



Council of the
European Union

Brussels, 10 November 2021
(OR. en)

13405/21

LIMITE

**FRONT 380
MIGR 248
COMIX 542**

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	FRONTEX's Reports on Return operations - 1st half 2021

Delegations will find attached reports on Return operations issued by FRONTEX¹.

¹ Reports have been distributed with the consent of FRONTEX.

LIMITED



FRONTEX EVALUATION REPORT

RETURNS IN THE 1ST HALF OF 2021



European Centre for Returns Division

Warsaw, 10.08.2021

Reg. ECRET/RVR/7774/2021

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INTRODUCTION

In accordance with Article 50(7) of the new European Border and Coast Guard Regulation¹, the purpose of this document is to provide a comprehensive, comparative analysis of the results of returns organised or coordinated by Frontex between 1 January and 30 June 2021 (hereinafter: the 1st half of 2021), with a view to enhancing the quality, coherence, and effectiveness of future return activities.

The report does not present a general overview of all returns in the EU, as it does not cover returns carried out by Member States at the national level without the support of the Agency.

Frontex, the European Border and Coast Guard Agency, organises and coordinates Member States' returns by air and by land. Returns by air are carried out by charter and scheduled flights. Returns by charter flights are carried out by airplanes chartered by either Member States or Frontex, while returns by scheduled flights are carried out on regular, commercial flights. Additionally, Frontex supports Greece in the implementation of readmission operations within the EU-Turkey Statement. Readmission operations take place only from the Greek hotspots to Turkey, either by sea or by air.

In accordance with the new mandate of the European Border and Coast Guard Agency in the field of return, as of 2020 the Agency has been providing technical support to the Member States also in the implementation of voluntary returns.

The Agency does not enter the merits of return decisions issued by the Member States. The national competent authorities are also solely responsible for decisions on voluntary returns and voluntary departures at national level.

The Agency's role is to provide technical assistance and/or operational coordination, which may consist of the following:

- Providing assistance at pre-return stage to remove obstacles related to the implementation of returns;
- Providing logistical support by ticketing/chartering aircraft and deploying Return Teams of the European Border and Coast Guard Standing Corps;
- Optimising resources at the European level, by matching needs and requests of different Member States with the aim of organising joint return operations with the participation of two or more Member States; this solution provides an alternative

to national initiatives and fosters cooperation;

- Providing an Operational Plan that sets the rules and details regulating the operation in line with: Frontex Regulation, EU standards defined by the Guide for Joint Operations by Air, the Code of Conduct for return operations and return interventions coordinated or organised by Frontex and other relevant provisions at the EU level, safeguarding among others the fundamental rights of persons returned, the principle of non-refoulement, the proportionate use of means of constraints during the entire return operation;
- Supporting the monitoring of fundamental rights with the pool of forced-return monitors²;
- Organising, promoting and coordinating activities encouraging and enabling the exchange of information and the identification and pooling of best practices in return matters between Member States;
- Fostering communication and a joint approach on return across the EU;
- Financing or co-financing all types of returns.



¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/624.

² In November 2020 Frontex adopted the Management Board Decision no. 40/2020 of 26 November 2020 on the revised profile and determining the number of forced-return monitors to be made available to the pool of forced-return monitors.

1. OPERATIONAL ACTIVITIES IN THE FIELD OF RETURN

Between January and June 2021, 8239 non-EU nationals were returned with the support of Frontex. 60% were returned by charter flights and 40% by

scheduled flights. 5 non-EU nationals were returned by land (bus). No readmission operations from Greece to Turkey were carried out.

No Serious Incident Reports as well as complaints were submitted during the reporting period.

1.1. RETURNS UNDER COVID-19 RESTRICTIONS

The chart to the right shows the number of non-EU nationals returned with Frontex support during the last 5 half-years.

The total number of non-EU nationals returned with the support of the Agency was higher than in the 2nd half of 2020 (+6%) and almost doubled in comparison with the 1st half of 2020 (+98%).

