



Council of the  
European Union

Brussels, 5 May 2021  
(OR. en)

8156/21

LIMITE

JAI 437  
MIGR 75  
RELEX 356  
COMIX 227

**NOTE**

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From: Presidency  
To: Delegations

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Subject: Return activities in the context of the COVID-19 pandemic: Presidency  
summary

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**RETURN ACTIVITIES IN THE CONTEXT OF THE COVID-19 PANDEMIC:**

**PRESIDENCY SUMMARY**

The COVID-19 pandemic continues to affect returns of illegally-staying third-country nationals and return-related activities in the Member States and Schengen associated states.

The Presidency invited delegations to answer some questions with the aim of assessing the level of implementation of alternative procedures and the practical difficulties faced as regards returns and return-related activities in the context of the COVID-19 pandemic. 23 EU Member States and 3 Schengen associated states responded to this request and answered the questionnaire. These answers are contained in document 3699/21.

After analysing the responses received, the Presidency lists the main conclusions below.

## **IDENTIFICATION PROCEDURES FOR OBTAINING TRAVEL DOCUMENTS**

### **1. What new digital solutions have been implemented in your Member State in order to identify and document third-country nationals?**

While seven delegations have implemented new digital solutions to help identify and document illegally-staying third-country nationals, albeit to different extents and in different ways, a significant number of delegations who replied to the questionnaire noted that they have not done so.

Some Member States regularly use the available digital platforms, notably for the collection of information. For the documentation of persons, the use of the platforms inherent in some readmission agreements (Readmission Case Management System - RCMS) is very frequent.

In contacts with embassies for the identification of third-country nationals, video-conferencing is used whenever possible. Although this is not a new solution, it has been used more frequently following the outbreak of the COVID-19 pandemic. However, this form of communication with embassies has not always run smoothly, especially when it comes to identifying and documenting illegally-staying third-country nationals subject to forced return.

The implementation of innovative digital solutions must be a continuous process and constantly adapted to scientific and technological advances. The increased use of these new technologies in times of pandemic has created a challenge and an opportunity that must be seized for a true technological transition.

### **2. Was any support provided to third countries to make the digital transition possible?**

Most delegations replied that they had not provided any support to third countries for the digital switchover. Some Member States had, however, provided some support, such as in the financing of videoconferencing devices for some third-country embassies, the rental of such equipment or the organisation of information and training sessions on the use of new technologies.

Although support for third countries has been very limited, it is important that it is provided, in order to ensure the increasing use of digital technology by the authorities of these countries, especially by their diplomatic representations. This may be a way of contributing to accelerating the digital transition, a process that all Member States stand to gain from, especially at this time of pandemic, in order to overcome the difficulties in face-to-face relations when carrying out return procedures.

It will be important to implement European funding programmes enabling Member States to provide this type of support to the third countries they deal with most often in the field of return and readmission.

## **DETENTION**

### **3. In practice, has the application and use of detention been reduced? If yes, was this reduction significant?**

Most delegations reported that there had been a reduction in the number of cases of detention due to the pandemic. Only seven delegations stated that there had been no reduction in the application of detention for removal purposes, even though contingency measures had been taken in places of detention in the face of the pandemic.

The reasons for the reduction were various, but two stand out: detention conditions could not be guaranteed in accordance with public health requirements, especially as regards quarantine areas; and return operations were not possible during the detention periods provided for by national law.

Under the Return Directive and national laws, detention for return purposes is examined on a case-by-case basis and is a measure of the last resort, only adopted when others are not feasible. As a result of the pandemic, in a number of Member States the application of detention has in practice been limited to persons who were a threat to public order or national security, or posed a real danger of absconding.

While only a few delegations quantified the reduction in detention due to the pandemic by providing concrete numbers, most delegations spoke of a significant reduction. Two delegations reported a decrease in detention of about half, while three delegations spoke of a decrease in detention of one third and another of one fifth. Therefore overall there has been a strong reduction in the use of detention due to the COVID-19 pandemic, albeit with a different impact in each Member State and Schengen associated state.

**4. What kind of alternatives to detention have been adopted/used in your Member State to ensure that illegally-staying third-country nationals are available for returns during the COVID-19 pandemic?**

Delegations did not report the adoption of new alternatives to detention beyond those already included in their respective immigration laws. However, in response to the evolution of the pandemic and given the difficulty of enforcing returns and limitations on the placement of illegally-staying third-country nationals in detention centres, alternative measures to detention were applied more than in the past.

Among the alternatives to detention provided by national laws, delegations most often mentioned regular reporting; designated residence; surety (deposit of a financial guarantee); removal of travel documents; notice of the stay of residence; determination of a place of stay (outside of the detention centre).

