

RETURN COUNSELLING

SUPPORTING INFORMED DECISION-MAKING
THROUGH IMPARTIAL, INDEPENDENT
AND NON-DIRECTIVE COUNSELLING

A policy brief on best practices for return counselling
based on the Danish Refugee Council's experiences.

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Inclusion and dignity of all concerned individuals must be upheld in the return process
Every return process must be carried out in a humane and dignified manner, where people concerned are given a chance to prepare and influence the return process.
Pictures from DRC's app, ASYLUMDK



Since the Return Directive¹ was adopted in 2008, the challenge of making returns more effective has been on the political agenda. In September 2018, the European Commission presented a recast of the Return Directive² as an addition to the recast of the Common European Asylum System, which are currently being negotiated by the European Parliament and Council of the European Union.

In November 2018, European Council for Refugees and Exiles (ECRE) published its comments on the recast of the Return Directive³. As an ECRE member, the Danish Refugee Council (DRC) shares the concerns of ECRE that the Commission proposal lowers safe guards for third-country nationals and thus can result in increased use of detention and violations of fundamental rights.

As a humanitarian organisation, DRC advocates for the right of rejected asylum seekers to return in safety, dignity and with due respect for their fundamental rights, as such the use of force should be avoided. Since the beginning of the 1980's, DRC has been providing counselling to asylum seekers through all stages of the asylum procedure, including after a final rejection of the asylum application. Based on this experience, DRC has found that rejected asylum seekers are more capable of relating to their own situation, if they are included in the return process and experience it as being dignified.

New legislation should always be based on evidence and on best practices to ensure good law-making. With this policy brief, DRC wants to provide input to the development of Member States' return policy, which encourages a dignified return procedure that takes into consideration the individual needs of the rejected asylum seekers.

DRC believes that impartial, independent and non-directive return counselling should always be part of an inclusive, dignified and sustainable return procedure. With this policy brief, DRC calls for the EU co-legislators to incorporate return counselling in all return procedures. The input is based on DRC's extensive hands-on experience with return counselling and extensive knowledge of the important elements, which can facilitate good return counselling.

This paper contains a description of DRC's experiences with return counselling, DRC's positions on best practices for return counselling and a call for Member States to integrate return counselling in the return procedures.

1) Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive), 2008/115/EC, 16th December 2008.

2) Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive recast), COM(2018) 634, 2018/0329 (COD), 12th September 2018.

3) ECRE, ECRE Comments on the Commission Proposal for a Recast Return Directive, COM(2018) 634, November 2018.

Extract of DRC's Global Policy on Return

DRC engages in return processes globally, including in the Danish context. The following eight positions outline the overall framework for DRC's engagement in return processes globally – applicable in all returns situations including asylum seekers, refugees and IDPs:

- #1: All forcibly displaced persons have a right to be protected against refoulement, to receive protection and assistance in accordance with international human rights law⁴ and should not be forced or pressured through i.e. untenable conditions in the host country to return to the area of origin under unsafe circumstances and conditions non-conducive for reintegration.**
- #2: DRC respects the right of States to return individuals without legal residence provided the decision to deny asylum or to withdraw refugee status has been made with due regard to national and international human rights standards⁵.** However, DRC finds that refugees should not be subject to constant or regular reviews of their refugee status. The right to family unity should be respected and minors should never be returned in contravention of the best interest of the child, and the possibility to grant a humanitarian residence permit or similar to vulnerable groups for health-related or other humanitarian reasons should be promoted.
- #3: Inclusion and dignity of all concerned individuals must be upheld in the return process.** Every return process must be carried out in a humane and dignified manner, where people concerned are given a chance to prepare and influence the return process.
- #4: The right to return “all the way home” must be guaranteed.** The return of all concerned individuals must be based on their right to return “all the way home” if they so wish. If the returnee wishes to be housed and reintegrated in other areas of the country of origin, this must be respected and supported on equal terms as the right to return home.
- #5: Forced return, even if legally sanctioned, should be avoided** as it often comes with measures that undermine human dignity, incl. detention and the use of force.
- #6: Return must not be viewed as the mere physical movement of people back to their area of origin but should always be accompanied by post-return monitoring and meaningful reintegration support.**
- #7: Refugees and IDPs must be supported in building capacities and develop skills while in exile to enable dignified life and improve the chances for sustainable return.**
- #8: Return should not be seen or promoted in isolation. In a protracted crisis, all three durable solutions should be pursued simultaneously and a host-government's potential preference for return should never dilute DRC's programming and advocacy to promote local solutions and resettlement⁶.**

