Norway in particular. A UNHCR report from June 2010 stated that organised human traffickers largely conducted the traffic of minors to Europe from Afghanistan. UNHCR called for an urgent need to reduce the traffic because the minors were in a vulnerable situation; many had been victims of violence and sexual abuse on the way. For many, the journey to Europe was a much greater risk than staying in Afghanistan or in a neighbouring country. UNHCR recommended a speedily return of those not entitled to stay.<sup>63</sup>

Although the planned reception centres did not become a reality at the time (partly due to internal conflicts in the Afghan government) the number of unaccompanied minors to Norway was strongly reduced. There were two other factors which may explain the decline. One was that UAMs no longer were exempt from being returned to states participating in the Dublin-cooperation, the other is that a temporary permit can be given to persons over 16 if the only reason is lack of care in the

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<sup>60</sup> Ibid p 90-91

<sup>61</sup> See [www.reddbarna.no/nyheter/-stoppomsorgssentrene-i-Afghanistan](http://www.reddbarna.no/nyheter/-stoppomsorgssentrene-i-Afghanistan)

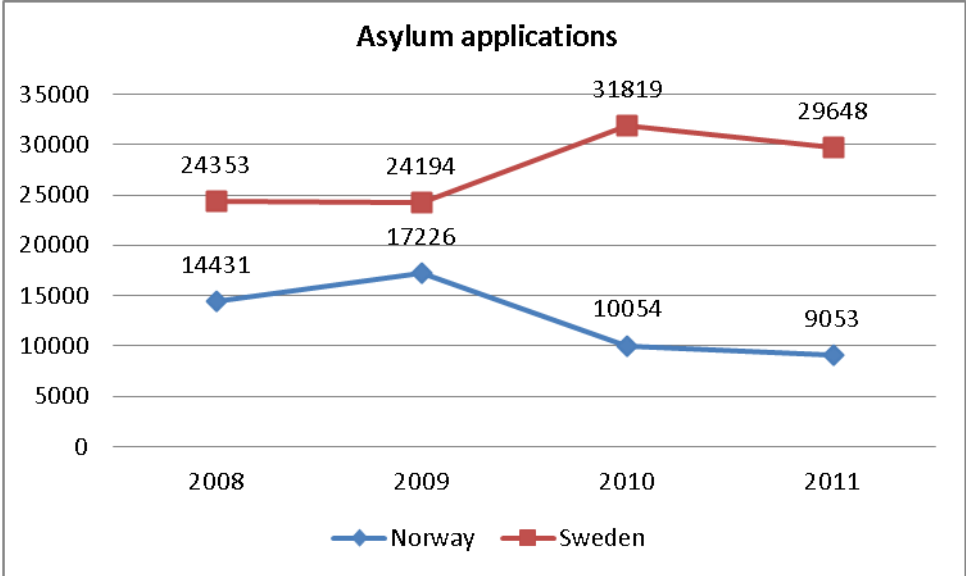
<sup>62</sup> An MOU was signed between Norway and Afghanistan 11.04.2010 stating that the Afghan government would be the responsible caretaker of the minors as they were returned to Afghanistan. Press release by the Government 11.04.2010 ([www.regjeringen.no](http://www.regjeringen.no)).

<sup>63</sup> *Trees only move in the wind: A study of unaccompanied Afghan children in Europe.* [www.unhcr.org](http://www.unhcr.org). June 2010 p. 39.



home country. These persons must leave Norway when they reach the age of 18. At the same time, Sweden had the opposite experience; the number of unaccompanied minors increased in this period, and has continued to increase ever since, although it is hard to prove that there is a strong relation between the decrease in Norway and the continuous increase in Sweden.<sup>64 65</sup>

Table 1<sup>66</sup> Total number of asylum seekers to Norway and Sweden 2008-2011



<sup>64</sup> Statistics provided from National Police Immigration Service (NPIS)

<sup>65</sup> It should be emphasized that the age of the minors are based on the person’s own statement at the time of arrival. It turns out that several of the unaccompanied minors are found to have been over 18 years of age, according to medical age tests and other indications. Around half of all the UAMs who came in 2009 were not considered as UAMs. Some were over 18 at the time of application, while others became 18 at the time their case was decided. Some had also close family in Norway ([www.udi.no/Norwegian-Directorate-of-Immigration/Annual-Report/2010/](http://www.udi.no/Norwegian-Directorate-of-Immigration/Annual-Report/2010/))

<sup>66</sup> Tables 1, 2, 3 and 4 are provided by UDI ([www.udi.no](http://www.udi.no)) and the Swedish Migrasjonsverket ([www.migrasjonsverket.se](http://www.migrasjonsverket.se))

Table 2: Total number of asylum applications from unaccompanied minors (UAM to Norway and Sweden 2008-2011

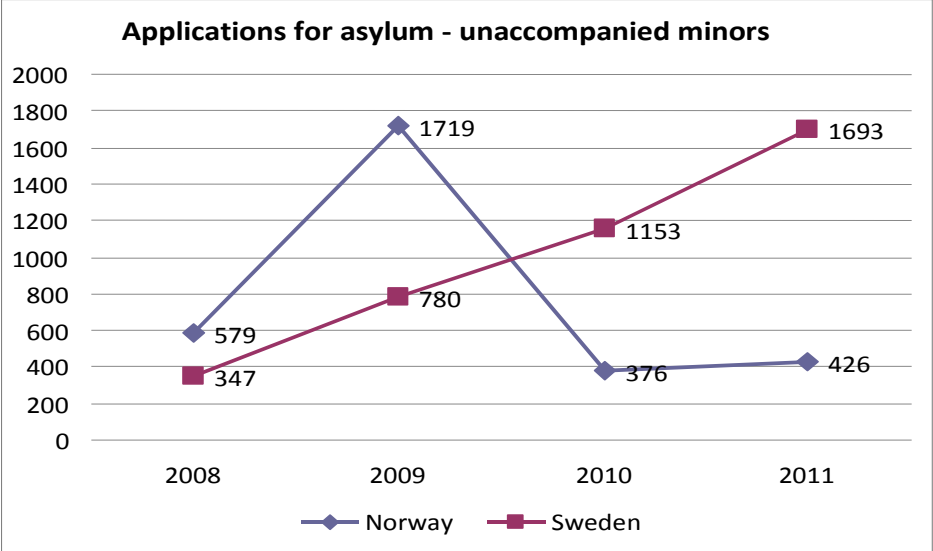
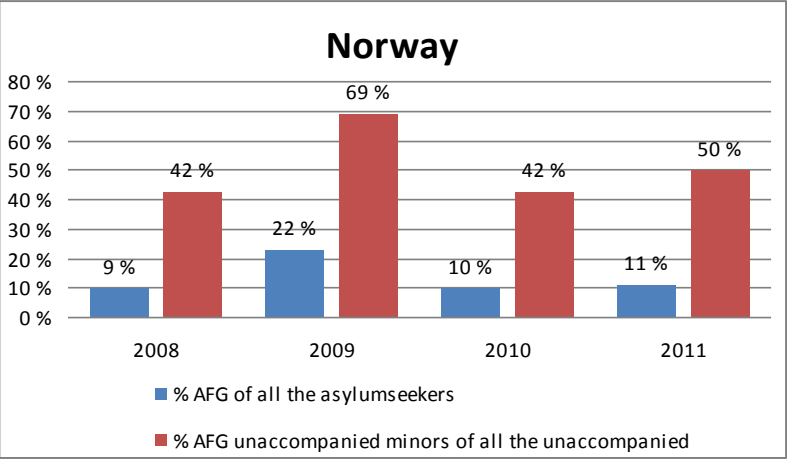
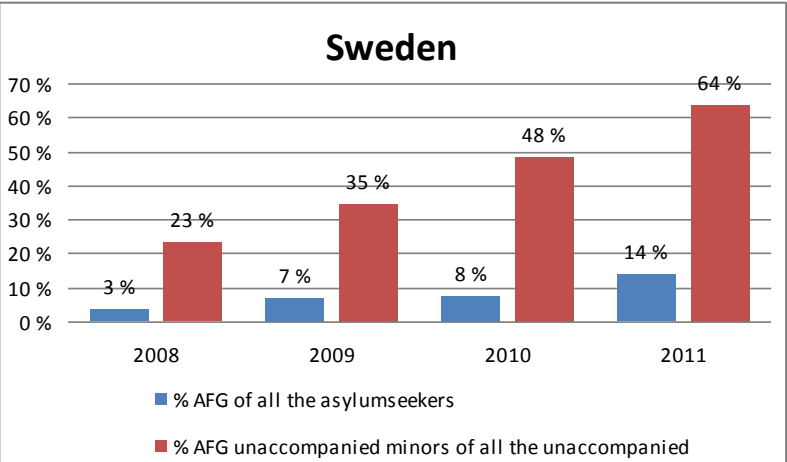