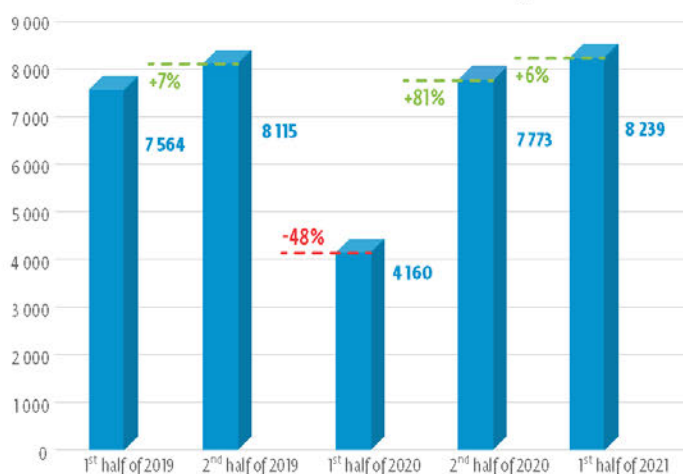
In comparison to the pre-pandemic situation, current numbers of returned non-EU nationals are also higher than the ones from the 1st half of 2019 (+9%).

The chart below shows the number of non-EU nationals returned between January 2020 and June 2021 per month, by both charter and scheduled flights (different background colours indicate the 3 different half-years).

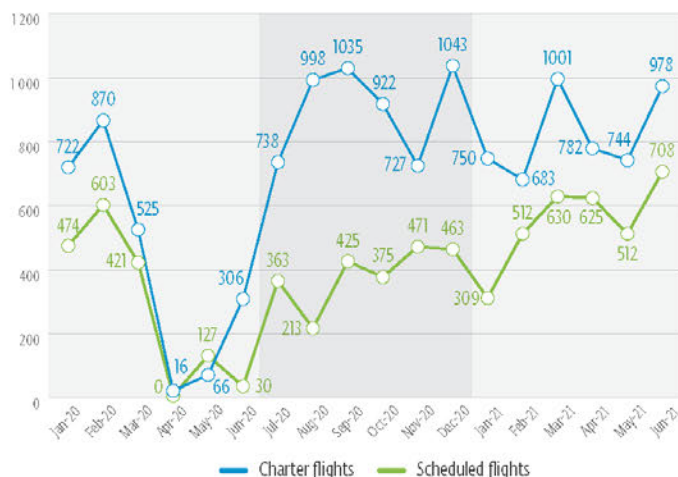
While in April and May of 2020, due to the COVID-19 outbreak, all return-related activities were drastically reduced to almost none, since July a gradual recovery has been observed. The situation appears stable, and in June 2021 the highest ever number of Frontex supported returns was registered. The monthly average number of non-EU nationals returned with Frontex support is currently 1373.

As indicated in previous reports, Frontex has continued to ensure flexibility when confronted with the health and safety restrictions imposed by Member States, non-EU countries and airlines, by providing the Member States with tailored support.

Non-EU nationals returned with Frontex support



Number of non-EU nationals returned per month since January 2020

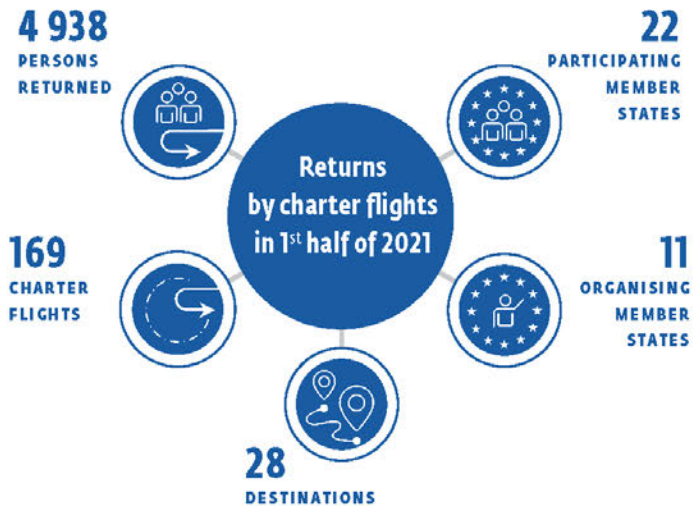




1.2. RETURNS BY CHARTER FLIGHTS

Frontex supports the following types of charter flight for returns:

- Joint return operations (JRO) where non-EU nationals from two or more Member States are returned on the same aircraft;
- National return operations (NRO) where non-EU nationals from a single Member State are returned; also possible when technical support is provided by other Member States' resources (e.g. monitors, forced-return escorts or aircraft provided by another Member State);
- Collecting return operations (CRO) where aircraft and escorts are provided by the countries of return;
- Voluntary returns and voluntary departures (VR and VD) where non-EU nationals depart or return on a voluntary basis.



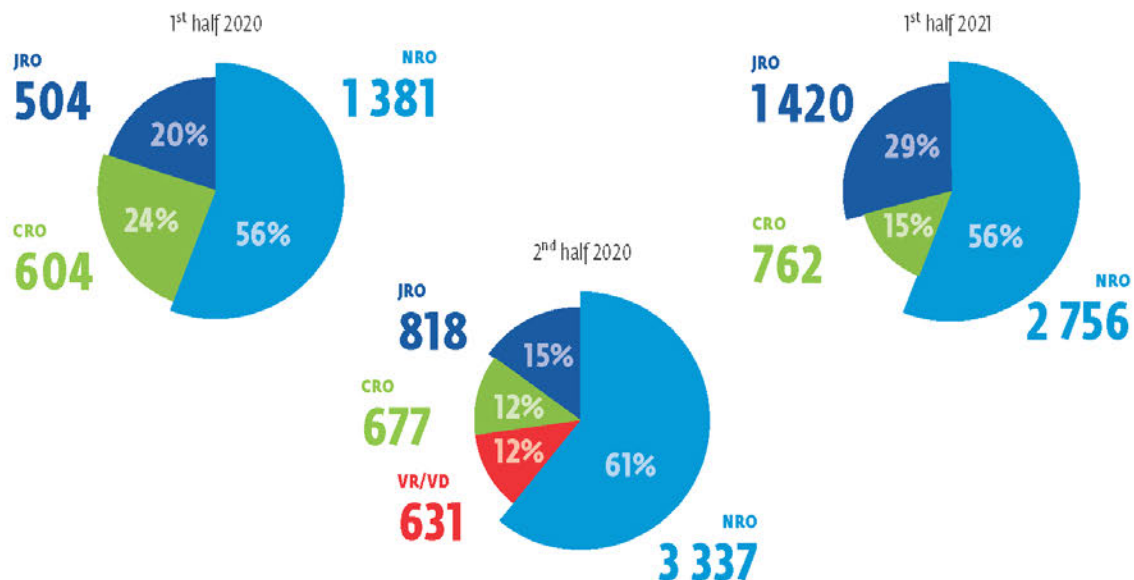
Frontex also provides technical and logistical support to Member States. In the reporting period Frontex chartered aircraft to implement 10 return operations: 6 of them were joint and 4 were national return operations. Additionally, 2 more aircrafts were chartered for connecting flights.

The charts below present an overview of persons returned by charter flights in the last three half-years.

- In the 1st half of 2021 no voluntary returns were carried out by charter flights (due to no requests received from Member States) despite such flights taking place successfully in 2020.
- Collecting return operations were facing COVID-19 restrictions and a slow-down since the first half of 2020. However, the numbers of collecting return operations steadily grow each half-year, which signals

the existing good co-operation with the relevant non-EU countries.

- The number of non-EU nationals jointly returned by Member States (JRO) increased by almost 75% in comparison to the previous half year.