For further elaboration of the positions, and the specificities of return of rejected asylum seekers see the full DRC Return policy.⁷

4) International Human Rights Law and international refugee law, Refugee Convention and UNHCR ExCom Conclusions on International Protection.

5) The Convention Relating to the Status of Refugees and the Convention against Torture; UNHCR ExCom Conclusions on International Protection, as well as with the recommendations of the UN.

6) Note that reference to durable solutions does not apply to the legal category of rejected asylum seekers.

7) DRC Return Policy, October 2018.

Best practices for return counselling

The purpose of DRC's return counselling is to ensure that rejected asylum seekers have access to impartial, independent and non-directive counselling. The aim is that the rejected asylum seekers gain thorough knowledge and information about their own situation, and about the different choices and possibilities they may have, allowing them to make an informed decision about their future. It is DRC's experience that this approach often results in a more dignified process and an increased motivation for returning.

In DRC's experience, the following factors support return counselling as part of a dignified procedure:

- **Counselling about return is best done in a safe and non-directive atmosphere by well-trained non-governmental counsellors.** Return counselling is not just information giving and guidance about the actual return procedure. Good counselling aims to enable the rejected asylum seekers to engage in conversations with the return counsellors where worries and questions can be shared freely. Often this process is necessary before the rejected asylum seekers may be open to discuss a potential return. Return counsellors must thus be impartial in their counselling, have extensive knowledge of the asylum procedure and practices, good conversation techniques and excellent social skills.
- **Rejected asylum seekers must be offered sufficient time to be able to relate to their (new) situation in a return procedure, consider their choices and build-up trust in the return counsellor.** Rejected asylum seekers are often reluctant to engage in conversations about return, because they had applied for asylum with the hope of getting a residence permit in a Member State. Without trust, rejected asylum seekers may not believe the information and facts provided by the return counsellor and thus be less motivated to engage in return counselling, which will enable them to make informed decision about their future.
- **Rejected asylum seekers should be offered access to legal counselling.** Rejected asylum seekers should have access to high quality legal counselling throughout the asylum procedure and after the final rejection to facilitate a better understanding of the authorities' rejection. Acceptance – not necessarily agreement – of a return decision may enable the rejected asylum seekers to make decisions for their future.
- **The rejected asylum seekers' dignity must be upheld in the return procedure and they should not be imprisoned.** Good reception conditions should maintain and build capacities of rejected asylum seekers, because it supports the well-being of the asylum seekers and thus a dignified return process. Detention and poor reception conditions have negative effect on rejected asylum seekers and do not necessarily motivate them to return. In contrast, poor reception conditions can have a negative impact on rejected asylum seekers and may, in some instances, make the rejected asylum seekers less motivated and able to engage in counselling on return.
- **Reintegration support can motivate some rejected asylum seekers to return.** Many rejected asylum seekers have fled war-torn countries and been away from their country of origin for many years – some might even be born and raised in another country than their country of origin. Rejected asylum seekers thus often fear going to the country of origin without any support.

