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ERPUM and the Drive to Deport Unaccompanied Minors



Key points:

- ERPUM group members included Sweden, Norway, the UK, and the Netherlands. Denmark and Belgium had observer status.
- The project focused on unaccompanied minor asylum-seekers (UAMs) from Afghanistan, Iraq and Morocco.
- ERPUM was the first time the EU attempted to institutionalise the administrative mass deportation of UAMs.
- It combined three elements: deportation, reception facilities and family tracing.
- The ERPUM group sought to avoid scrutiny by shifting policy development to supranational or international policy venues, or by outsourcing policy aspects to private actors.
- The group also employed a shielding strategy of public disinformation.
- During its three-year span, the project faced media controversy and harsh critique from humanitarian actors.
- ERPUM was discontinued without having deported any children to the target countries.

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Photo: Unaccompanied minors from Afghanistan in Malmö, Sweden. © UNHCR/Johan Bävman

This research brief traces the institutional dynamics surrounding the **European Return Platform for Unaccompanied Minors (ERPUM)**, the first ever EU project attempting to organise the administrative deportation of unaccompanied minor asylum-seekers (UAMs). Besides Sweden, who coordinated the pilot project, its other core members were Norway, the United Kingdom, the Netherlands, and Denmark and Belgium as observers. The project initially singled out children from Iraq and Afghanistan, and later, Morocco. The first phase of ERPUM (ERPUM I) was initiated in January 2011, and its second stage (ERPUM II) began in December 2012. The pilot was discontinued in June 2014.

ERPUM: Institutionalising deportations for unaccompanied minors

The ERPUM pilot project was initially justified, by the states involved, by alarmist claims of a 'massive influx' of UAMs to their territory.¹ Data revealed, however, that Sweden alone experienced an increased influx. Focusing only on Afghan UAMs, most ERPUM states, save Sweden and Belgium, witnessed declining UAM arrivals before 2011 (Figures 1 and 2).

During its three-year span, ERPUM faced media controversy and harsh critique from humanitarian actors. For instance, when it surfaced that the UK alongside other EU states was preparing to deport 12 Afghan children per month to Kabul, Norwegian Save the Children argued that ERPUM constituted 'experimenting with children's lives'.² Multidisciplinary scrutiny followed in May 2013, as the Refugee Studies Centre organised a workshop with legal practitioners, policymakers, NGOs and academics discussing the risks of the pilot.³

ERPUM's rationale was that swift deportations would deter other UAMs. The pilot illustrates how UAMs' need for 'durable solutions' was interpreted as justifying their institutionalised mass deportations.

Moreover, it illustrates how civil servant circles gradually reframed the controversial deportation policy from one concerned with minimising asylum applications through deterrence to one safeguarding children's right to family reunification.

The political challenges motivating states to participate in the ERPUM pilot have by no means disappeared. As the 2015 refugee movement from Syria, Afghanistan and the Sub-Saharan region increases, most European countries have received more UAMs. But some more than others: Sweden has received more UAMs than any other EU country, with authorities expecting the arrival of 40,000 during 2015. At the same time, the EU has announced its intention to effectuate mass deportations of asylum-seekers to regions of origin.

Given these developments, and recognising UNHCR's claim that half of the world's 60 million displaced persons are children, the importance of understanding recent EU attempts to institutionalise deportations of UAMs becomes clear. Here ERPUM offers valuable lessons.