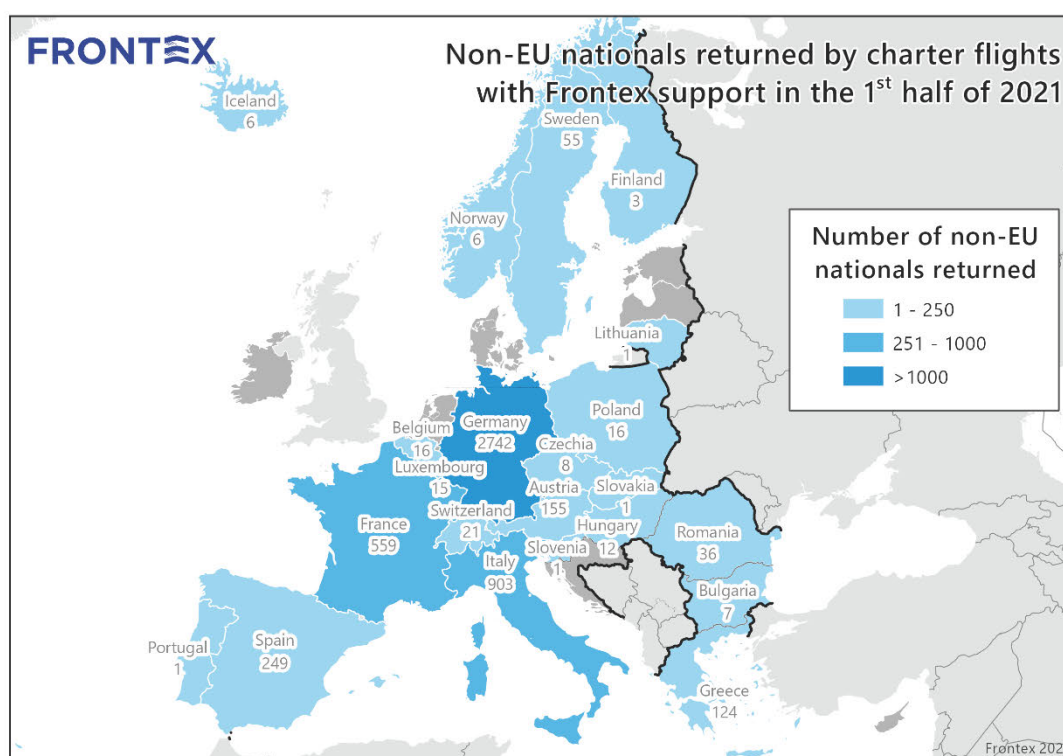
Organising and participating Member States

The map below shows the number of persons returned by charter flights by Member State. 4553 non-EU nationals were returned by organising Member States, while Member States participating in joint return operations returned 385 non-EU nationals on 49 flights.

Most returnees were from Germany (almost 56%), Italy (18%) and France (11%). These three Member States returned over 85% of all non-EU nationals by charters in the last half-year.

Austria, Germany and Greece were the most active participating Member States in joint operations.

In total, 11 Member States organised returns by charter flights, same as in the 2nd half of 2020. The number of participating Member States increased from 18 to 22. This trend is of particular value in the times of pandemic, when acting jointly can increase effectiveness of common efforts to return non-EU nationals to certain destinations.



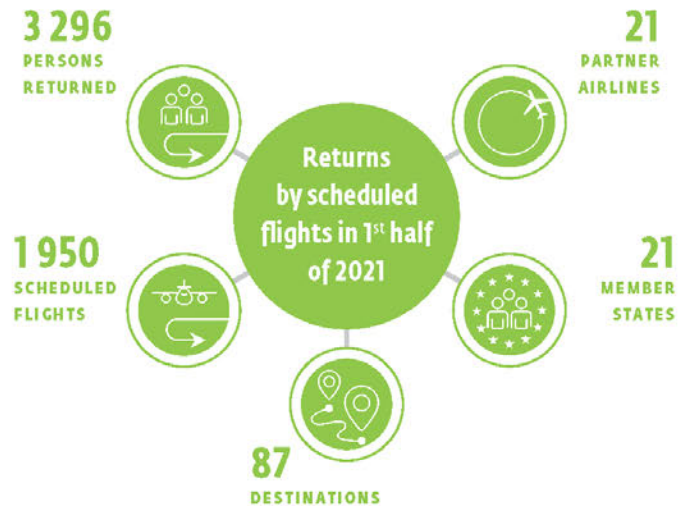


1.3. RETURNS BY SCHEDULED FLIGHTS

Frontex supports the following types of returns by scheduled flights:

- Return operations of escorted returnees (DEPA) - forced-returns;
- Return operations of unescorted returnees (DEPU) – forced-returns of low risk profiles;
- Voluntary departures (VD) – non-EU nationals with an obligation to leave within the time-limit fixed for that purpose in the return decision, as described in Art. 7 of the Return Directive;
- Voluntary returns (VR) – non-EU nationals who do not have the right to stay, legal residence, international protection or temporary international protection in the territory of Member State, and who return on a voluntary basis to their country of origin³.

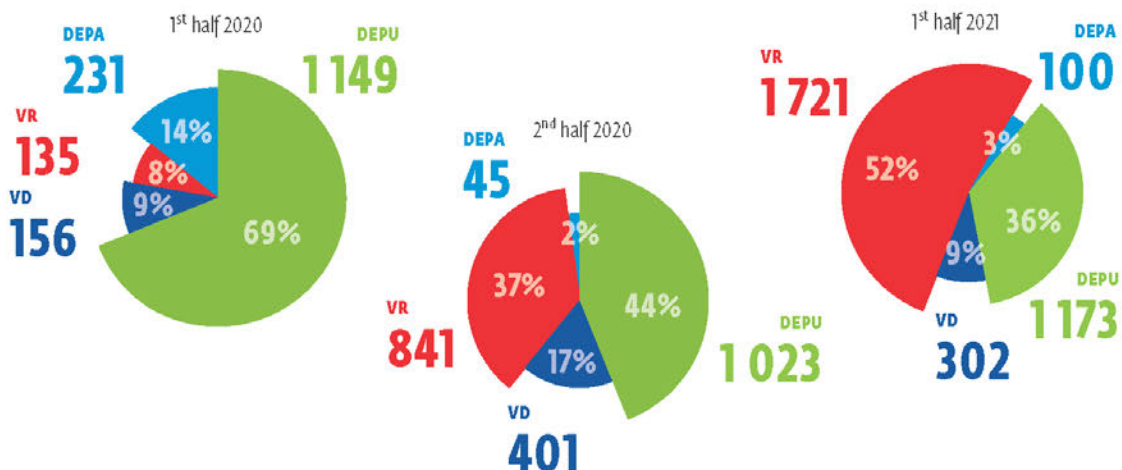
The charts below present an overview of persons returned by scheduled flights in the last three half-years.



In comparison to the previous half-year:

- Returns by scheduled flights experienced an unprecedented growth. The number of non-EU nationals returned increased to 3296 from 2310 in the previous half-year (+43%).
- This increase was mostly due to the rise of voluntary departures and voluntary returns which constituted 61% of the total number of non-EU nationals returned by scheduled flights.
- Austria, Croatia and Italy started using voluntary returns and departures with the assistance of the Agency on a regular basis, in addition to the group of 15 Member States which already do so.
- The general decrease in the number of forced returns was largely linked to COVID-19 situation: some embassies did not issue travel documents and some third countries of return imposed mandatory COVID-19 test-

ing before departure which was often refused by the returnees, and which interrupted the return process. As a result, forced returns decreased from 46% of the total in 2nd half of 2020 to 39% of the total in the 1st half of 2021. Only towards the end of the semester, also thanks to the reopening of transit hubs and increased availability of flight routes, the number of escorted returnees (DEPA) increased slightly.



³ Frontex does not provide assistance for voluntary returns of non-EU nationals enjoying the right to stay, legal residence and/or international protection or temporary protection in the territory of Member States.