Table 3: Percentage of UAM from Afghanistan of all Afghan asylum seekers and of all UAM, in Sweden and Norway 2008-2011



Afghan authorities also have concerns regarding the high number of UAMs travelling to Europe, and is supportive of initiatives that help to reduce the traffic. An agreement to start an information campaign will be signed between the Norwegian Ministry of Justice and UNICEF 2012. Based on recommendations from UNHCR and UNICEF on child migration, the information measures are specifically aimed towards those regions and groups in Afghanistan which are known to send children to Europe. The campaign is also a measure to prevent child abuse more generally. The project is to run from January 2012 to June 2013.<sup>67</sup>

### **Lessons learned**

- Media coverage of concrete and comprehensive plans of changes in policy and practice is likely to have an effect on the number of arrivals of the relevant groups of asylum seekers, In the on-going work to reduce the flow of minors from third countries with many arrivals of minors, it is important that there is cooperation, especially with neighbour countries. There are reasons to believe that the sharp reduction in the number of minors to Norway in 2009/2010 was caused by several factors, where media focus on return to Afghanistan was one. If there had been similar plans in Sweden, there may have been a decrease there too.
- Change of policy must have a time frame and be realistic.

### **3.2 Entry: practical measures undertaken to identify and detect irregular migrants at borders**

Illegal crossings and activities related to external borders do not represent major challenges for Norway. The tools available to detect irregular migration on external borders are mostly associated with visa regimes and control of the persons passing the external Schengen borders. There are reasons to believe that developing good diplomatic relations, irregular migration at borders may be overcome by mutual agreements and understanding. Ideally, external border control should include good diplomatic relations in combination with control measures.

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<sup>67</sup> Prop. 1 S (2011-2012) p. 207

## **Border control at the External-Schengen Borders**

The airport at Gardemoen, Oslo, is the main external entry point to Norway. All persons arriving or departing on external Schengen flights go through passport controls. If there are persons with documents that are suspected of being false, there are expert personnel with advanced equipment who are doing document inspections after all arrivals and before all departures.<sup>68</sup> Also, the borders at sea is subject to inspections, but as outlined in chapter 2, up to now there has been no indication that a significant number of irregular entries has crossed this border.

### **Example 1. Barents Region and the eased visa-regime**

The only external Schengen land border, is the border with Russia at the Border Control Post (BCP) at Storskog, Finnmark (196 km). The police are especially observant of large vehicles passing the border, and along the coast there are inspections of ships at the harbour. Until 2011, the risk of illegal border crossings at the Russian border was considered low, but it was upgraded to “moderate” in 2011 at the land border due to large increase in traffic, and the possibility of smuggling persons in large trucks.<sup>69</sup> The example below illustrates that an external Schengen-border regime can be liberal, and at the same time function within the parameters of the Schengen Regulations.

However, potential irregular migration on this border cannot be excluded in the future. There are two measures that are likely to reduce this potential. First, the bilateral readmission agreements. Generally, these agreements are thought to reduce potential conflicts between states, and are a useful and practical tool to overcome obstacles for return.<sup>70</sup> The readmission agreement with Russia has been successful in the sense that a high percentage of the rejected asylum seekers have returned voluntarily. Second, a cornerstone of Norwegian foreign policy is the Northern Dimension and the Norwegian-Russian relation. Mostly, the Northern Dimension is about how to manage the natural resources in the Northern areas, and the question of border control and eased visa regime is one of several issues which will influence the Norwegian-Russian relation in the Northern area. In the context of the Second Ministerial Meeting of the Northern Dimension in Oslo on 2 November, 2010, Norway and Russia have signed an agreement on facilitation of travel for border area residents in Norway and Russia. According to this agreement, residents in those parts of Norway and Russia that lie within 30 kilometres from the border, as well as in the entire territory of Korzunovo municipality, will be eligible to apply for a local border traffic permit. The holder will

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<sup>68</sup> There are 27 airports and 284 harbours authorized with extra-Schengen border controls.

<sup>69</sup> KRIPOS ”Nasjonal risikoanalyse 2011 (National Risk Analysis from the National Police of Crime Investigation)

<sup>70</sup> See conference paper from 24.10.11 on [www.emn.no](http://www.emn.no)

be permitted to stay for up to 15 days at a time in the border area of the other state without a visa. About 9 000 persons in Sør-Varanger municipality on the Norwegian side and 45 000 persons in Pechenga rayon on the Russian side will be covered by the agreement.<sup>71</sup>

Without doubt, a fruitful relationship with Russia will also have positive effects if there are to be a large number of irregulars passing this border. So far, there are no obvious signs of increase of illegal entries even though the traffic has increased. Since 1949, this border has, for geopolitical and military reasons, been guarded by military staff at the fences and control posts. The traffic across the border has increased on a fast rate during the last 10-15 years (in December 2011, 22 713 persons crossed this border, which was a new monthly record).<sup>72</sup> Even though some of the cross-border activity has been illegal, the total picture shows positive effects. Trade and economic activity have increased on both sides of the border, and the diplomatic relationship between Russia and Norway has improved due to a simpler border-crossing regime. There are few signs of misuse of visas or asylum abuses despite a liberal visa regime for those who live in border areas.<sup>73</sup>

### **3.3 Stay: practical measures undertaken to control irregular migration in the territory.**

This section deals with the challenges of reducing the number of irregulars who are present in the territory. There are several categories of irregulars staying in the territory. Below three different examples are presented.

#### **Apprehensions and control of third-country nationals**

As outlined in chapter 2, the police are entitled to do “ordinary control of non-nationals” on the territory and in the border areas for internal Schengen borders. There are two directives which regulates the police right to apprehension of foreigners. The police circular 2001/021 “Police control of foreign nationals on the territory, including border areas” refers to the Immigration Act art. 21, which give the Police authority to stop all non-nationals and require that they show identification and give information about their residence status.<sup>74</sup> Additionally, the Police Act and Regulation make it possible for the police to check the identity of any person present on the territory when this is deemed necessary, without prior suspicion of an illegal activity.

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<sup>71</sup> See article by Tomas Nilsen on [www.BarentsObserver.com](http://www.BarentsObserver.com)

<sup>72</sup> Statistics provided by the police ([www.politi.no/ostfinnmark/grense](http://www.politi.no/ostfinnmark/grense))

<sup>73</sup> Prop. 1 S (2011-2012) p. 207 ([www.regjeringen.no](http://www.regjeringen.no))

<sup>74</sup> POD-veileder – utlendinger og kriminalitet. [www.politi.no/politidirektoratet/publikasjoner](http://www.politi.no/politidirektoratet/publikasjoner)

The same rules apply to coastal waters. Any ship or small boat may be controlled within the territorial waters. The police are expected to carry out these controls frequently, and report to the NPIS on a monthly basis. The reports shall include the number of inspections that have been conducted and their results. Risk analyses and/or intelligence information will suggest that the frequency of controls may increase during certain periods.<sup>75</sup>

### **Example 1. Measures to detect irregulars by controlling drug dealing in Oslo**

Cooperation between the police, the NPIS and the UDI have had good results when it comes to detecting asylum abuse linked to organised criminal activity. Since April 2009 there has been a project to detect the links between crime and asylum abuse by apprehending persons belonging to drug dealing groups in Oslo. The project has a limited geographical scope and involves relatively few persons, but as a measure to reduce crime and irregular migration, there are several positive results, and a lot to be gained in working methods and cooperation by the relevant authorities.

The police in Oslo will regularly apprehend persons who are dealing drugs openly in the streets. Those apprehended are typically males between 20-40 years old, claiming to be nationals from Algeria or Nigeria, or to be stateless. There are strong indications of organized crime in connection with this group. The majority of those apprehended has criminal records.<sup>76</sup>

In several cases the criminals are not known already to the authorities, and they will often apply for asylum after they have been apprehended. In most cases, the persons will carry on with illegal activities while the asylum application makes them entitled to accommodation and pocket money at a reception centre. Often, the offences are minor and below the minimum required for a formal charge, which means few are convicted and sentenced. Following their apprehension NPIS will start or strengthen its efforts to establish their identity and prepare for their return. This process is based on updated information received from the police every morning. Persons belonging to this group will be given priority in the asylum process. The UDI and Immigration Appeals Board (UNE) have close deadlines for asylum processing in these cases to ensure that the case is decided rapidly.