DRC's experiences with return counselling

In the quest of increasing return rates, policymakers mostly focus on using speedy procedures and punitive measures to “motivate” rejected asylum seekers to return. DRC has been providing counselling to rejected asylum seekers for more than three decades and knows from this experience that sanctions rarely motivate.⁸

To the contrary, DRC has experienced how sanctions linked to return procedures can make rejected asylum seekers feel undignified and frustrated, which hinders them in engaging in return counselling. Punitive measures, such as being moved to a pre-removal centre far away from friends and family and the children's school as well as deprivation of pocket money, which restricts a family's ability to decide which type of food to prepare and eat, has a negative effect on the persons' ability to relate to his or her situation. Such measures can thus influence the asylum seekers' ability to engage in conversations about the future and make decisions.

DRC acknowledges the right of governments to return rejected asylum seekers, if the decisions have been made with due regard to national and international human rights standards, especially the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. In recognition of this right, an important aspect of DRC's work is to engage and seek the collaboration on the return process with rejected asylum seekers. DRC's counselling on both legal aspects of the asylum procedure and on the return procedure serve to ensure a dignified and inclusive process, and to the extent possible avoid situations, where the authorities use physical force in conjunction with the departure.

Based on the experiences with return counselling, DRC has identified the following areas to have a positive effect on encouraging and motivating rejected asylum seekers to engage and collaborate, and hereby ensuring a more dignified return process:

- Impartial and non-directive counselling
- Sufficient time for building trust to the counsellors
- Access to legal counselling
- Dignified stay and prevention of detention
- Holistic reintegration support

RETURN TERMINOLOGY

Often return is described as either “voluntary” or “forced”, but deciding on whether and how to return is a process for rejected asylum seekers, and they can have many different reasons for returning. The decision to return is usually initiated by the authorities' return decision and the risk of forced deportation, thus the decision of the rejected asylum seekers to return is seldom made voluntarily, but rather due to lack of alternative options. To illustrate the reality of how many rejected asylum seekers make decisions during a return process, DRC has developed these terms to describe return:

“Accepted return” is applied by DRC in the European context to describe the situation where rejected asylum seekers accept to cooperate with the authorities on the return process, but where a legal order and a threat of possible sanctions may have influenced their decision. The term is not applied by DRC outside the European context. Other actors refer to this as “mandatory return”.

“Forced return” is defined by DRC as the return of rejected asylum seekers, who do not consent to return home and where, as a result, authorities are applying pressure through sanctions and/or are using physical force in conjunction with the departure.

8) Since the early 1980's, DRC has been engaged in counselling of rejected asylum seekers through all stages of the asylum procedure. Since 2005, DRC has been engaged in several return programs for specific target groups, such as rejected asylum seekers from Afghanistan, Iraq, Kosovo, Serbia, etc. Since 2014, DRC has implemented a return counselling program for all rejected asylum seekers in Denmark. Annual evaluations and quarterly reports of this return counselling program are available since 2014.

Impartial and non-directive counselling

DRC provides return counselling to rejected asylum seekers with the aim of ensuring access to impartial, independent and non-directive counselling that can provide the rejected asylum seekers with thorough knowledge and information about their situation.

Access to impartial counselling is key for the rejected asylum seekers in understanding their situation. It often takes time and sometimes several counselling sessions for rejected asylum seekers to accept that the return decisions are final. Before accepting that the return decision is final, consenting to return may be difficult.

Return counselling is more than providing information and guidance about the return procedure. Good counselling also enables the rejected asylum seekers to engage in conversations about returning and about how a life and future would be in the country of origin. When non-governmental return counsellors act impartial and independent, they can provide a safe space where the rejected asylum seekers freely can share thoughts, worries, questions and sometimes alternative strategies. The opportunity to ask questions and consider options, can enable the rejected asylum seekers to be open to discuss potential return.

Counselling about return must be done in a safe and non-directive atmosphere by impartial non-governmental counsellors with extensive updated knowledge of the asylum procedure, rules and practices, knowledge about people in crisis, and with good social competencies. Key social skills for counsellors are the ability to establish a safe space for conversation, good conversation techniques, trust-building and an empathic approach to the asylum seekers. Without it, the asylum seekers may not trust the facts and information provided by the return counsellor, e.g. about the reintegration programmes, lack of other residence possibilities in the Member State, and may thus be less willing to accept the return decision.