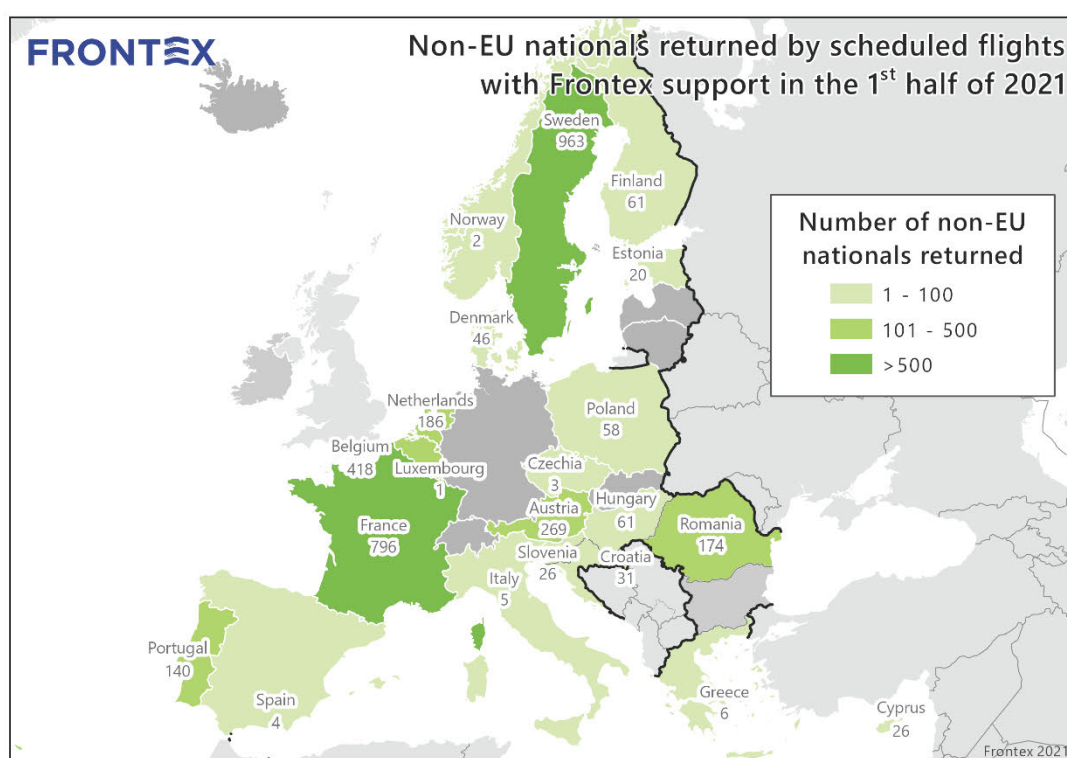
Organising Member States

The map below shows the number of non-EU nationals returned by scheduled flights by 21 Member States. Five Member States (Sweden, France, Belgium, Austria and the Netherlands) returned almost 80% of all non-EU nationals returned by scheduled flights.

Due to the new cooperation established by Frontex with the national institutions, such as the Bundesagentur für Betreuung und Unterstützungsleistungen (BBU), the Office Français de l'Immigration et de l'Intégration (OFII) and the Swedish Migration Agency (SMA), the number of voluntary departures and voluntary returns from Austria, France and Sweden have significantly

increased in comparison with the previous half-year.

The figures on voluntary cases are expected to continue to grow in the future, based on the need for assistance expressed by the Member States and the increasing number of national authorities cooperating with Frontex.





1.4. RETURNS BY SEA AND LAND

The Turkish authorities suspended the readmissions from Greece to Turkey within the EU-Turkey Statement⁴ in March 2020, thus no operations by sea took place in the reporting period.

The Agency successfully supported a return operation by land from Austria with 5 non-EU nationals. The Agency assumed the operational coordination of the activities while Austria chartered the bus. 1 national monitor from Austria was on board of the bus.

The Agency is actively exploring possibilities to more systematically support Member States also in return operations by land and sea, expanding the support beyond readmissions from Greece to Turkey.

1.5. MONITORING OF RETURNS

According to Article 8(6) of Directive 2008/115/EC: "Member States shall provide for an effective forced-return monitoring system". Frontex remains ready to support Member States by deploying forced-return monitors as members of the pool upon request of the Member State. The Agency keeps encouraging Member States to deploy forced-return monitors in all return operations or to request the Agency for further support by deploying forced-return monitors

from the pool, including fundamental right monitors.