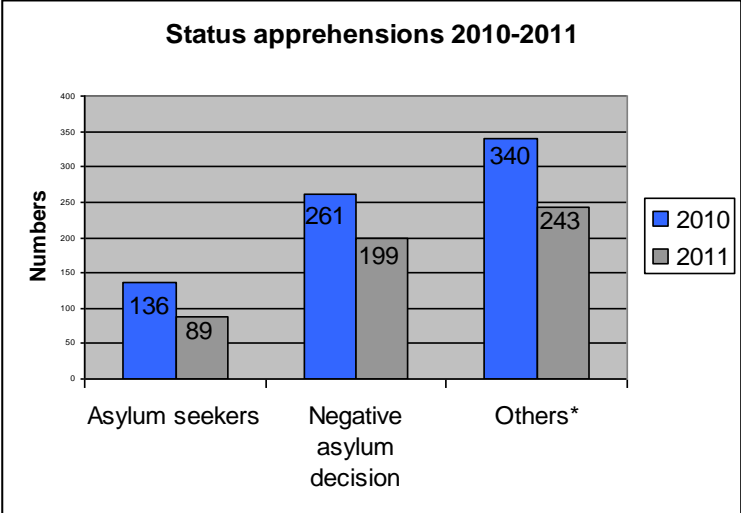
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<sup>75</sup> Directive from the Police Directorate 2010/009 p.12

<sup>76</sup> Politiets Utlendingsenhet: Årsmelding 2010 p.19 [www.politi.no/pu](http://www.politi.no/pu)

The table below shows the number of apprehended persons in the drug dealing environment in Oslo in 2010 and 2011, by whether they at the time of apprehension were an asylum seeker, already had received a rejection to their asylum application or had not been in the asylum process.

Table 4



“Others” include EU/EEA citizens (46 persons), persons with permanent and temporary stay and valid visa (39) and persons without legal stay (109). The table shows the breakdown of status for the apprehended persons in 2010-2011. In total, the persons without legal stay in 2011 are 308 of a total of 531 apprehended that year.<sup>77</sup>

**Lessons learned**

Some general conclusions can be drawn from this project:

- A majority of the drug dealers apprehended in this project have been in the asylum system, either as asylum seekers, or with a final negative decision.
- Most of the asylum applications were considered to be unfounded.
- The regular reporting system established makes it possible to start the work on establishing identity and return to home country (or to country of destination) soon after the person has been recruited to the drug dealing environment.

**Measures to reduce irregular migrants in work places**

The work related migration to Norway has made it easier for employers to get (cheaper) labour, and an increased number of small businesses have been established. This is especially the case for labour-intensive branches, like cleaning and house painting, and in food retail and restaurants. The

<sup>77</sup> ibid

increasing number of small companies makes it difficult for the police to carry out inspections to detect irregular migrants at work places. The cleaning companies illustrate this development. A recent report from the research institute Fafo reviews the development of this particular activity.<sup>78</sup> The large number of actors there makes employment and employment conditions more complicated and less transparent to monitor. There has been an increase in the number of less serious companies due to more competition and more available cheap labour. Also, cleaners have working hours that makes it difficult to control that a foreign cleaner has a residence permit.

Police reports show a sharp increase in violations of the Immigration Act, where “illegal stay” pursuant to the Immigration Act (section 108) constitutes about one third of these reports.<sup>79</sup>

The kind of measures that is available to address the problem of workers who do not have “legal stay” ( IA) will require cooperation by several actors. The Ioannis-project is an example of such cooperation.

### **Example 2. The Ioannis project**

The Tax Administration will issue D-numbers on the basis of passports or other types of ID-documents. With a D-number one can open bank accounts and transfer money abroad. The system facilitates rapid processing of work permits for EU-citizens. The experience is that the D-number system as previously practiced with little or no control of identities has had several negative effects in that it facilitated criminal activity, such as money laundering and human trafficking.

In the past the Tax Administration have experienced that third country nationals have required D-numbers based on false documents, and where the unintended consequence has been that several irregulars have managed to get a residence permit based on having obtained a D-number.

I 2008 the NPIS and the Oslo police District were able to detect a great number of false passports from the files from the Tax Administration. It was then possible to link many of these passports to employers, and to registrations of foreign currency transactions, which in turn showed that false passports were being used to get legal stay covered as nationals from EU- member states. The result was that a number of persons were apprehended and sentenced. In addition, the whole D-number register was reviewed and tax cards that were found to have been issued on a false basis were

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<sup>78</sup> Til renholdets pris: FAFO-report 2011:18

<sup>79</sup> Tvangsarbeid – kartlegging av indikatorer. Oslo Police District June 2011 p. 5



confiscated.

### **Lessons learned:**

- A system that is designed to encourage labour migration requires cooperation between responsible authorities to reduce abuse of working permits.
- When other authorities than those regulating immigration, in this case the Tax Administration, have been given (an implicit) responsibility to verify passports and other identity documents, the staff should be given the necessary training and equipment for this task. The Tax Administration has recently strengthened its capacity and competence in this area.
- Cooperation between all involved authorities is required.

### **False Declarations of Parenthood**

If a child is born abroad, the Norwegian Population Register may request the alleged father and child to undergo DNA testing. This may be done when a child is born abroad, and the alleged father is a Norwegian citizen, and the Norwegian Population Register finds reasons to doubt whether the stated family relation is correct.

According to the Norwegian Nationality Act, a child who is born of a Norwegian mother or father acquires Norwegian citizenship by birth. This applies no matter whether the child is born in Norway or abroad, and no matter whether the parents were married or not. If a DNA test shows that the alleged father is not the child's biological father, the child is not considered to be a Norwegian citizen unless the mother is a citizen.

It follows from the Norwegian Children Act section 3 that the man to whom the child's mother is married at the time of the child's birth shall be regarded as the father of the child. (Pater est.). However, this only applies if the child is born in Norway.

### **Detecting irregular migration on the basis of marriages of convenience**

It follows from IA Section 40, fourth paragraph, that an application for a residence permit on the basis of marriage can be turned down if "*...it appears most likely that the main purpose of contracting the marriage has been to establish a basis for residence in the realm for the applicant*". UDI has also issued directives describing the applicable law and the policy which is applied on a case-to-case basis.

The rules for family reunification are designed to protect family life. Still, in some cases, marriage is used to circumvent immigration rules to obtain a residence permit. The magnitude of fraudulent marriages with the purpose of obtaining a residence permit is thought to be rather limited in Norway.<sup>80</sup> While there in Norway has been a steady increase in the number of decisions on application for a residence permit based on marriage, the registered number of suspected marriages of convenience is low. In 2009 2 percent of all applications for family reunifications were registered as having been turned down on the grounds of the marriage suspected being fraudulent (200 in total)<sup>81</sup>, this was a record number for the last five years. It is expected that the number of marriage of convenience probably is higher, as it is much easier to reject an application on the basis of the reference person's failure to document the required capacity to support the spouse, and then a suspicion of marriage of convenience will not be recorded. The police started systematic work to detect such marriages at the beginning of the 1990s<sup>82</sup>, making use of home visits and in-depth interviews of reference persons. Officers working in UDI and the police should be trained to discover modes and patterns, as illustrated in the example below.

A number of residence permits given to citizens of Turkey were revoked and the persons expelled from Norway in 2009 - 2010. Some reference persons received fines, as some of them had received large amounts of money to enter the marriage of convenience.

### **Example 3.<sup>83</sup> Modus Operandi of Turkish men marrying Norwegian women**

UDI officers detected in 2009-2010 a mode, common to a large number of young Turkish men from a specific region in Turkey, who were applying for a residence permit on the basis of marriage with much older women in Norway whom they had known only for a short time. The men had been in Norway either as asylum seekers or on a visitors' visa when they had met the women. The women came from certain areas in Norway, most of them with low education and income. The men had wives and children in Turkey, but divorced their Turkish wives (although this marriage probably remained real since it was based on a religious commitment). The wives in Turkey accepted the divorce, so did the local religious leaders.

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<sup>80</sup> Econ Pöyry: *Marriages of Convenience: A Comparative Study* November 2010, and the Norwegian contribution to the EMN study on misuse of the right to family reunification.

<sup>81</sup> *ibid* p. 15

<sup>82</sup> *ibid* p. 90

<sup>83</sup> Interview with former UDI official Siri Eide Krosby 13. January 2012

The divorce process was carried out during a very short period of time, often while the men were in Norway. In many cases the men spent months in Turkey each year with their Turkish families and in several cases the men had new children with their “previous” Turkish wives.

In many cases, the men divorced their Norwegian wives when they had received a permanent residence permit in Norway, and remarried their Turkish wives who with their children then got permits for family reunification in Norway.