DRC puts a lot of effort into training all counsellors to ensure that the rejected asylum seekers have access to high quality counselling. All DRC return counsellors complete an extensive training program, undergo peer-to-peer training and are regularly supervised and monitored. Rejected asylum seekers may have different strategies in the return process, e.g. lack of will to return to the country of origin, and therefore also limited capacity to actively engage in a conversation about possibilities and consequences of different choices.

It is often a precondition for having an open-minded conversation about engaging in a return process that the return counsellors do not judge the rejected asylum seekers' thoughts or strategies. Instead return counsellors should give rejected asylum seekers time to build-up trust and be ready to receive information about the return procedure in order for the rejected asylum seekers themselves to make choices about their future.



Pictures from DRC's app, ASYLUMDK

Counselling about return is best done in a safe and non-directive atmosphere by well-trained non-governmental counsellors. Rejected asylum seekers must be offered sufficient time to be able to relate to their (new) situation in a return procedure, consider their choices and build-up trust in the return counsellor.

Sufficient time for building trust to the counsellors

Establishing trust and providing necessary counselling for rejected asylum seekers to understand their situation and make decisions about their future takes time and should not be rushed. Outreach work and trust-building is crucial when dealing with rejected asylum seekers. Due to the stressful situation rejected asylum seekers may experience apathy and frustration and may have difficulties in relating to their own situation and engaging in conversations about their future.

Fear of detention, forced return, difficult living conditions at asylum centres, insecurity and long waiting time during the asylum procedures may negatively influence the asylum seekers' capacity and ability to make decisions. Some asylum seekers may be frustrated, and some may suffer from apathy, e.g. due to a traumatic flight from the country of origin or transit country, the lengthy waiting times during the asylum procedure and the insecure future. These various factors can limit the ability of the asylum seekers to proactively engage in preparing and influencing the return. Out-reach work and trust-building are central in these situations.

DRC provides free independent legal counselling to asylum seekers throughout the asylum procedure to ensure that they have effective access to the asylum procedure and thereby necessary protection of their fundamental rights and prevention of refoulement. This type of counselling by independent humanitarian organizations or lawyers can also be important in terms of facilitating a good foundation for trust-building with regard to return counselling.

For an independent humanitarian organisation like DRC, it is important that return counselling is just one element of the counselling services provided to asylum seekers, because it ensures that many rejected asylum seekers often know DRC from legal counselling before entering the return procedure. The knowledge of DRC's work for asylum seekers throughout the asylum procedure helps create confidence that DRC basically is a trustworthy organisation – also when it comes to the return procedure.

As part of DRC's outreach work, DRC has developed an app, ASYLUMDK, that describes the whole asylum procedure in Denmark with the use of pictures and text in different languages. The app is both used by counsellors during counselling sessions, but can also assist the asylum seekers in getting more information about the asylum system, including the return procedure, on their own.

TRUST-BUILDING TAKES TIME, BUT CAN ASSIST IN OPENING UP FOR CONSERVATIONS ABOUT RETURN

CASE

A young Iraqi adult named Malik, a rejected asylum seeker, has through a period of five weeks approached DRC's return counselling office, located in the asylum centre where Malik is accommodated. Six counselling sessions were carried out with Malik; all with the same return counsellor. During the first three-four counselling sessions Malik expressed a great need to talk about his life and situation, his mental vulnerabilities and physical condition. He also expressed distrust in the Danish authorities and the asylum procedure and was unwilling to accept the return decision and unwilling to engage in talks about returning to Iraq. Since the Danish authorities were not in possession of Malik's ID documents, forced return to Iraq could not be carried out.

During the process of six counselling sessions, the return counsellor gradually took a more and more active role. First, the counsellor mainly listened, showed patience and empathy and then gradually began to be more active, ask questions and advise and discuss the consequences of different possibilities. Malik started to engage in conversations about his fears of going back. He had been away for many years, had no family left and did not know how to make a living. Malik slowly built up trust to the return counsellor and became ready to talk about reintegration programmes and possible return to Iraq.