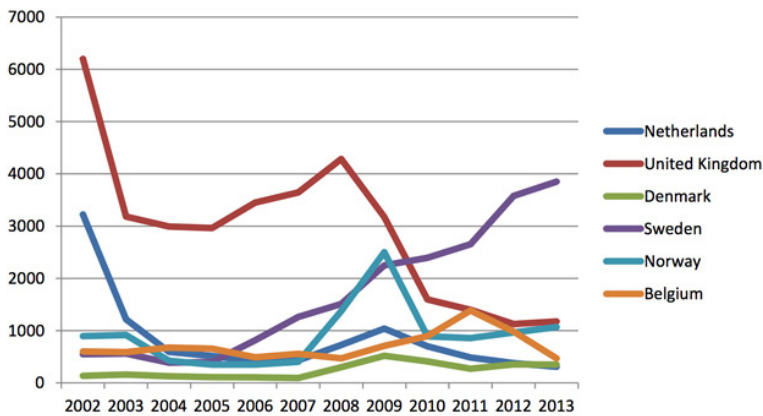


Figure 1. UAM asylum applications to ERPUM countries 2002–2013

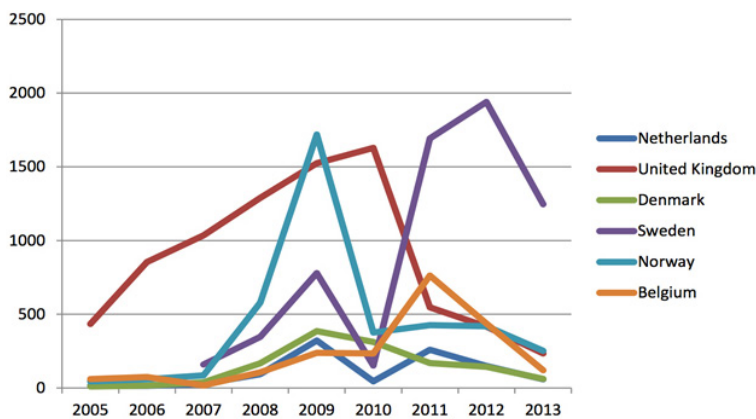


Figure 2. Afghan UAM asylum applications to ERPUM countries 2005–2013

Trans-European network of civil servants

ERPUM was created by civil servants from the involved states ('the coordination group'). This transnational network produced the ERPUM I grant application to the EU Commission, which coincided with the EU Action Plan for Unaccompanied Minors in June 2010. This was followed by the ERPUM II grant application in 2012, which further extended the project.⁴ In formulating the pilot's objective, the coordination group aligned itself with Article 10.2 in the EU Returns Directive,⁵ stating "Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return."

Arguably, Article 10.2 was inspired by similar Dutch legislation implemented in 2000, which had led to controversial UAM reception facilities being set up in Angola and Congo. Thus, before and during ERPUM, civil servants and politicians from participating countries repeatedly referred to the Dutch experiences as substantiating the feasibility of the pilot plans.^{6,7} But according to UNICEF Netherlands,⁸ there were in fact no such experiences. No children were returned to the Congolese facility, while only one child had ever returned to the Angolan facility, and then only remained there for a few days.

ERPUM was discontinued without having deported any children to the target countries. Nonetheless, the pilot did have other immediate effects, namely to push the ERPUM states towards a certain interpretation of the Returns Directive, and thus also the transposition of its provisions. Such provisions already existed in Article 3.56(1)(c) of the Dutch Aliens Act, and Section 55 in the UK's Borders, Citizens and Immigration Act from 2004 was seen as in line with the Directive. But for the remaining ERPUM states, legal reforms of their Aliens Acts

happened in quick succession in the years around the ERPUM drive, that is, between 2009–2012 (see Figures 3 and 4).

Although national differences exist, these reforms emulated the Returns Directive by a carefully phrased disjunction involving three components: family networks, guardians, and reception facilities.⁹ Exemplified by the Danish reform, deportation of UAMs was made legally acceptable even if neither family networks nor legal guardianship existed – as long as reception facilities did. Crucially, this change cancelled out the previous Danish provisions acknowledging child emergencies beyond those of persecution and refoulement. After the reform, all UAMs returned to reception facilities could, simply by virtue of having arrived at them, be unable to meet the new and significantly lowered threshold for emergencies.

While ERPUM was part of a larger deportation drive predating the pilot, this drive continues to this day. Currently, states like Denmark, Norway and Sweden wait for UAMs to turn 18, and then deport them. These aged-out minors, no longer protected by the Convention on the Rights of the Child, are uniquely vulnerable. Several tragic cases illustrate this. In the summer of 2015 and after much media controversy, Denmark deported two brothers back to an Afghanistan they hardly knew – one minor, the other appointed his brother's guardian. Quickly after their arrival, however, they were separated, and soon thereafter news emerged that the youngest 16-year-old brother, Abolfazl Vazari, had died under mysterious circumstances.