To identify these cases it was necessary for the officers in UDI to cooperate with officers in several departments in UDI, i.e. those responsible for the asylum applications as well as those working on expulsion cases unit and on processing applications for family reunifications, to detect the persons belonging to the mode who had received Norwegian citizenship or permanent residence permits. The Embassy in Ankara hired a local lawyer who went to the villages for verification. The results were that nearly all marriages were confirmed as being fraudulent.<sup>84</sup>

A number of permits were revoked and the persons expelled from Norway. A considerable number of persons had their permits revoked and were returned to Turkey. Some reference persons received fines, as some of them had received large amounts of money to enter the marriage.

### **Lessons learned from the Turkey-mode**

- The immigration officers handling similar cases in the decision making bodies must be encouraged and trained to discover attempts of fraudulent marriages.
- There must be close cooperation between the different departments and agencies involved in the decision-making body when modes are detected.
- Close cooperation is needed between UDI and the police in Norway who interview the applicant and the spouse in Norway, either before the residence permit is granted initially or in connection with its renewal, normally one year later.
- Close cooperation is needed between the Norwegian Embassy in the relevant countries and UDI
- Verification need to be made by local lawyers who can interview families and neighbours at the place of origin.

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<sup>84</sup> There are no available statistics for the number of persons who had their permit revoked in this particular project.

### 3.4 Pathways out of irregularity

Measures to bring persons out of irregularity will be to find ways of legalizing their stay, or removals. Within the importance given by the government to effective return, measures that will lead to return of irregulars, voluntary rather than forced, have priority.<sup>85</sup>

#### **Brief overview of the Return Schemes**

Voluntary assisted return to the home country following a final negative decision on the asylum application, started in 2002 with the nationals of a few countries in Eastern Europe who had made asylum applications that were considered to be unfounded.<sup>86</sup> Since 1 July 2010, the majority of irregular migrants who have opted to return voluntarily have been offered funding to support reintegration.<sup>87</sup> The amount of money received depends on the *timing* of the application for assisted return: An amount of NOK 20,000 (approximately 2500 Euro) is granted to persons who apply for voluntary return prior to the deadline for departure. This group also includes persons applying *before* they have received a decision. An amount of NOK 15,000 (approximately 1900 Euro) is granted to persons who apply for voluntary return *within* 2 months after the deadline for departure. An amount of NOK 10,000 (approximately 1250 Euro) is granted to persons overstaying the date of departure by more than two months before applying. Some of the failed asylum seekers remain in Norway, and a number of them will probably leave Norway without notifying the authorities<sup>88</sup>: some will leave for other Schengen states, and some will probably leave for their home country.

#### **How can irregulars obtain a legal status?**

As noted in chapter 2, it may be argued that the possibility present in the Immigration Act for applying humanitarian considerations serves as a substitute for the need for regularization. The argument is, in other words, that some persons, who would have been included in a regularization process, will be covered by the humanitarian conditions provisions in the Immigration Act. Length of stay, families with children, and various health conditions and so on, may provide a basis for obtaining legal stay on humanitarian considerations.

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<sup>85</sup> See Ot.prop. 1 S (2011-2012) p. 213

<sup>86</sup> As mentioned before, reintegration support is not granted to persons whose asylum applications have been processed according to the 48-hour fast track procedure.

<sup>87</sup> Detailed information is available in several languages on [www.udi.no](http://www.udi.no)

<sup>88</sup> (Brekke 2012)

The legal status of irregular migrants may change over time and a ‘final’ negative decision can be overturned at any time, regardless of the length of irregular stay. Failed asylum seekers who have not been granted permission to stay on other grounds may appeal the rejection on the basis of new information having become available, and the immigration authorities are then obliged to take into consideration any such information that is put forward. This may be information regarding the protection status, non-refoulement, health condition, family situation, children who are well integrated into local communities, marriage or other humanitarian considerations. If a person is expelled for violating the Immigration Act (IA), s/he is usually quarantined for one or two years. However, in cases of family matters and exceptionally in some cases of application for a residence permit based on work, the expulsion may be repealed. In other words, the asylum seeker who has been rejected has opportunities to regularize his stay on individual grounds.

For irregulars who have not applied for asylum, and do not have legal stay, there are similar possibilities to regularize their stay. As with rejected asylum seekers, the person can apply for a permit on family reunification grounds or on other grounds (i.e. work permit as specialists, student etc.). The application will be processed on individual grounds regardless of the length of his or her irregular stay, although there will usually be a quarantine if the person has been expelled.

There are several non-governmental organisations that assist irregulars with e.g. legal advice. Norwegian Association for Asylum Seekers (NOAS)<sup>89</sup> and Self-Assistance for Immigrants and Refugees (SEIF)<sup>90</sup> give advice on a number of rights and duties etc. They do not give legal advice, but will explain how to proceed. For those who are not offered free legal advice there are cases where the legal fees will be refunded if the outcome is that the decision was based on judicial or procedural mistakes.

The Norwegian Bar Association<sup>91</sup> has established an “action- and procedure group”. Asylum seekers who have received a final decision by the Immigration Appeals Board (UNE) can request the Bar Association to assist in a reversal of the decision, provided that the case raises issues of legal principles or there seem to be judicial or procedural mistakes in the decision. In such cases the lawyers in the Bar Association will provide free legal advice.<sup>92</sup>

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<sup>89</sup> [www.noas.org](http://www.noas.org)

<sup>90</sup> [www.seif.org](http://www.seif.org)

<sup>91</sup> [www.advokatforeninge.no/funksjonsmeny/English](http://www.advokatforeninge.no/funksjonsmeny/English)

<sup>92</sup> This group in the Bar Association uses the “no cure-no pay”-principle for their clients.

## **Removals of irregulars**

In cases where a person does not fulfil the condition for further stay, and has received an order to leave, the assisted voluntary return schemes has proven to give good results in the sense that the number of both voluntary and forced returns have increased.<sup>93</sup> As noted earlier, rejected asylum seekers from countries with which there is a readmission agreement, tend to use the assisted voluntary return schemes more frequently than when no agreement is in place. An explanation on this may be that a return to home country will be imminent in most cases. The Embassy to Norway of the third country will provide assistance to the Norwegian immigration authorities. The use of Embassy personnel who do several interviews of co-national candidates for return will often lead to establishing their identity.<sup>94</sup>

To some countries return is not possible in practice. In some cases there is not a functioning central government to issue passports or verify the identity of the person, and for this reason the internationally recognized authorities will not accept his/her return. Some will only accept voluntary application for passports, and others will not accept laissez-passer documents issued only for the one return. The citizens of these countries will not be returned by force, and will not have the possibility to return voluntary with IOM. Instead, they will be encouraged to return voluntary with the assistance of the NPIS. At present this possibility for escorted voluntary return includes Somalia and Gaza. Escorted voluntary return will include financial support, similar to the assisted voluntary return programme.<sup>95</sup>

### **Example 1. Joint Return Operations**

The FRONTEX Joint Return Operations Programme has proven to be an effective way for Norway to return rejected asylum seekers and irregular migrants. It is worth mentioning that persons with a criminal record are prioritised for these chartered flights. The successful use of the joint charter flights requires thorough planning and coordination. In Norway this work is carried out by the NPIS. In 2010, a total of 26 charter flights included returnees from Norway, and 13 of these were FRONTEX Joint Return Operations.

### **Lessons learned about joint charters**

- Cooperation will reduce expenses for each Member State

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<sup>94</sup> Interview with team leader Frode Garnås NPIS.

<sup>95</sup> Voluntary return by IOM is not possible to Gaza and Somalia.

- Cooperation will result in an increased return of criminals
- Cooperation will make possible better security measures on each flight - easier to return deportees who probably would be denied boarding on a commercial flight by the captain

### **Example 2. Reception centers for Unaccompanied Minors (UAM) in Afghanistan**

As a measure to reduce the flow of minors to Norway (pre-entry), the planning of reception centres for minors in Afghanistan is continuing in 2012. Since 2009, money has been allocated for this purpose.<sup>96</sup> Norway participates in European Return Platform for Unaccompanied Minors (ERPUM) which has been given a mandate to negotiate with Afghan authorities on issues regarding acceptance of the project and care for minors.<sup>97</sup> The other partners are United Kingdom, the Netherlands, Sweden and Denmark. Sweden leads the project.

The persons who are to be included in such centres are young persons who have received a final negative decision on their asylum application. The child's best interest is to be considered, and an important focus will be to assist the young person reintegrate in their original communities. The centres will offer a combination of care, general education and practical training.

