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GAPs Policy Brief: The Policies of Return Migration in Poland: A Need for a More Systematic Approach

GAPS

Decentring the Study of Migrant Returns and Return Policies

Are Polish return policies efficient? Do they safeguard the rights of returnees? In this issue of CMR Spotlight, the GAPS project team in Poland identifies the main legal, institutional and infrastructural gaps in the country's return system, focusing particularly on returns from Poland to Georgia.

CENTRE OF MIGRATION RESEARCH

GAPs Policy Brief: The Policies of Return Migration in Poland: A Need for a More Systematic Approach

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Executive summary

In this policy brief, we present a comprehensive review of the results obtained within the project GAPs: De-centring the Study of Migrant Returns and Readmission Policies in Europe and Beyond (2023–2026), researching Poland's return system with a view to its extension in the form of cooperation with Georgia. The study aimed to identify potential gaps in the system that make it inefficient or do not properly safeguard the rights of returnees. The methodology of the research consisted of legal analysis, desk research, and in-depth interviews in Georgia (a study visit in February 2024) and Poland. The legal analysis (Trylińska et al. 2024) and the study of the case of Georgia (Krępa et al. 2024) present the state of affairs as of 2024, while the analysis of the migrants' trajectories (Krępa et al. 2025a) and the analysis of Poland's return infrastructure (Krępa et al. 2025b) - as of early 2025. Georgia served as a case study for more profound examination, while participants of the research on trajectories were nationals of various countries.

We identified three main categories of gaps in the system: legal, institutional, and infrastructural. Legal gaps are the most significant ones, and they are linked with the improper implementation of the EU Return Directive. As the analysis proved, there are many shortcomings regarding human rights provisions, with the most serious situation on the border with Belarus. Overall, the main problems, besides the practice of pushbacks occuring at the border with Belarus, pertain to the lack of legal remedies, including appeals and free legal assistance, too short a deadline for filing an appeal against the return decision, automatic application of entry bans upon return decision, too automatic and frequent use of detention, and lack of effective monitoring of the return operations.

In the case of externalisation of the return system, cooperation with some of the migrants' countries of origin poses a particular problem. However, Georgia, with its reintegration programmes, can serve as a model example of good cooperation.

Our study revealed that Poland's return system is perceived by migrants and civil society organisations as increasingly restrictive, and to a significant extent, this is a realistic picture. At the same time, the approach to returns lacks systematicity, which could provide both more effective enforcement of returns and protection of migrant's rights. Some migrants expressed fear of deportation (even if they possess a legal title of stay). Furthermore, we identified some lesser-known reasons for avoiding return (stigma towards returnees) or for secondary movements (fear of their own diasporas). In conclusion, we propose

eight policy recommendations to address the gaps identified.

Key evidence & analysis

Legal gaps linked with the improper implementation of the Return Directive and insufficient human rights guarantees

Our analysis identified serious shortcomings in terms of legal provisions for migrants returned from Poland, linked to improper implementation of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. First of all, returnees have limited access to legal remedies, including appeals and free legal assistance. Accessible assistance from NGOs depends on state funding and does not always guarantee full representation before the authorities, due to the large number of people in need of help. The deadline for filing an administrative appeal has been shortened to seven days, which prevents the effective implementation of this right. The automatic application of entry bans upon return decisions raises concerns about whether this is always justified.

Moreover, the reform of the Act on Foreigners [Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach, Dz.U. 2013 poz. 1650] of 2023 has shortened the deadline for filing an appeal against the decision to oblige the foreigner to return, abolishing the suspensive effect of a complaint filed with a court. Furthermore, the new law has transferred the return obligation proceedings entirely to the Border Guard.

Another problem is the lack of specific support for vulnerable foreigners, regulated by Polish law. Migrants in the return process (with some rare exceptions) do not have access to medical assistance, psychologists, interpreters, or the right to work. Our analysis revealed the problem of the very common use of detention, which can last up to two years. Courts usually do not conduct their own evidentiary proceedings and do not consider applications submitted by foreigners. This was particularly common in 2021-2022 during the peak of the humanitarian crisis on the Polish-Belarusian border.

Institutional gaps

The main institutional gaps identified are that the Border Guard—the only body that deals comprehensively with return proceedings—is not effectively controlled by external stakeholders or courts. This raises doubts in appeal proceedings. The lack of transparency in that matter is proven by the fact that, sometimes, information about the enforcement of some return decisions is provided to the monitoring NGOs too late, thus making monitoring impossible (e.g., information provided just a couple of minutes before the return). Particularly concerning were testimonies of some migrants according to whom Border Guard officers were attempting to discourage them from appealing and suggesting that they should sign a waiver of the right to appeal.