Most ERPUM efforts were placed on reaching an agreement with Afghanistan, the prime country of origin for UAMs in the EU. ERPUM's negotiation team had meetings with several Afghan ministries, most notably the Ministry of Refugees and Repatriation, where development aid was made conditional to accepting the ERPUM pilot's objective. ERPUM was controversial for several reasons. At the outset it targeted one of the most vulnerable groups of migrants for deportation, namely those who were: 1) below the age of 18; 2) whose asylum applications had been rejected; and 3) who had arrived in an ERPUM country without being accompanied by adult family members. As such, ERPUM was the first time the EU attempted to institutionalise the administrative mass deportation of UAM asylum-seekers, despite Member States' obligations under the Convention on the Rights of the Child.

In order to realise its objective, ERPUM combined three elements: deportation, reception facilities, and family tracing. The stated objective was to deport the minors to reception facilities in countries of origin or transit, where they were to remain until tracing efforts had located their families or until they turned adult. In effect, critics pointed out, children could spend protracted periods in these camps if family tracing efforts did not succeed. And while much criticism was directed at the idea of reception facilities, the pilot's optimistic emphasis on family tracing was also problematic, as no best practices on Afghan family tracing existed. ERPUM attempted to push the tracing agenda, arranging workshops in Stockholm, London, Utrecht and Oslo. Yet results did not materialise, as the security situation in Afghanistan deteriorated and the private organisation contracted to do tracing there, IDCU, ceased its activities in early 2014. In the end, ERPUM described its tracing efforts as 'reasonably successful',¹⁰ but only 34 out of 148 Afghan families were eventually traced, and no children were deported and none reunited with their families.

Besides deteriorating security in the countries supposedly safe enough to receive child deportees, ERPUM's tracing

difficulties also stemmed from UAMs' distrust of immigration caseworkers. Not believing claims that there was no connection between family tracing efforts and authorities' final decisions on their asylum applications, UAMs chose not to cooperate on tracing efforts. This did not change even though Norwegian and Swedish authorities applied so-called motivation interviewing, whereby return counsellors in reception centres tried to make the children realise that remaining in the ERPUM countries was not an option.¹⁰

Avoiding scrutiny while promoting the deportation drive

Another source of controversy was the way in which ERPUM relied on the strategy of 'venue-shopping'¹¹ to avoid scrutiny by shifting policy development to supranational or international policy venues, or by outsourcing policy aspects to private actors. In 2009, the Norwegian government contracted the German Association of Experts in the Field of Migration and Development Cooperation (AGEF) to develop an Afghan UAM reception facility. AGEF had been running the 'Return to Employment in Afghanistan' (REA) programmes for adult deportees from Europe. This contract was not renewed, however, since AGEF's proposal did not solve security issues, did not define child-friendly environments or have any references to the Convention on the Rights of the Child. Briefly thereafter, AGEF was also involved in a massive embezzlement scandal connected to its REA activities.¹² This illustrates the danger that governments may attempt to insulate policies from domestic resistance by transferring them to questionable private venues.

This shielding strategy was observable when ERPUM states used the trans-European network as a failsafe to block critical inquiries into the scope and objectives of the pilot.³ This resulted in an informational gap between authorities and civil society, which, for a time, had the effect of immunising ERPUM from critique. Once this strategy was challenged, however, new information revealed blatant discrepancies in the justifications offered by the governments involved.