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<sup>96</sup> See Draft Resolution 2011-2012 (Prop). 1 S, p. 213.

<sup>97</sup> For more details see [Migrationsverket.se](http://Migrationsverket.se)

## 4 TRANS-NATIONAL COOPERATION IN REDUCING IRREGULAR MIGRATION

### 4.1 Cooperation Agreements

#### **Bilateral readmission agreements**

As noted earlier, return to the country of origin, forced or voluntarily, is seen as one of the most important issues in Norwegian Immigration policy. The number of persons who returned voluntarily increased from 568 persons in 2008 to 1811 persons in 2011.<sup>98</sup> One of the leading instruments in the work of return is bilateral readmission agreements with third countries. Norway has bilateral readmission agreements with 28 states. For citizens of several countries, like Iraq and Russia, forced and voluntary return has increased since the agreement was put into force.

For other countries, like Afghanistan, there have been few returns, despite important financial incentives (cash payment and support for reintegration can amount to NOK 40 000, or € 5000). The limited success in the Afghan case have a number of causes, one of them is probably the bleak future economic prospects in the home country. Other factors are more social-cultural. An evaluation from the CMI (Research Institute for Development and Justice) from 2008, based on semi-structured interviews with returned asylum seekers, concluded that there were other factors than the cash payment and reintegration support that inspired their return. The majority of the respondents wanted to avoid the undignified forced return; others chose voluntary return because they believed they would be returned by force anyway. A great number of the returnees had already left the country to re-emigrate, typically young males without family responsibilities.<sup>99</sup>

Generally, a readmission agreement does not automatically lead to more returns, but the possibilities for forced return have been shown to lead to an increase in the number of voluntary returns. There are probably several causes for this, one being that there is an increased chance of being returned anyway and that if they refuse to return voluntarily they will be returned without the financial support. For Iraq in particular, forced returns has led to an increase in voluntary returns. The possibility of forced return is therefore seen as a crucial element in all bilateral readmission agreements.

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<sup>98</sup> Statistics provided by the NPIS

<sup>99</sup> See CMI report: Strand et al.. (2008) p. vi and Brekke (2010) p. 28



There are bilateral agreements with several other countries on various issues. Norway has signed bilateral agreements with Russia that are relevant to border security work (i.e. the already mentioned Border Regime Agreement from 1949, which specifically regulates the procedures for contact and communication between the two countries in the border area, and which aims at ensuring border cooperation, and reducing the risk of violations of border regulations).

Norway and Russia have also signed a cooperation agreement to combat cross-border crime. The agreement primarily facilitates information exchanges to prevent and solve criminal acts involving the two countries.

An agreement between the Norwegian and Russian government on cooperation on border issues has also entered into force. The agreement shall ensure close cooperation between the parties to prevent incidents in the border area and to prevent and solve cross-border crime.

There is also a protocol for tripartite cooperation between Finland, Russia and Norway in border issues. In 1958 Norway, as one part of the Nordic countries, signed the agreement which resulted in the Nordic Passport Union. The Dublin Regulations and the Schengen Border Code are now covering most cases, which earlier was regulated by the Passport Union.

## **4.2 Other forms of (non-legislative) cooperation with countries**

### **Cooperation with Greece**

In response to the high migration pressure on Greece during the last years, Norway and Greece signed a bilateral agreement on November 1, 2010, which aims to strengthen the Greek capacity to regulate migration in general. The focus is on assistance to enhance the capacity and quality of the processing of asylum cases and accommodation centres for asylum seekers in Greece. Norway has allocated 20 million Euros of EEA-funds to finance necessary measures. The partners are IOM, UNHCR and the Norwegian Directorate of Immigration (UDI).

### **Cooperation with the Baltic Sea-countries**

The countries included in the The Baltic Sea Region Border Control Co-operation (BCRBCC) are: Norway, Sweden, Denmark, Finland, Iceland, Russia, Germany, Latvia, Lithuania and Estonia. The cooperation is primarily on sea border management in order to keep stability and to combat cross-

border crime, including irregular migration. NCIS is the National Contact Point and is responsible for all information sharing with the Norwegian Coast guard and Customs.

### **BSTF and OPC**

Baltic Sea Task Force and Operative Committee is cooperating on the operational level between the police and border control authorities in the Nordic and the Baltic Sea countries on a more general basis, and not only at sea. The BSTF has the policy authority, while the OPC is the operational unit. The cooperation covers measures against irregular migration, trafficking, smuggling of drugs and other organised criminal activities.<sup>100</sup>

## **4.3 Cooperation with EU or international organizations**

### **Participation in Intergovernmental Consultations (IGC) on Migration and Asylum**

For the Norwegian immigration authorities the IGC represent an important meeting point with those of other countries. Norway participates in several working groups, among these, the working group for Admission, Control and Enforcement. One of the subjects that are frequently discussed in this group is return. The members have developed instruments to compare the challenges of the different members, and identify areas for possible cooperation. IGC is a useful arena for discussion and information sharing, to develop a “best practice”.

### **Participation in FRONTEX**

Norway’ membership in FRONTEX is based on the Schengen-association. The National Criminal Investigation Service (NCIS) is the Norwegian contact point of FRONTEX, while the Directorate of the Police coordinates the activity and determines the scope of the general Norwegian participation in FRONTEX. The National Police Immigration Service (NPIS) have the responsibility for coordination of the Norwegian participation in joint return operations (JRO) and Frontex Risk Analysis Network (FRAN) There are several regular groups where Norway (NPIS and the Police Directorate) participates on a regular basis:

FRAN – (FRONTEX Risk Analysis Network) is a forum for information gathering, risk analysis and reporting. The NPIS participates in the regular meetings of FRAN in close cooperation with the NCIS. NPIS reports to FRAN monthly on several issues: (i) the number of applications of international protection (asylum), (ii) the number of false travel documents for illegal entry to the

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<sup>100</sup> See CMI report: Strand et al.. (2008) p. vi and Brekke (2010) p. 28

territory (border passing at air, sea and land), (iii) the number of third country nationals ordered to leave and (iv) the number of third country nationals who have been returned. There are reports of the number of refusal of entry at air, sea and land borders as well.

“Bi-monthly” is a reporting system based on open sources that consist of qualitative reports on different issues, in addition to regular quarterly meetings regarding the Western Balkans, the Eastern Borders and AFIC (discussions on African issues).

Joint Return Operations (JRO) is the FRONTEX charter flights for return to country of origin. NPIS have the main responsibility for coordinating returns from Norway. Nearly one half of the persons who have been returned by charter to their home country have been transported with JRO-charters. (see chapter 3 for more details)

European Border Guard Team (EBGT) (previously Rapid Border Intervention Teams (RABIT) – The Police Directorate coordinates a pool of about 30 police officers. The force can be operational within 5 days.

### **OECD – reporting**

The Ministry of Justice (Department of Migration) is the responsible unit for reporting to OECD on immigration, including irregular migration. The reports provide useful analysis of national policies and practices in the field. The SOPEMI report is produced every year in close cooperation with the Ministry of Children, Equality and Social Inclusion and the Ministry of Labour. Statistics Norway (SSB) and the Norwegian Directorate of Immigration (UDI) provide the statistics presented in the report.

### **EMN**

Since January 2010, Norway has been participating in the work of the European Migration Network as an observer, as the only non-EU member country. This was one of the 22 priorities of the government when presenting its immigration policies in a European perspective.<sup>101</sup> It follows from the government priorities that it wants to contribute to the work of EU member states to harmonize and facilitate the measures in the field of immigration, in order to meet the challenges that Europe and Norway will meet in the years to come.<sup>102</sup>

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<sup>101</sup> See press release 02.12.2010 from [www.regjeringen.no](http://www.regjeringen.no)

<sup>102</sup> See White Paper no 9, p. 75

## 5 IMPACT OF EU POLICY AND LEGISLATION

The Norwegian membership in the EEA and our participation in the Schengen Agreement means that EU policy and legislation influence Norway in the migration field. EU legislation that is binding for EEA members is implemented in Norwegian legislation. Norway has e.g. implemented the Return Directive (act of December 17<sup>th</sup> 2010 No. 88 (see Prop. 3 L (2010-2011))), which entered into force December 23<sup>rd</sup> 2010, and VIS (Visa Information System (see Ot. prp. No. 36 (2008-2009)) implemented in the Immigration Act article 102–102 f. Norway is also participating in the Dublin-collaboration through an affiliation-agreement between Norway, Iceland and EU (of January 19<sup>th</sup> 2001), and has implemented the Dublin-legislation in our Immigration Act. Norway aims to contribute in the development of the EU legislation in the migration field, and to facilitate a common European approach to migration.