Other delegations also mentioned mitigation measures adopted, such as the suspension of return procedures; the prolongation of the period for return; community-based family-units for families with minors, counselling and coaching for persons residing at a private address and in facilities; the obligation to stay in the return centres during the night. One delegation reported that due to the COVID-19 pandemic it was granting a toleration status to illegally-staying third-country nationals, issuing them a document to this effect so as to avoid detention and obliging the third-country nationals to regularly present themselves to the authorities.

The replies received show that due to the COVID-19 pandemic it has not been necessary to adopt new alternatives to detention for the purpose of return, but rather to apply more frequently those already in place. However, Member States having in place or using few alternative measures could also explore additional alternatives that other Member States and Schengen associated states employ and could also consider using mitigating measures, such as the suspension or extension of time limits provided for return.

## **RETURN OPERATIONS**

### **5. In collaboration with Frontex, have you used joint return operations as an alternative to scheduled flights, either for voluntary or forced returns in the context of the COVID-19 pandemic?**

Most delegations replied that they had taken part in joint return operations, either for forced or voluntary returns, although to a very limited extent due to the restrictions the pandemic placed on flights. One delegation noted that the use of joint return operations is especially beneficial for returns to distant destinations that would otherwise be difficult to reach in these times due to existing travel restrictions. Only six delegations stated that they had not participated in such operations.

Some problems in organising joint operations, such as frequent cancellations and flight restrictions due to the pandemic, were reported, and therefore small return operations, notably by smaller aircraft, were more frequently used.

Delegations highlighted the role of Frontex, whose support is crucial for the execution of joint operations, and hoped that its substantial experience in forced returns would also be extended to voluntary returns. One delegation warned, however, that the use of charter flights for voluntary return may not be the most appropriate. For this purpose, the use of scheduled flights is much more flexible, efficient, timely and cost-effective. Also, it allows the dignity and anonymity of the returnee to be preserved.

A few delegations noted that in view of the constraints on air connections, they had started to organise successful return operations by land/sea to nearby third countries.

**6. Do you use the regular updates on the measures taken by air carriers and third countries in the Integrated Return Management Application (IRMA) before organising a return flight? If not, please set out your reasons for not doing so.**

All delegations reported that they make frequent use of IRMA. Some added that they make complementary use of other important sources of information, such as information provided by airlines, diplomatic missions and liaison officers in third countries, the Frontex Application for Return (FAR), the International Air Transport Association's Travel Regulations Map, and national information systems.

One delegation, however, pointed out that, as regards some third countries, the information contained in IRMA appears not to have been updated for several months, which reduces its usability.

**7. In the current pandemic context, do you test all returnees before they return to their country of origin? In the event that the returnee refuses to take the test, is there a law that requires him or her to do so?**

All delegations mentioned the carrying out of COVID tests when returnees go to destinations where such testing is mandatory (either required by authorities as a condition of entry or required by airlines). However, in case of a refusal to perform the test, only three delegations noted that they had a legal possibility of obliging the returnee to take the test. At the same time, an absolute majority of delegations reported not having come across any cases of refusals.

The lack of a legal obligation for returnees to perform a test could be a problem in case of refusal, making returns more difficult or even impossible.

**VOLUNTARY RETURN**

**8. During the COVID-19 crisis, has your Member State taken additional measures to promote voluntary returns? If yes, please explain what measures were taken.**

Most delegations responded that they had not implemented new measures to promote voluntary return, but continuity had been given to measures that existed before the pandemic.

However, some countries had put new measures in place. Also, delegations reported that different measures had been taken to adjust to COVID-related security and public health requirements so as to continue conducting voluntary returns and encourage returnees to use them. Delegations shared the following examples of such measures, concerning different stages of the return process:

- Longer deadline for voluntary departure, given the difficulties in arranging transportation.
- Implementation of a long-distance counselling system through technological means and social networks, with regular contact with candidates to keep them motivated for voluntary return.
- Regular contacts with embassies to gather information on possible repatriation flights which voluntary returnees could use.
- Arrangement of more charter flights exclusively for voluntary return.
- Coverage of necessary costs for COVID tests required prior to departure.
- Provision of pandemic-related protection kits (masks, disinfectant) and advice on procedures to be followed in destination countries so as to avoid contracting the infection.
- Coverage of quarantine costs in destination countries, when mandatory.
- Supplementary financial support to help cover costs for a few weeks after departure.

**9. Have you used humanitarian flights organised by third countries for their nationals willing to return voluntarily or for the return of vulnerable cases?**

Most delegations that answered the questionnaire noted that they had already used humanitarian or repatriation flights organised by third countries for voluntary return. In many cases this was the result of excellent cooperation with the authorities of the destination countries.

Compulsory testing and the fact that some of the voluntary returnees tested positive had in some cases prevented their return.