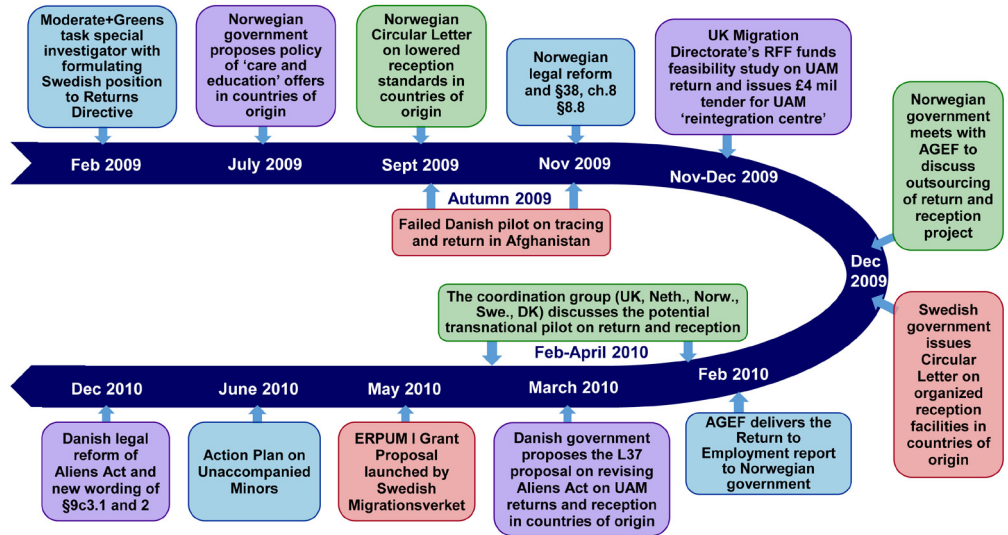


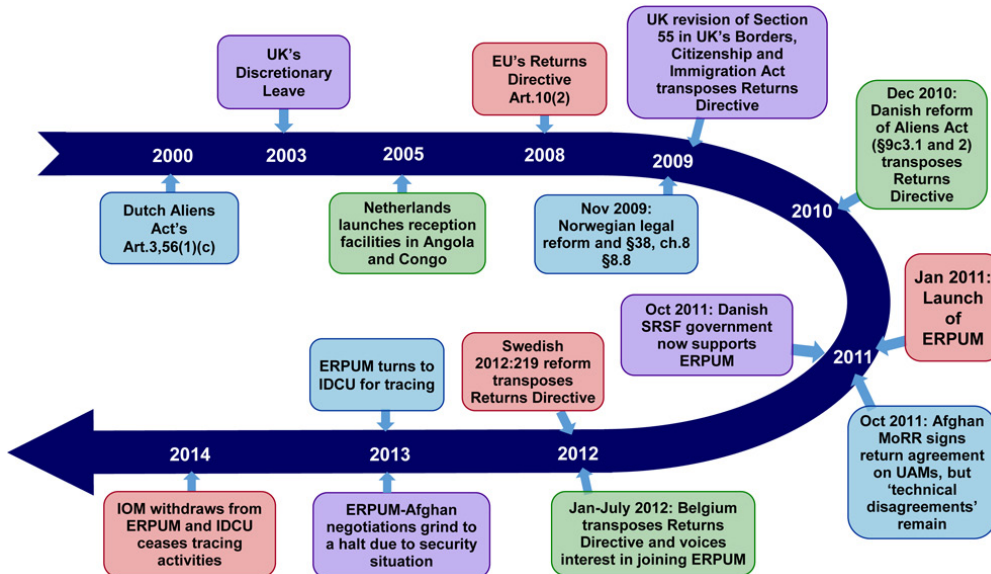
Figure 3. ERPUM-related events 2009–2010

But this was not just a problem pertaining to public disinformation. It also revealed the more troubling fact that the ERPUM states seemed to interpret the Returns Directive and the goals of the ERPUM pilot differently. While an ERPUM official stated that forced returns were off the table, Dutch politicians replied the opposite when quizzed in parliament. And while some ERPUM documents seemed to indicate that deportations would only be carried out once families had been traced, Danish Minister Bødskov informed a parliamentary committee that the mere existence of reception facilities meant UAM deportations could no longer be blocked on the grounds that they would end up in an emergency situation. One question therefore became whether ERPUM had any real control over the policies which could result from the pilot.

The shielding strategy also played out in other ways. Two consecutive Danish governments had used the observer status to claim a loose affiliation with ERPUM, but this was misleading as Denmark had promoted the deportation policy since at least 2009. By contrast, released correspondence showed how the coordination group had also invited Finland to join a Geneva meeting in September 2010, but that the Finns, after a brief period of observation, had declined the offer. Released correspondence also showed that the Danish observer status was not a political choice, but instead necessitated by the Danish opt-out to the EU's Justice and Home Affairs (JHA) pillar. Finally, it was revealed that the Danish Ministry of Justice had informed the Ministry of Foreign Affairs that "while Denmark, formally speaking, is an observer in the project group, we are, in fact, involved in the development of the project."¹³

This shielding strategy was not isolated incident, illustrated by the fact that the administrations from all of ERPUM's Scandinavian states repeatedly blocked or redacted ERPUM policy documents requested by journalists. This was repeatedly justified via clauses of exception in their Public Information Acts relating to foreign political or economic interests (Norway), relations to other states (Denmark), and concerns of foreign political interests (Sweden). At times, though, the shielding strategy could itself become revealing. For instance, Danish authorities refused to release documents related to ERPUM,

Figure 4. ERPUM-related events 2000–2014



arguing their crucial importance to ongoing negotiations with foreign powers; at the same time, the government was assuring parliament that Denmark was no longer active in the ERPUM pilot.