According to our interviewees, cooperation with some of the migrants' countries of origin poses a particular problem. Sometimes, they more or less openly refuse to identify their citizens or admit them once they have been identified. A possible remedy for this situation could be signing so-called readmission agreements, in which countries commit to cooperate in accepting their citizens, in exchange for specific political or economic benefits, including ones regarding migration issues (e.g., visa facilitations).

Another challenge was finding curators for minors in return procedures, which was difficult due to the lack of qualified personnel who know immigration and asylum procedures. In some cases, Border Guard officers (not involved in the return procedure) or court staff were the curators, which raises questions about a potential conflict of interest. It should be noted that there was a list of NGO employees ready to become curators, but this pool was not used due to the government's limited EU funding for these organisations after 2016.

Last but not least, Poland does not enhance effective monitoring of the return operations. There is a possibility to carry out such activities by NGOs, but it is not accompanied by any financial support, which seriously impacts the applicability of this mechanism. The Ombudsman applied for the right to monitor return operations, but his request was not accepted.

Infrastructural gaps

The only accommodation facilities provided for foreigners subject to return proceedings are detention centres, and there is only one facility for returnees released from detention, run by an NGO (financed by the Border Guard). A person in such a procedure - awaiting a decision either to be obliged to return or granted humanitarian stay - can neither work nor be accommodated in centres for asylum seekers. That fact is hampering their legal situation, as the argument of not having a place of residence is often used by the court in cases of an extension of stay in detention centres.

Situation on the Polish-Belarusian border

The 2021-2023 amendments to the Act on Foreigners, which reduce the procedural safeguards in access to protection and allow for expulsion without access to effective legal remedies, seem to contradict the Schengen Border Code, the Return Directive, and the EU Charter of Fundamental Rights. It is worth mentioning that judgments of the European Court for Human Rights confirmed that there were numerous violations of Article 3 of the European Convention on Human Rights (applicants' treatment by the Polish authorities during border checks, exposing them to the risk of inhuman and degrading treatment in the countries of origin, and repeated instances of collective expulsions at the Terespol/Brześć crossing point). In March 2025, the right to apply for asylum on the entire border with Belarus was suspended (later, this law was prolonged in May and in July). Altogether,

these measures raise serious concerns regarding human rights safeguards for migrants entering Poland from Belarus.

Externalisation of return infrastructure: the case of Georgia

The cooperation between Georgia and the EU in terms of returns is an example of the externalisation of migration policies by the EU, substantially facilitated by the Readmission Agreement between Georgia and the EU. This country was selected for analysis as Georgian citizens are the biggest group of forced returnees from Poland since 2022. However, despite the relevance of Georgia as a country receiving returnees from Poland, there are currently no bilateral programmes enhancing return procedures developed by the Polish authorities. At the same time, Germany and France finance reintegration projects for Georgian citizens leaving these countries, which can enhance the efficiency of such returns. The common scheme funded by the EU functions in these countries simultaneously.

The main gaps identified in the case of reintegration of returnees in Georgia were access to relevant information before departure and psychological assistance. Such kinds of support may be important as NGO workers pointed out stigma towards returnees in Georgian society. Information dissemination was presented by participants of our study visit as necessary at all stages of the return process and particularly needed in strategic places of first contact, like airports, railway stations, and bus stations. The role of local NGOs in the implementation of reintegration programmes, thanks to their contextualised knowledge, was pivotal to ensuring the efficiency of such programmes. This was particularly important in remote mountainous regions of Georgia and those inhabited by ethnic minorities.

Increasing restrictiveness of the practical aspect of the return system

Our informants from the non-governmental sector pointed to the deportation measures as fitting into Poland's overall anti-migration policy. In addition to the increased legal stay controls (which in themselves would be difficult to assess negatively if they were solely aimed at minimising illegal practices), they also pointed to the obstruction of psychologists' access to detention centers, the routine approach to foreigner' cases instead of individualised assessment thereof, and the expedited expulsion procedures, on the one hand, and the slow processing of applications for international protection, on the other.

Theoretically, avoiding forced return is possible based on a number of grounds, including those related to protecting family life or humanitarian concerns stemming from security threats in the country of origin. However, according to our informant, who works as a lawyer, it is difficult to convince the Border Guard that a person, for example, has a family life in Poland that qualifies them for a residence permit on humanitarian grounds.