The case of Malik illustrates how return counselling often involves a process with repeated counselling sessions, preferably with the same counsellor. An open, non-directive approach is a method that allows the asylum seeker to build trust to the counsellor and to gradually open up for a conversation about the actual return.

By openly exploring topics the asylum seeker brings into conversations and being an active interlocutor – contributing with questions and relevant information without having an opinion on what is best – often gives the asylum seekers courage to consider their own situation.

The cases in this paper are based on DRC's experiences with return counselling of asylum seekers in Denmark. All cases have been anonymized. Name – and in some instances also nationality – has been changed.

Access to legal counselling

In all return procedures, accepted return is preferred and forced return should be avoided. Rejected asylum seekers will often resist return as long as they nourish hope to obtain a residence permit in the Member State. In DRC's experience, a better understanding of the asylum system and the definite nature of the return decision of the authorities can help rejected asylum seekers accept their situation.

It is important that asylum seekers have access to a fair asylum procedure that respects the principle of non-refoulement and ensures that the asylum seekers have had a chance to present their case before a competent authority in the Member State. The right to a fair and effective appeal is also fundamental for a fair asylum procedure, and the time limits for appeal must be long enough to ensure that the asylum seekers get a reasonable chance to present their case.

Some rejected asylum seekers have significant humanitarian needs, e.g. health reasons or lack of maturity due to young age. A fair asylum system must contain the possibility of granting humanitarian residence permits to ensure such asylum seekers are provided necessary support, which they would not be able to get in their country of origin.

Access to legal counselling throughout the asylum procedure seems to have a positive effect on the asylum seekers' acceptance and understanding of the rejection of asylum and on the asylum seekers' willingness to cooperate on return.

Counselling about the return procedure must include both rights and obligations for rejected asylum seekers as well as possible consequences of different choices. Rejected asylum seekers who do not cooperate about the return, risk detention and forced, escorted deportation. Information about the actual return is therefore very important, and the rejected asylum seekers must be informed in detail about the forthcoming process as soon as possible. The personnel – often the Member State police – who escort the rejected asylum seeker should have received relevant training and must be capable of communicating with the returnee.

ACCESS TO INDEPENDENT LEGAL COUNSELLING MAY RESULT IN INCREASED WILLINGNESS TO CONSIDER RETURN

CASE

After receiving a final rejection of his asylum claim, Ali from Iran was accommodated in a deportation centre. Ali did not take initiative to visit DRC's return counselling office located in the centre. However, he met DRC's return counsellors through their outreach work and hereafter decided to participate in an individual session. Ali made it clear during the first session that he would prefer legal counselling and that he did not want to accept a return to Iran, but instead wanted to explore appeal options. Ali was then referred to DRC's legal counsellors who, in the end, informed him that he had no possibility of obtaining legal stay in DK.

A period of several return counselling sessions followed during which a return counsellor engaged in conversations with Ali about his situation, the result of his asylum application and the return procedure. Messages were repeated and different scenarios and choices – as well as lack of choices – were discussed. The Danish Police could not forcefully deport Ali to Iran, but the counselling made him actively consider accepting return to Iran.

Distrust in the authorities is often a normal reaction after receiving a negative decision on an asylum application. Access to legal counselling, where independent legal counsellors can address and explore possibilities of appeal and legal stay seem, in some instances, to be a precondition for engaging actively in discussions about other options than legal stay.

Return counselling is often a process where the rejected asylum seeker through counselling is assisted in structuring thoughts, concerns and different scenarios for the future. Access to independent legal counselling may be an essential part of this clarification process.

Dignified stay and prevention of detention

DRC has experienced how conditions at the reception centres which make it possible to maintain a daily rhythm and a more normalized everyday life, such as self-catering and access to activities, also has a positive effect to the rejected asylum seekers' ability to relate actively to their situation.