However, since Norway is not EU member, the Directives implemented in EU will not automatically be a part of Norwegian legislation and in cases where EU law and Norwegian legislation is not harmonized, Norwegian law will prevail.

In the field of migration, several directives have been implemented. These are:

- Council Directive (2003/86/EF) concerning the right to family reunion.
- Council Directive (2003/09/EF) minimum standards on reception of asylum seekers and refugees
- Council Directive (2004/83/EF) (Status Directive)
- Council Directive (2005/85/EC) (Procedure Directive) <sup>103</sup>
- Council Directive (2004/38/EC) (Directive on the right of citizens of the European Union and their family members to reside and move freely within the territory of the Member States)

The Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data (APIS-Directive) will be implemented in Norwegian legislation, despite this not being necessary as a part of our Schengen-obligations.

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<sup>103</sup> See [www.udiregelverk.no](http://www.udiregelverk.no)

Regarding the right to communicate passenger lists on air transport, the Norwegian Immigration Act of 2008 specifically states in section 20 that “The King may by regulations make provisions to the effect that: (a) the commander of an aircraft arriving from, or departing for, another country shall give the police a list of passengers and crew members”, [...] . There is a reference to the relevant EU Directive in the preparatory work of the Act.<sup>104</sup> The Ministry of Justice is currently assessing the legal and practical issues related to the implementation.

The Sanctions Directive has not been implemented in Norwegian legislation and will therefore not be discussed here. The EEA Commission in the Ministry of Foreign Affairs has judged the Directive as not EEA-relevant.<sup>105</sup>

### **The Return Directive**

In chapter 2, the legal implications of this Directive into Norwegian legislation were discussed. Two changes have been made in Norwegian legislation to implement the Directive. The first is the Immigration Regulation section 14-2. This section is new and opens for a re-entry ban of minimum one year for an expelled person, while the previous minimum was two years. The reason for this change of the IA was that the Directive demands the use of expulsions in a wider range of cases, and as a consequence there will be more cases where a re-entry ban of two years will be considered to be a too severe penalty. Furthermore, a permanent re-entry ban according to violations of the Immigration Act, will only be used when there are *serious threats to public order*.<sup>106</sup> Also, A foreign national can now be expelled from Norway just a few days after the deadline for return has expired. The other change is that IA section 106 now states that detention for violation of the Immigration Act should not exceed 18 months. This is in line with established practice. Detention has only occasionally exceeded 12 months in Norway.

### **The European External Border Fund**

According to the Schengen regulation, Norway has, from 2010 participated in the External Border Fund. The External Border Fund (EBF) is a financial burden sharing arrangement, and is allocated

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<sup>104</sup> Ot . Prop nr 75 (2006-2007) p. 268

<sup>105</sup> Information given by e-mail from Maria Bjørnsen, the Department of Labour 01.12.11

<sup>106</sup> The share of expulsions with a permanent re-entry ban caused by a violation of the Immigration Act, has decreased from 47 percent in 2010 to 26 percent in 2011 of the total number of expulsions (Statistics provided by the UDI).

to states “for which the implementation of the common standards for control of the EUs external borders represents a heavy burden”...<sup>107</sup>

Norway has approximately 35 on going or planned projects, which are co-financed by the External Border Fund, 11 of these are to be evaluated shortly. The projects that qualify for support from the Fund receive up to 50 per cent of the expenses and for some high priority projects, up to 75 per cent.

To strengthen the border surveillance capacity at the Norwegian-Russian border several measures have been implemented during the last few years, or are being planned. The steady increase in the border traffic, due to various measures of easing the visa regime with Russia, also requires measures to strengthen border control capacities. These measures include equipment to the police and the armed forces to enhance the surveillance and reaction capacity; surveillance systems, mobility traces, vehicles for police patrolling (snow scooters, ATVs and cars), equipment to improve the situational picture.

### **Local Border Traffic**

Practical arrangements to provide for efficient crossing at the border crossing point with Russia (Storskog BCP) as well as software and procedures for obtaining documents at the consulate in question (General Consulate Murmansk), for the citizens comprised by the arrangement, are necessary measures in order to establish the local border traffic regime. In order to fulfill the Schengen obligations and to be aware of potential future irregular migration at sea, the authorities have seen the need to enhance the control of passengers and crew on ships harbouring Norwegian ports. The police access to the electronic system SafeSeaNet, will facilitate electronic and automatic lists of persons on ships.

In order to make more efficient systems at airports, the Automatic Border Control (eGates) system will be implemented. The system facilitates quick and efficient control of Schengen citizens, and makes it possible to allocate more time and resources to other travellers.

Norway is implementing the Visa Information System. The system is expected to decrease visa shopping. A Norwegian predecessor (NORVIS) has given a more efficient handling of applications in Embassies and Consulates.

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<sup>107</sup> [ec.europa.eu/home affairs/funding /borders](http://ec.europa.eu/home_affairs/funding/borders)

## 6 ESTIMATES AND STATISTICS ON THE IRREGULAR MIGRANT POPULATION

### 6.1 National statistics related to irregular migration

**Table 1. Third country nationals found to be illegally present (2008-2010)**

**Table 1.1: Overall trend**

	2005	2006	2007	2008	2009	2010	2011
Total number of third-country nationals found to be illegally present	902	976	909	770	1 600	2 403	1 952

Source: Eurostat/migr\_eipre/ Directorate for immigration

**Table 1.2: Age of migrant found to be illegally present**

	2005	2006	2007	2008	2009	2010	2011
Less than 14 years	N/A	N/A	N/A	-	-	1	1
From 14 to 17 years				5	5	7	8
From 18 to 34 years				500	1210	1835	1342
35 years or over				270	385	560	601

Source: Eurostat/migr\_eipre/ Directorate for immigration

**Table 1.3: Sex of migrant found to be illegally present**

	2005	2006	2007	2008	2009	2010	2011
Male	N/A	N/A	N/A	620	1330	1 991	1 552
Female				150	265	412	400

Source: Eurostat/migr\_eipre/ Directorate for immigration

**Table 1.4: Main 10 countries of citizenship**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	N/A	N/A	N/A	N/A	N/A	N/A
2nd main						
3rd main						
4th main						
5th main						
6th main						
7th main						
8th main						
9th main						
10th main						

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Iraq	80	Somalia	245	Iraq	414	Iraq	369
2nd main	Russia	50	Irak	245	Afghanistan	246	Russia	119
3rd main	Eritrea	40	Eritrea	210	Eritrea	225	Nigeria	115
4th main	Serbia	35	Afghanistan	85	Somalia	220	Somalia	114
5th main	Turkey	30	Nigeria	60	Stateless	136	Serbia	103
6th main	Somalia	30	Stateless	60	Nigeria	103	Afghanistan	100
7th main	Nigeria	30	Ethiopia	40	Russia	80	Stateless	93
8th main	Afghanistan	30	Turkey	35	Turkey	74	Eritrea	68
9th main	Stateless	30	Russia	35	Iran	61	Turkey	63
10th main	Libya	25	Serbia	35	Etiopia	58	Iran	53

Source: Eurostat/migr\_eipre/ Directorate for immigration



**Table 2: Third Country nationals refused entry at the external borders****Table 2.1: Overall trend**

	2005	2006	2007	2008	2009	2010	2011
Total number of third-country nationals refused entry	N/A	N/A	N/A	410	80	140	148

Source: Eurostat

**Table 2.2: Grounds for refusal**

	2005	2006	2007	2008	2009	2010	2011
No valid travel document	N/A	N/A	N/A	165	10	5	6
False/counterfeit/forged travel document	N/A	N/A	N/A	0	0	0	0
No valid visa or residence permit	N/A	N/A	N/A	90	30	75	71
False visa or residence permit	N/A	N/A	N/A	5	0	0	0
Purpose and conditions of stay not justified	N/A	N/A	N/A	5	25	20	16
Person already stayed 3 months in a 6-months period	N/A	N/A	N/A	0	0	0	21
No sufficient means of subsistence	N/A	N/A	N/A	100	5	20	7
An alert has been issued	N/A	N/A	N/A	50	5	10	22
Person considered to be a public threat	N/A	N/A	N/A	0	5	10	5

Source: Eurostat

**Table 2.3: Type of border where refused entry**

	2005	2006	2007	2008	2009	2010	2011
Land	N/A	N/A	N/A	0	25	75	58
Sea	N/A	N/A	N/A	0	15	5	14
Air	N/A	N/A	N/A	410	40	60	76