Although deportation legally applies to those who receive a negative decision and

fail to leave on time—and therefore, the individual should expect it—negative experiences with authorities not only from their own countries but also from Poland, for example, on the border with Belarus, result in many asylum seekers living in constant fear. As a psychologist working with migrants told us, some sleep in their clothes and have suitcases ready 'just in case' (officers usually carry out deportations in the early morning hours). This means living with constant anxiety and fear of deportation. Sometimes, upon seeing the arrival of the Border Guard (open centres are run by the Office for Foreigners), some jump out windows and flee, for example, into a nearby forest to hide and wait out the officers' visit. Some migrants interviewed by us also mentioned a fear of deportation, even if they possess a title of stay.

Lesser-known reasons for avoiding return or for secondary movements

Some of the migrants participating in our research mentioned the stigma faced by people returning from emigration. It was an important element of the trauma of deportation, even in the case of so-called 'safe' countries of origin. Thus, some people who were even willing to return were avoiding this decision due to the fear of the reaction of that society in their country of origin.

Another important finding was the fear of diaspora (e.g., in the case of Chechens and Tajiks), which provoked some migrants to leave Poland for another EU country where there are fewer people with the same origin. The fear was induced by the risk of being denounced to the security services of the country of origin if a person fled his or her state for political reasons.

Policy recommendations

In this section, we elaborate on the eight most urgent recommendations based on those included in our reports (see: Trylińska et al. 2024: 59-60; Krępa et al. 2025a: 44-45).

1. Ensure the possibility of restoring the deadline for applying for a stay permit

Restoring the deadline for submitting any application is possible in Art. 58 of the Code of Administrative Proceedings if the applicant proves that 'the infringement was without his fault'. According to § 2 of this article, 'a request to restore the deadline must be submitted within seven days from the date on which the reason for missing the deadline ceases to exist' and concomitantly 'the action for which the deadline was specified must be completed'. As some of our interviewees' stories reveal, they did not apply for renewal of their stay permit due to misinformation by private companies. These situations should be considered to prevent people who have stable lives and are making integration efforts from falling into irregular stay.

2. Consider an extraordinary regularising procedure

If the solution proposed in Point 1 is not possible, a special regularising option (amnesty) is advised. This procedure should be available for people who have been in Poland for a longer time and either lost their

regular stay due to a difficult situation or entered Poland irregularly for an important reason, as long as they have not undertaken criminal activity and are making integration efforts.

3. Reconsider the need to impose a ban on entering the Schengen Zone for returnees

As one of our interviewees declared, he would return to his country, but he is not doing so because he fears an entry ban to the Schengen Zone. Avoiding the imposition of such a ban could increase irregular migrants' willingness to return to their countries of origin.

4. Strengthen human-rights protections and due procedures

This is a complex recommendation consisting of several elements:

• restoring the suspension of the execution of the return decision as a result of submitting a complaint to the court;

• fully implementing the Return Directive to introduce a system of state-funded legal assistance in return appeal procedures (similar to the one available in asylum appeal procedures);

• broadening access to translation and interpretation services to underprivileged foreigners who are not able to afford the provision of sworn translations of their crucial evidence;

• considering the transfer of competences of the appeal body to different authorities than the Border Guard, meeting the criteria of Art. 13 of the Return Directive ('competent judicial or administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence');

• introducing an amendment to the Act on Foreigners, under which it will not be possible to initiate return proceedings against a foreigner who has already submitted an application for a temporary residence permit and leads a family life in Poland with a Polish citizen, an EU citizen, or a foreigner;

• introducing mandatory professional representation before district courts in matters relating to the placement and extension of stay in a detention centre;

• assessing the health and psychological condition of a foreigner staying in detention before each court session regarding the placement or extension of stay in detention; the assessment should be made by independent specialists not employed/paid by the Border Guard;

• enabling the Ombudsman Office to monitor the enforcement of the return decision and provide necessary funds for that;

• ensuring greater transparency in the scope of monitoring of return operations, including observing the law obliging the Border Guard to inform monitoring bodies in advance;

• conducting training for judges issuing decisions on placing and extending the detention of a foreigner and judges of the District Administrative Court in Warsaw on the Return Directive guarantees;

• regulating the situation of people belonging to vulnerable groups in terms of special assistance, also when they appeal the return decision;

• taking steps to shorten and eliminate detention of children in return procedures (especially unaccompanied minors);

• creating a state-financed system of support to unaccompanied minors who are facing return (special reception facility being an alternative to detention, a list of curators for unaccompanied minors, training, reimbursement of travel costs);

• increasing use of alternatives to detention in return procedures;

• regulating the situation of access to medical services and psychological care for all foreigners in the lengthy return procedures;

• making sure that the national reception facilities for foreigners are sufficient to host not only asylum seekers but also returnees;

• considering extending the eligible group of residents of reception centres for asylum seekers to foreigners awaiting judicial decisions on refusal of granting them international protection and to foreigners whose return procedures have been initiated (who are currently forced to file consecutive asylum applications just to receive shelter and medical assistance during their return procedures).