Capacity-building activities can be education and trainings for different types of jobs, which are relevant in both the Member State, and the country of origin. Keeping busy with meaningful activities can help the rejected asylum seekers during periods of waiting time and provide a feeling of self-worth, which ensures a dignified return process. In addition, maintaining and building capacities of rejected asylum seekers best secure sustainable and dignified returns, because skills and knowledge enable better and more rapid reintegration in the country of origin.

Sanctions, detention and poor reception conditions are not conducive for ensuring that rejected asylum seekers can engage in a dignified manner and can in some cases ultimately have the opposite effect; that the rejected asylum seeker is less able and motivated to collaborate. It can be especially problematic for vulnerable rejected asylum seekers to be detained, because their special needs cannot be met adequately in detention facilities.

DRC has experienced that many rejected asylum seekers are being detained as part of the authorities' efforts to forcefully return asylum seekers. Many rejected asylum seekers are detained based on:

- The "risk of absconding"; i.e. when the authorities suspect that the rejected asylum seekers will abscond, or
- The "obligation to cooperate"; i.e. when the authorities want to motivate the rejected asylum seekers to cooperate in the return process.

Neither of these grounds are clearly defined in national law and can therefore be interpreted very broadly by the authorities. This may result in rejected asylum seekers being detained without understanding the reasons for their imprisonment. Further, the lack of clear guidance on what the authorities expect of the rejected asylum seekers can make it difficult for them to rebut the presumption that they will abscond or to fulfil the expectations of the authorities.

DETENTION DOES NOT INCREASE COOPERATION ON RETURN

CASE

Nor from Lebanon was detained in order to facilitate a quick return after having received a final rejection of his asylum claim. A DRC return counsellor visited Nor three times in the detention facility. During all three counselling sessions, Nor was confused and affected by the detention. He expressed a deep concern that people would regard him as a criminal and had difficulties in understanding why he was detained since he had not engaged in criminal activities.

The counsellor took time to explain the reason for the detention and the risk of being forcefully deported. Nor was not in a position where he was able to make a decision about accepting to cooperate about his return. He kept changing his mind as to whether he wanted to learn more about reintegration support. One moment he would express

a wish to return; but would soon after change his mind again focusing solely on the injustice of the detention. Nor was after several months of detention released to an open asylum centre since a forced deportation could not be carried out.

The case of Nor illustrates a typical situation where the detainee often develops a narrow focus on a specific topic. For Nor it was the injustice of the detention and the concern to be categorized as a criminal. Detention seems to create barriers which hinders rejected asylum seekers to actively engage in discussions about return.

If comparison is made between Nor and Malik (from case description about trust-building), there are similarities between this case and the case of Malik. At the starting point of the counselling sessions both are unwilling to engage in the talks about return. But there are also several differences such as time, unhindered access to repeated counselling sessions, a safe atmosphere to discuss options, and the feeling of having a choice and power to make decisions. These differences may have influenced Malik to consider and engage in talks about return, whereas Nor was not given the same opportunities.

Holistic reintegration support

DRC has experienced how access to reintegration support in the country of origin can have a positive effect on rejected asylum seekers' consent to return. Many rejected asylum seekers have fled war-torn countries and may have lost their homes, jobs and family or network. They have been away from their country of origin for many years, and thus have limited knowledge of the current situation in the country as well as how to re-integrate in the society.

Reintegration in the country of origin is a process, which can start already while in exile. For reintegration programmes to be tailored to the individual needs of a returnee, an assessment of the persons' needs, capacities and competencies must be made preferably well in advance of the rejected asylum seekers return. Comprehensive and holistic reintegration programmes are important to ensure dignified and sustainable return.

Rejected asylum seekers have many different needs and capabilities depending on their situation and the country they are returning to. Lack of flexibility in the organisation of the reintegration programme may have a negative effect and can thus result in support that does not meet the actual needs of the rejected asylum seekers. In-kind support in combination with cash assistance can allow for more individual needs to be met, which is essential for the returnees' ability to re-establish their lives in the country of origin.

