

Information note on the support to be provided by Frontex to frontline Member States on the return of irregular migrants

1. Introduction

This note responds to the European Council conclusions of June 2015 requesting the Commission to set out by July 2015 how Frontex will bring immediate support to frontline States on return. The Commission has announced its intention to propose to amend the Frontex Regulation to strengthen the role of Frontex, notably so that it can initiate return missions.

The frontline Member States are under severe pressure as regards the number of migrants that need to be returned. If migrants are not returned swiftly from the frontline Member States, the risks of onwards secondary movements to other States in the Schengen free movement area grow bigger.

Therefore, it is crucial to provide support to the frontline Member States through enhanced operational support, coordinated by Frontex in line with its existing mandate, and funded from the relevant EU financial programmes.

2. Frontex immediate support on return to frontline Member States

Frontex has a clear mandate, under its current legal basis, to provide the necessary assistance to Member States for organising joint return operations of irregular migrants, without entering into the merits of return decisions issued by the Member States (Article 9 of Council Regulation 2007/2004). In addition, Frontex shall identify best practices on the acquisition of travel documents and on the removal of irregularly present third country nationals, including via cooperate with the authorities of third countries.

Within its current mandate, Frontex will provide, under the **'hotspot' approach explained in a separate note**, substantial and increased operational support to the frontline Member States Italy and Greece. This should enable these Member States' authorities to make a distinction early on between those that have a right to stay in the EU and those that need to be returned, and to carry out their swift return. The work of Frontex would focus on the nationals of those third countries that are a priority to return from the frontline Member States and would support those Member States in a number of stages (pre-return, return operations and capacity building).

▪ Pre-return support

Frontex experts will help frontline Member States register apprehended and arriving migrants, both documented and undocumented, whether they apply for asylum or not. They will **screen newly arrived migrants**, thus helping establish their presumed nationality and reducing the risk of nationality swapping. This would help quickly assess migrants, to identify those that are returnable and the ones that need assistance and protection.

Frontex will provide support in the **identification of migrants**, which is one of the biggest challenges for return. This is because migrants frequently have no travel or identity documents and often do not cooperate in establishing their countries of origin, to hinder return. Frontex will

coordinate the deployment of experts offered by Member States to help with the screening of migrants in the frontline States. These should have expertise on the presumed countries of origin of migrants present in the frontline Member States.

To support identification and confirmation of the presumed nationality of migrants by the frontline Member State, Frontex will facilitate cooperation with the embassies or consular services of countries of origin of the migrants, to help obtain emergency travel documents. For this, it will, in particular, assist Member States in inviting task forces gathering immigration/consular officers from countries of return to carry out interviews for identification and to **speed up the issuing of travel documents** for return.

Frontex will draw on the work of existing networks of experts working on return, as appropriate. It will, for instance, make use of the Best Practices developed by the European Integrated Approach on Return Towards Third Countries (EURINT).

To help increase the rates of **voluntary return** of irregular migrants from frontline Member States, the Member States' experts deployed should provide to migrants information about the assisted voluntary return options as well as about the prospects of forced return. The Commission supports assisted voluntary return programmes through AMIF, in cooperation with governmental and non-governmental actors, in particular the International Organization for Migration (IOM).

- **Joint return operations**

After the identification of migrants and the issuing of travel documents for their return, Frontex will assist to **organise, will coordinate and finance the joint return operations** to swiftly bring the migrants to their countries of origin or transit. The joint return operations include migrants subject to forced returns and – if this is a feasible alternative – also voluntary returns.

Frontex coordinated joint return operations may involve irregular migrants from just one frontline Member State, or from several Member States. In view of the needs of the frontline States, Frontex should prioritise returns to the main countries of origin of irregular migrants present and check the needs of other Member States for returns to these third countries.

While Frontex does not have yet the capability and the capacity to charter the aircraft for the return operations or to assist the Member State with the chartering, it can support them by **reimbursing the costs for joint return charters**.

In addition, Frontex will explore the possibility to render financial support to return operations carried out by frontline Member States to **return migrants that have been refused entry** in line with the Schengen Border Code, or who are present in an area near the EU/Schengen external border. This includes, for instance, those persons arriving irregularly by boat who are apprehended upon or shortly after arrival. According to Article 2(2)a of the EU Return Directive, Member States may choose not to apply this Directive to such migrants, and to apply national rules instead.

The Frontex Code of Conduct applied during all joint return operations coordinated by Frontex shall ensure that **return is carried out in a humane manner** and in full respect of fundamental rights. Forced return monitors, from the pool established under the project Forced Return Monitoring (FReM)¹, may be made available, to provide unbiased and neutral reporting of return operations. Frontex can finance the costs of providing monitors for return operations.

- **Capacity-building and hub for sharing experience on return**

Frontex will continue providing **training for escort leaders and escorts** of Member States, helping for instance frontline States to establish pools of escorts close to the hotspots, to enable their swift deployment on return flights. Training includes theoretical as well as practical sessions, for instance focusing on the safety procedures on board of the aircraft during critical situations. It will serve as a **hub for exchanging operational experience** and knowledge in return matters among Member States, through the network of national operational return experts, the Direct Contact Points on Return.

Frontex is central to the **system of return management** in the EU, by helping coordinate the networks and projects funded at the EU level focusing on the readmission of irregular migrants and on their reintegration in their home countries - EURINT, the European Reintegration Instrument Network (ERIN) and the European Return Liaison Officers network (EURLO). Frontex should seek to increase synergies between these networks and enable them to work in a mutually reinforcing way. It should provide these networks with support, as appropriate – the making available of the web-based platform Frontex One-Stop-Shop (FOSS) to EURINT for the information exchange and sharing of best practices on the acquisition of travel documents between the project members is a good example of such support.

To help increase the rates and the speed of return from the frontline States, the Commission announced that it will focus on improving **cooperation with countries of origin**², in close coordination with EEAS and with the support of EU Delegations in key third countries. It will provide substantial support for cooperation on readmission with the key countries of origin of irregular migrants present in these Member States, including through a new return capacity building facility of EUR 5 million under the AMIF. The facility, which will be launched in 2015, will provide a flexible and timely mechanism to respond to the requests and needs regarding readmission of partner countries.

- **Increased financial resources**

Frontex will finance the actions mentioned above from its own budget. Its 2015 budget envisages EUR 9.5 million for joint return activities. Its 2016 budget on return should be reinforced. An increase of EUR 5 million of the Frontex budget for return activities has been requested in the context of the Draft Budget 2016 (from EUR 11.2 million initially envisaged to EUR 16.2 million) to enable it **to step up substantially its operational support on return**. The increase of

¹ The FReM project, managed by the International Centre for Migration Policy Development (ICMPD) with funding from the EU Return Fund, aims to create a European pool of forced return monitors available to the countries in need of implementing a forced return monitoring system.

² Doc. 10170/15.

the Frontex budget for return needs to be matched by an adequate increase in human resources for the Agency.

In addition, the national programmes of the AMIF envisage **substantial funding** for return-related activities in the frontline States. Emergency assistance on return may be provided to frontline Member States under the AMIF, where appropriate.

3. The way forward

While Frontex is already able to provide substantial support to frontline Member States on the return of irregular migrants, and this will be further facilitated through the "hotspot" approach, its role in this area should be further increased. The Commission announced in the European Agenda on Migration that on the basis of the ongoing evaluation of Frontex, which will be completed in 2015, it will make **legislative proposals to strengthen its mandate**.