The ways in which 'venue-shopping' played out as a strategy to promote the objectives of ERPUM are very informative. Typically, the participant states responded to domestic critique by invoking legitimacy in terms of their collaboration with other states. Thus, Belgian State Secretary Maggie De Block (Open VLD), two different Danish Ministers, and Dutch State Secretary Teevens invoked their international partners in response to parliamentary questions regarding domestic measures related to ERPUM.

On several occasions, however, this 'venue-shifting' went too far, as Ministers attempted to justify the policy drive by referring to non-existing collaboration with migration-, humanitarian- or child-focused NGOs. Thus, in 2010 the British Minister of Immigration, Damian Green, replied to Human Rights Watch criticism by describing the coordination group's attempts to bring about the deportation of UAMs to Afghanistan: "we are looking to work with other European partners, such as Norway, and valued international partners, such as UNICEF..." (Channel 4 News, 8 June 2010). However, this claim was immediately denied by UNICEF.

Later that year, the Danish Minister of Integration, Birthe Rønn Hornbech, claimed that the plans for reception facilities could be modelled on existing Red Cross/Red Half Crescent orphanages in Afghanistan. Immediately, the Danish Red Cross denied operating any such orphanages and even said they had told the Minister the day before she used this claim to push the new law through parliament.¹⁴

Similarly in 2011, an ERPUM official, questioned by British reporters, claimed that the IOM and the Afghan government would be coordinating the conduct of deportations. Again, this claim was immediately denied by an IOM spokesperson, who stressed that the "IOM is not and will not be involved with the return of unaccompanied minors under the ERPUM project." Worse still, an Afghan MoRR official who opposed the plans said, even more categorically: "We don't support the repatriation of children because a lot of them left at an early age so we are not sure we can find their parents or relatives... They could fall into the hands of drug addicts, Taliban or criminal gangs."¹⁵ Despite the IOM and Afghan rejections of this claim - which illustrate how ERPUM members exploited the information gap between different domestic spheres - in 2012 Danish Minister Bødskov repeated both claims in the Danish parliament.

Conclusion

ERPUM was concluded in June 2014 after much public criticism, increasing bureaucratic resistance, and a changed EU landscape where the Dublin III Regulation (2013) provisions on UAMs seem to run counter to the pilot's rationale. At the same time, the security situation in Afghanistan deteriorated further, with around 1 million internally displaced. In spring 2015, the MoRR appealed strongly to European embassies that all deportations must stop as Afghanistan would not be able to assume responsibility for the deportees. It is therefore doubtful that an EU-driven ERPUM III will see the light of day.

Yet, other pilots are possible. As illustrated by the EU's renewed emphasis on mass deportations and the French and Turkish suggestions to establish 'safe zones' in Syria, the

deportation policy drive continues. And while ERPUM can be criticised on several counts, the pilot also offered a gateway to concerted information about these developments. This gateway is now closed, while the deportation policy drive has proliferated across many Member States and many varying legal frameworks. In an increasingly chaotic European situation of migrant arrivals and transits, this landscape holds great risk for UAMs. As more and more states construct walls to prevent people entering, implementation of the Convention on the Rights of the Child in dealing with UAMs faces bleak prospects.

Further, in recent elections, several of the former ERPUM pilot states, such as the United Kingdom and Denmark, have witnessed new governments which based large parts of their election campaigns on lowering the influx of asylum-seekers. However, as Figures 1 and 2 and the tense relations between Denmark and Sweden illustrate, the unequal distribution of UAMs across EU states may have less to do with individual countries' deterrence and deportation policies, and more to do with decisions of neighbouring states to allow migrants to transit through their territory. A more sustainable approach to the phenomenon of unaccompanied minor asylum-seekers would seem to be one wherein the responsibility for asylum processing, stay and protection was distributed more equally between European states.

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