As part of the return counselling, it is important to explain all aspects of the reintegration programmes, including challenges faced by other returnees. Lack of knowledge and acknowledgment of challenges and problems experienced by other returnees can create distrust in the programmes.

Trust in the local reintegration partners who facilitate the reintegration support in the countries of origin is important – especially when the programmes only offer in-kind support that is delivered in the country of origin. Trust in the programmes and the local reintegration partners depends among other things on the communication between the rejected asylum seekers and the return counsellors as well as on a good cooperation between the local reintegration partners and the Member States.

The absence of reintegration support for some nationalities can create a feeling of discrimination between groups of rejected asylum seekers. Access to reintegration support should thus be provided for all rejected asylum seekers regardless of nationality.

DRC CALLS FOR THE EUROPEAN UNION CO-LEGISLATORS TO DEVELOP GOOD RETURN PRACTICES, WHICH ARE BASED ON THE FOLLOWING PRINCIPLES:

Rejected asylum seekers must have access to impartial, independent and non-directive counselling.

- **Impartial, independent and non-directive counselling must be provided for in the return procedure.** Member States should prioritize efforts that positively encourage cooperation on return such as independent and non-directive high quality return counselling for rejected asylum seekers.

Rejected asylum seekers must be offered sufficient time to consider their choices and to be able to build up trust to the return counsellor.

- **Time is essential for both trust-building and for the rejected asylum seekers' ability to engage in the return process.** Too rapid return procedures, which do not allow the rejected asylum seekers to have enough time to relate to and accept their new situation, do not ensure a dignified return. Trust-building takes time and is necessary for the asylum seekers possibility to engage in the return process together with return counsellors.

Rejected asylum seekers must have access to legal counselling that enables them to engage and influence their return.

- **Effective access to legal counselling must be ensured for all, including access in pre-removal facilities.** It is imperative and guaranteed under international human rights law that asylum seekers must have access to free high quality legal counselling throughout the asylum procedure, including effective right to appeal or similar legal safeguard.
- **Forced return, even if legally sanctioned, should be avoided as it often comes with measures that undermine human dignity, incl. detention and the use of force.** Every return process must be carried out with respect for fundamental human rights and in a secure, humane and dignified manner.

Rejected asylum seekers must be offered decent living conditions and respectful treatment.

- **Humane and dignified stay prior to return should be guaranteed by the Member State.** Rejected asylum seekers must be accommodated in reception facilities with adequate support to build and maintain their skills and to ensure their mental and physical well-being.
- **Detention should only be used under exceptional circumstances and never for children.** The use of detention in return procedures must never become automatic and should always be based on the principles of individual assessment and proportionality. Reasons for detaining asylum seekers must be listed exhaustively in national law and interpreted restrictively. Rapid judicial review of the legality of the detention is imperative and the detained asylum seekers must have access to independent and high quality legal assistance.

Rejected asylum seekers should always be offered meaningful reintegration support.

- **Comprehensive and holistic reintegration programmes in the country of origin must be accessible to all persons who return and should be supported by the Member State and the government in the country of origin.** Reintegration programmes can assist returnees re-establish themselves in their country of origin and thus ensure that their return is sustainable, therefore the support must be adjusted to suit the needs of the individual.

About DRC

The Danish Refugee Council (DRC) assists refugees and internally displaced persons across the globe: we provide emergency aid, fight for their rights, and strengthen their opportunity for a brighter future. Our vision is a dignified life for all those who are displaced.

DRC was founded in Denmark in 1956, and has since grown to become an international humanitarian organization with more than 8,500 staff in 40 countries and 8,000 volunteers. We work in conflict-affected areas, along the migration routes, and in the countries where refugees settle. In cooperation with local communities, we strive for responsible and sustainable solutions. We work toward successful integration and – whenever possible – for the fulfillment of the wish to return home.

The DRC Asylum Department in Denmark has for decades been providing counselling to asylum seekers in all phases of the Danish asylum procedure, including in the return procedure.