**TOTAL**

Source: Eurostat

**Table 2.4: Main 10 countries of citizenship of third-country nationals refused entry**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	N/A	N/A	N/A	N/A	N/A	N/A
2nd main	N/A	N/A	N/A	N/A	N/A	N/A
3rd main	N/A	N/A	N/A	N/A	N/A	N/A
4th main	N/A	N/A	N/A	N/A	N/A	N/A
5th main	N/A	N/A	N/A	N/A	N/A	N/A
6th main	N/A	N/A	N/A	N/A	N/A	N/A
7th main	N/A	N/A	N/A	N/A	N/A	N/A
8th main	N/A	N/A	N/A	N/A	N/A	N/A
9th main	N/A	N/A	N/A	N/A	N/A	N/A
10th main	N/A	N/A	N/A	N/A	N/A	N/A

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Nigeria	80	Russia	40	Russia	85	Russia	77
2nd main	Somalia	45	Croatia	5	Serbia	10	Serbia	12
3rd main	Iraq	45	Turkey	5	Morocco	5	China	7
4th main	Russland	20	Democratic Republic of Congo	5	Nigeria	5	Canada	5
5th main	Serbia	15	Afghanistan	5	Canada	5	United States	4
6th main	Morocco	15			Pakistan	5	Albania	3
7th main	Chile	15			Iraq	5	Belarus	3
8th main	Turkey	10					Turkey	3
9th main	Albania	10					Afghanistan	2
10th main	Gambia	10					Bosnia-Herz.	2

Source: National Police Immigration Service

**Table 3: Third country nationals ordered to leave (after being found illegally present). 2008 – 2010**

**Table 3.1: Overall trend**

	2005	2006	2007	2008	2009	2010	2011
Total number of third-country nationals ordered to leave (after being found to be illegally present)				8 631	13 778	16 494	15 857

Source: Directorate of Immigration

**Table 3.2: Main 10 countries of citizenship of third-country national ordered to leave**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	N/A	N/A	N/A	N/A	N/A	N/A
2nd main						
3rd main						
4th main						
5th main						
6th main						
7th main						
8th main						
9th main						
10th main						

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Iraq	1 663	Iraq	2 672	Afghanistan	2 131	Afghanistan	2 033
2nd main	Russia	1 064	Afghanistan	1 282	Iraq	1 838	Iraq	1 370
3rd main	Serbia	564	Russia	1 195	Russia	1 305	Russian Federation	979
4th main	Nigeria	340	Nigeria	721	Stateless	921	Eritrea	712
5th main	Iran	327	Somalia	575	Iran	863	Iran (Islamic Republic of)	711
6th main	Kosovo	272	Iran	568	Nigeria	847	Nigeria	668
7th main	Somalia	257	Stateless	509	Eritrea	703	Ethiopia	559
8th main	Ethiopia	253	Sri Lanka	445	Somalia	625	Somalia	481
9th main	Stateless	222	Eritrea	404	Ethiopia	535	Serbia	436
10th main	Afghanistan	184	Serbia	404	Sri Lanka	393	Sri Lanka	378

Source: Directorate of Immigration

**Table 4: Third country nationals returned to a third country or the country of origin following an order to leave.**

**Table 4.1: Overall trend**

	2005	2006	2007	2008	2009	2010	2011
Total number of third-country nationals returned following an order to leave	1 722	1 883	1 669	1 677	2 352	3 564	4 416
Number of third-country nationals returned <i>to a third country</i> following an order to leave	1 435	1 577	1 339	1 291	1 902	2946	3 785

Source: National Police Immigration Service

**Table 4.2: Main 10 countries of citizenship of person returned**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Main country of citizenship	Total	Main country of citizenship	Total
1st main	Serbia and Montenegro	298	Serbia and Montenegro	233	Serbia	185
2nd main	Russia	144	Nigeria	157	Afghanistan	170
3rd main	Nigeria	134	Russia	126	Nigeria	100
4th main	Albania	108	Afghanistan	118	Iraq	90
5th main	Bosnia and Hercegovina	61	Iran	106	Russia	76
6th main	Libya	59	Iraq	64	Iran	68
7th main	Iran	49	Albania	50	Nepal	66
8th main	Iraq	47	Algerie	50	Croatia	51
9th main	Turkey	46	Somalia	49	Turkey	49
10th main	Chile	46	Nepal	45	Chile	45

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Serbia	166	Iraq	460	Iraq	672	Iraq	805
2nd main	Iraq	146	Kosovo	266	Serbia	505	Russia	747
3rd main	Nigeria	126	Nigeria	203	Kosovo	267	Nigeria	354
4th main	Russia	83	Russia	132	Nigeria	266	Afghanistan	201
5th main	Afghanistan	79	Afghanistan	107	Russia	238	Kosovo	157
6th main	Albania	59	Serbia	85	Macedonia	123	Serbia	150
7th main	Somalia	49	Nepal	56	Afghanistan	116	Stateless	138
8th main	Nepal	48	Albania	53	Stateless	89	Uzbekistan	109
9th main	Korea	44	Iran	46	Nepal	76	Sri Lanka	107
10th main	Chile	41	Chile	41	Ethiopia	56	Albania	95

Source: National Police Immigration Service.

**Table 4.3: Main 10 countries to which third-country nationals are returned following an order to leave**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Main country of citizenship	Total	Main country of citizenship	Total
1st main	Serbia and Montenegro	278	Serbia and Montenegro	224	Serbia	183
2nd main	Russia	139	Russia	117	Afghanistan	162
3rd main	Albania	97	Afghanistan	113	Sweden	101
4th main	Sweden	62	Iran	101	Italy	70
5th main	Italy	61	Italy	88	Russia	67
6th main	Nigeria	58	Sweden	67	Nepal	64
7th main	Libya	57	Nigeria	55	Iran	58
8th main	Bosnia Hercegovina	55	Albania	50	Iraq	53
9th main	Spain	44	Algerie	45	Croatia	51
10th main	Turkey	44	Spain	44	Spain	47

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Serbia	264	Iraq	437	Iraq	635	Iraq	766
2nd main	Italy	103	Kosovo	263	Serbia	500	Russia	739
3rd main	Iraq	103	Spain	148	Kosovo	261	Italy	240
4th main	Spain	92	Italy	134	Russia	228	Spain	217
5th main	Sweden	91	Russia	127	Italy	190	Nigeria	189
6th main	Russia	75	Nigeria	87	Spain	164	Afghanistan	170
7th main	Afghanistan	68	Serbia	86	Nigeria	123	Kosovo	166
8th main	Albania	49	Afghanistan	76	Macedonia	112	Serbia	139
9th main	Nepal	45	Sweden	54	Afghanistan	101	Uzbekistan	105
10th main	Korea, South	44	Nepal	54	Nepal	73	Sri Lanka	105

Source: National Police Immigration Service.

**Table 5.1: Overall trend**

		2005	2006	2007	2008	2009	2010	2011
Total number of third country nationals whose application for asylum has been rejected ...	in the first instance	2 960	1 276	2 095	4 390	6 196	7 673	
	following a final decision				3 814	8 080	9 709	7 965

Source: Asylum A11 2008-2010 and UDI Annual Reports

**Table 5.2: Sex of migrant whose application for asylum has been rejected ...**

		2005	2006	2007	2008	2009	2010	2011
Applications rejected in the first instance	Male	2 242	924	1 503	3 190	1 277	5 495	
	Female	718	344	592	1 200	4 919	2 178	
	Unknown		8					
Applications rejected following a final decision	Male				2 877	6 225	7 322	5 838
	Female				937	1 855	2 387	2 127
	Unknown							

Source: Asylum A11 2008-2010 and UDI monthly report to the Ministry of Justice

**Table 5.3a: Main 10 countries of citizenship of applicants whose application has been rejected in the first instance**

	2005		2006		2007			
Position of the country of citizenship	Name of the country of citizenship	Total	Main country of citizenship	Total	Main country of citizenship	Total		
1st main	Iraq	555	Iraq	232	Iraq	387		
2nd main	Afghanistan	343	Serbia and Montenegro	228	Iran	187		
3rd main	Serbia and Montenegro	316	Iran	81	Serbia	160		
4th main	Iran	227	Russia	72	Ethiopia	154		
5th main	Somalia	208	Nepal	69	Sri Lanka	147		
6th main	Russia	136	Uzbekistan	44	Russia	142		
7th main	Stateless	98	Stateless	43	Somalia	104		
8th main	Nigeria	81	Azerbaijan	38	Nepal	78		
9th main	Albania	55	Afghanistan	37	Burundi	59		
10th main	Cameroon	51	Turkey	30	Stateless	48		
	2008		2009		2010		2011	
Position of the country of citizenship	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Iraq	935	Iraq	1 545	Afghanistan	1 483		
2nd main	Russia	829	Afghanistan	996	Iraq	744		
3rd main	Serbia	490	Russia	466	Stateless	600		
4th main	Kosovo	234	Stateless	386	Russia	533		
5th main	Iran	186	Nigeria	367	Eritrea	470		
6th main	Nigeria	147	Iran	331	Iran	466		
7th main	Stateless	141	Sri Lanka	265	Nigeria	343		
8th main	Ethiopia	129	Nepal	218	Ethiopia	314		
9th main	Uzbekistan	97	Ethiopia	201	Somalia	260		
10th main	Burundi	96	Kosovo	170	Serbia	211		