5. Find a humanitarian solution to the crisis on the Polish-Belarusian border

The situation linked to the instrumentalisation of migration by Belarus is difficult and complex. Still, it requires solutions that guarantee the security of both migrants and Poland, compatible with domestic, European, and international law, including the cessation of pushbacks. Moreover, apart from halting pushback, some institutional developments would be helpful, such as:

• increasing cooperation with Frontex (including extending Frontex's mandate to monitor national detention and return practices);

• increasing the transparency of the national return operations by allowing monitoring by Frontex, the Ombudsman, next to the current monitoring NGOs;

• increasing cooperation between the Border Guard, the Office for Foreigners and NGOs, the Ombudsman for Children, and the Ombudsman, restoring the abandoned (in 2016) practice of annual consultative forums;

• introducing state funding of return operations' monitoring.

6. Promote community awareness regarding the security of migrants in Poland

As some of our interviewees declared, they decided to leave Poland irregularly (i.e.,

during their asylum procedure, facing the possibility of a Dublin return) due to fear of the diaspora from their country of origin. Ensuring asylum-seekers' knowledge of how Poland protects them and what measures the security services undertake to minimise the risk of infiltration of the diaspora by foreign services can lower the fear which causes migrants' distress and secondary movements.

7. Promote community awareness regarding the situation of returnees in their countries of origin

Several of our interviewees pointed out the fear of contempt and rejection from the society of their country of origin when they returned. Stigma linked to return is hampering those who are willing to start a new life in their home country. It would be advisable to find a way through cooperation with the countries of origin to change social perceptions of return as failure.

8. Facilitate safe return options

For those considering a return, establish programmes that support safe and dignified repatriation. This should include partnerships with home countries to create reintegration programs, ensuring a smooth transition for returning migrants. A good practice could be to disseminate accurate knowledge about returns and post-return reintegration support by the IOM or Frontex partners among foreigners considering a voluntary return. Development of a dedicated reintegration program for returnees from Poland is a good option, strengthening the efficiency of returns and dignified conditions thereof.

Methodology

This analysis draws on a qualitative research design conducted in Poland and Georgia. Combining legal and political science analysis with anthropological fieldwork methods, the study integrates desk research outcomes with in-depth life stories and semi-structured interviews to identify shortcomings of Poland's return system. A multilevel analytical framework—spanning individual experiences, meso-level network influences, and macro-level policy environments—enabled a comprehensive understanding of return dynamics. Data were transcribed and coded iteratively using both deductive and inductive strategies to uncover patterns across diverse contexts. Ethical standards were fully obeyed, particularly to ensure the anonymity of all informants and their informed consent.

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Further reading	For a more detailed analysis of country dossiers and other publications, please consult the GAPs project's website: https://www.returnmigration.eu/publications-gaps

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Project summary

GAPs is a Horizon Europe research project that aims to conduct a comprehensive multidisciplinary study of the drivers of return policies and the barriers to and enablers of international cooperation on return migration. The overall aim of the project is to examine the disconnects and discrepancies between expectations of return policies and their actual outcomes by decentering the dominant, one-sided understanding of 'return policymaking'. To this end, GAPs:

• examines the shortcomings of the EU's return governance;

• analyses enablers of and barriers to international cooperation, and

• explores the perspectives of migrants themselves to understand their knowledge, aspirations and experiences with return policies.

GAPs combines its approach with three innovative concepts:

• a focus on return migration infrastructures, which allows the project to analyse governance gaps;

• an analysis of return migration diplomacy to understand how relations between EU member states and third countries hinder cooperation on return and

• a trajectory approach which uses a socio-spatial and temporal lens to understand migrant agency.

GAPs is a three-year interdisciplinary research project (2023–2026) coordinated by Uppsala University and the Bonn International Centre for Conflict Studies (BICC) with 17 partners in 14 countries on four continents. GAPs' fieldwork and desk research are conducted in several countries, including Afghanistan, Canada, Germany, Greece, Iraq, Jordan, the Netherlands, Nigeria, Morocco, Poland, Sweden, Tunisia, Türkiye, and the UK.

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