Source: UDI Annual Reports

**whose application has been rejected following a final decision**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main						
2nd main						
3rd main						
4th main						
5th main						
6th main						
7th main						
8th main						
9th main						
10th main						

Position of the country of citizenship	2008		2009		2010		2011	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Iraq	898	Iraq	1 862	Afghanistan	1 275	Afghanistan	1 410
2nd main	Serbia	377	Russia	907	Iraq	1 020	Iraq	753
3rd main	Russia	325	Somalia	658	Russia	942	Russia	582
4th main	Afghanistan	239	Serbia	473	Somalia	807	Eritrea	427
5th main	Iran	231	Eritrea	402	Eritrea	601	Iran	413
6th main	Ethiopia	214	Nigeria	389	Iran	567	Ethiopia	401
7th main	Stateless	187	Ethiopia	331	Stateless	479	Somalia	398
8th main	Eritrea	162	Afghanistan	318	Nigeria	470	Sri Lanka	325
9th main	Somalia	157	Iran	306	Ethiopia	385	Nigeria	297
10th main	Kosovo	73	Kosovo	298	Sri Lanka	295	Kosovo / UNSCR 1244	180

Source: Asylum A11 2008-2010, Norwegian Appeals Board



**Table 6.1: Total number of third country nationals whose permit has been withdrawn. 2009 -2010**

	2005	2006	2007	2008	2009	2010
Total number of third country nationals whose permit has been withdrawn	N/A	N/A	N/A	N/A	49	103

Source: migr\_asywitfina

**Table 6.2: Main 10 countries of citizenship of migrant whose status has been withdrawn and the number of persons. 2009 – 2010**

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main			Russia	13	Iraq	32
2nd main			Iraq	8	Stateless	26
3rd main			Iran	4	Russia	21
4th main			Eritrea	4	Sri Lanka	9
5th main			Sri Lanka	4	Afghanistan	5
6th main			Burundi	3	Somalia	4
7th main			Afghanistan	2	Ukraine	2
8th main			Somalia	2	Ethiopia	1
9th main			Democratic People's Republic of Korea	2	Iran	1
10th main			Djibouti	1	Jordan	1

Source: Eurostat article 4, A09 2009 and 2010

**6.2 Other national statistics on irregular migration**

**Estimates on the stock of irregular migrants in Norway**

The only systematic and well documented estimates of the number of persons illegally present in Norway were made by a researcher in Statistics Norway and refer to the beginning of 2006. The point estimate was 18 000 with a 95 percent confidence interval ranging from 10 000 to 32 000. It was also estimated that 2 thirds were formal asylum seekers. Using the same method the Norwegian Directorate of immigration (UDI) is planning to prepare corresponding estimates for 2005-2010 period and then regularly on an annual basis.<sup>108</sup>

**Table 7.1: Irregular migrants with re-entry bans, 2005 - 2010**

	2005	2006	2007	2008	2009	2010
	1 091	1 112	1 109	1 263	2 189	2 923

Source: Directorate of Immigration

<sup>108</sup> See the estimates reported in Zhang, L.C.(2008): Developing Methods for Determining the Number of Unauthorized Foreigners in Norway.

**Table 7.2: Main 10 countries of citizenship of irregular migrants with re-entry bans, and the number of persons. 2005 -2010**

Position of the country of citizenship	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Serbia and Montenegro	85	Iraq	121	Iraq	138
2nd main	Russia	81	Russia	74	Russia	59
3rd main	Somalia	58	Serbia and Montenegro	64	Turkey	55
4th main	Algerie	55	Somalia	54	Somalia	49
5th main	Albania	54	Algerie	50	Afghanistan	46
6th main	Nigeria	53	Iran	45	Iran	42
7th main	Iraq	50	Albania	43	Eritrea	39
8th main	Turkey	41	Turkey	36	Nigeria	38
9th main	Iran	30	Afghanistan	36	Chile	37
10th main	Belarus	29	Nigeria	35	Serbia and Montenegro	36

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Iraq	149	Iraq	334	Iraq	501
2nd main	Russia	81	Somalia	271	Afghanistan	267
3rd main	Nigeria	76	Eritrea	214	Somalia	238
4th main	Serbia	51	Nigeria	123	Eritrea	232
5th main	Turkey	50	Afghanistan	94	Nigeria	171
6th main	Somalia	49	Stateless	83	Stateless	171
7th main	Stateless	46	Russia	61	Turkey	79
8th main	Eritrea	45	Algerie	59	Iran	79
9th main	Vietnam	41	Vietnam	46	Serbia	78
10th main	Afghanistan	40	Serbia	45	Russia	74

Source: Directorate of Immigration

**Table 8.1: Marriages identified as fraudulent, 2007 -2010**

	2005	2006	2007	2008	2009	2010
	N/A	N/A	150	199	194	183

Source: Directorate of Immigration

**Table 8.2: Sex of persons in marriages regarded as fraudulent, 2007 – 2010**

	2005	2006	2007	2008	2009	2010
Male	N/A	N/A	76	107	114	111
Female	N/A	N/A	74	92	80	72

Source: Directorate of Immigration

## 7 CONCLUSION

The scope of irregular migration to Norway is subject to debate. The estimates of persons staying in the territory as irregulars have earlier been estimated to be around 18 000 (2006), and within the range 10 – 32 thousand at that time with 95 per cent probability. New estimates for the 2005 – 2010 period, based on the same sources and methods, are expected to be available in near future. Generally, discussions in the political scene on irregular migration are linked to the discussion on asylum policy and the fact that around two thirds of the irregulars have been former asylum seekers. However, when it comes to major issues in the migration field, like border control issues and Schengen-affiliation, there are broad support among leading political parties and in the public to further develop Norwegian ties with the EU and maintaining Schengen-commitments.

There are different tools available in the different phases of irregular migration. In the pre-entry phase; the use of ILOs from the UDI and the police has been dominant, especially for verification of identity and for investigating the purpose of residence applications. Also, the ILOs are important for detecting potential abuse of working permits and so on. The relative high number of asylum seekers in 2008 and 2009 initiated the planning of information-campaigns in countries of origin, mostly to reduce the high arrivals of EMAs.

Most illegal entries take place on the internal Schengen-borders, although the estimates are uncertain. The external border with Russia has, despite increased traffic, few signs of being a border for illegal entries. The use of readmission agreements and keeping good diplomatic relations are essential.

Among the irregulars staying in Norway one finds rejected asylum seekers, persons who have overstayed visa period and permits to stay, and persons who have refused to return to home country after the final rejection of their asylum application. The measures available to reduce their numbers are amongst others those taken to detect irregulars in the work force, through inspections and examination of documents. These inspections also examine the working conditions, i.e. to make sure the working conditions are satisfying. At the same time, there is a demand for labour in several sectors. Steps are taken to make sure that the demand for more qualified workers is satisfied, while at the same time preventing irregular migration.

Resources are allocated for detecting organised criminal structures, consisting of groups that often use the asylum system for remaining in the country to engage in criminal activities. The main measures for combating this type of criminal activities are regular controls and apprehensions of the persons belonging to these structures, and systematic work to determine their identity and work on their rapid return. Further, there are systems for detecting organized marriages of convenience, which requires that the different institutions within the immigration authorities cooperate.

For the Norwegian government, return is the only recognized pathway out of irregularity when there is no qualified reasons for stay. This message was clearly stated by Deputy Minister of Justice Pål Lønseth at the EMN-conference in Oslo 08.10.2011.<sup>105</sup> There is still a strong focus on voluntary assisted return programmes for most nationalities, apart from those that are defined as 48-hour procedure cases. Voluntary return programmes, facilitated by IOM have led to a substantial increase in returns, especially if the alternative is forced return, although it should be noted that the increase in forced returns have increased more than the voluntary returns. It turns out that a successful return policy rely on the establishment of bilateral readmission agreements, which in turn will give positive effects on bilateral relations.

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<sup>105</sup> Available at [www.emn.no](http://www.emn.no)

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