In the 1st half of 2021, 109 monitors participated in return operations by charter flights coordinated by the Agency, of which 51 (47%) were deployed from the Frontex pool upon Member States' request.

At least one monitor was present on board of 47% of all Frontex-coordinated

return operations by charter flights: 100% of collecting return operations, 73% of joint return operations, and 23% of national return operations.

In comparison with the previous half-year, the share of return operations with at least one monitor on board decreased by 7%, mainly due to COVID-19 related restrictions which in many circumstances impeded the monitors physical presence during flights.

1.6. DEPLOYMENT OF FORCED RETURN ESCORT AND SUPPORT OFFICERS FROM THE STANDING CORPS

In the 1st half of 2021 the Agency strengthened its operational support in the field also by supporting the Member States in the implementation of return operations departing and/or transiting in main EU airports.

Based on the new EBCG Regulation, Frontex can deploy Standing Corps return teams in return operations either on its own initiative and with the consent of the Member State concerned, or at the request of that Member State, providing additional technical and operational assistance in the field. The return teams may consist of different profiles of return experts who carry out their tasks in accordance with the Member States' national legislation, under their command and control structures and in compliance with operational plans agreed between Frontex and the host Member States. Two profiles are deployed in the framework of return teams: Forced Return Escort and Support Officer (FRESCO) and Return Specialist (RS). While the RS provide support to pre and post-return activities as well as the management of relevant return IT systems, the FRESCOs directly support the implementation of return operations as follows:

1. Pilot deployments of FRESCO at Member States airports introduced in 2021 to extend the operational support to the implementation of returns by both charter and scheduled flights departing or transiting in main EU airports (not only limited to returns supported by the Agency). The team of FRESCOs are integrated in the local teams, working in close cooperation with and under the command of the host Member States' authorities.

Main tasks of the FRESCO at airports: increasing the Member States' capacity in providing ground support mainly to returns in transit (i.e. returns organised or implemented by another Member State). If requested by the host Member States, they can also act as escorts in return operations coordinated by Frontex.

Two deployments took place in the reporting period:

- Italy, Rome Fiumicino, since 27 January: 11 FRESCO, including 1 Coordinator;
- Germany, Frankfurt, since 3 May: 13 FRESCO, including 1 Coordinator;

The concept will be gradually expanded also to other EU airports later in 2021:

- Amsterdam Schiphol airport (The Netherlands) – 7 FRESCO planned to be deployed from 13 September;
- Vienna airport (Austria) – 5 FRESCO planned to be deployed in November.

Main operational results:

Italy, Rome Fiumicino

The return team in Rome Fiumicino supported the return of 408 non-EU nationals while providing support to 22 charter flights and 105 scheduled flights.

This included also 2 FRESCO escorting to the third country of return a non-EU national who was transiting unescorted at Fiumicino airport by scheduled flights. The presence of FRESCO at the airport allowed for this flexible solution which was requested by the Italian authorities based on the local risk assessment.

Germany, Frankfurt

The return team in Frankfurt supported the return of 306 non-EU nationals while providing support to 6 charter flights and 114 scheduled flights.

This included also 12 FRESCO supporting Germany as a backup team on board a joint return operation. This participation

⁴ The activity will be further evaluated in the Frontex Evaluation Report 2021 of the Joint Operation (JO) Poseidon.

of a return team at a Member State's airport in a joint return operation was the first of its kind.

2. Ad-hoc deployment of FRESO to support return operations: FRESO can fulfil escorting functions in return operations coordinated by Frontex on an ad hoc basis and upon request communicated by the Member State. The activity guarantees the continuity of support provided by Frontex under the framework of the former forced-return escort pool, which had operated until the end of 2020 and was replaced by the Standing Corps in 2021.

Up to 20 FRESO were made available throughout the half-year in the Return component of the Frontex Operational Coordination Centre (FOCC) in Frontex headquarters, ready to be re-deployed on an ad hoc basis to return operations upon Member States' request.

Within the reporting period 14 FRESO supported the implementation of 2 joint return operations by carrying out escorting functions:

- Norway requested 2 FRESO to participate in a joint return operation organised by Germany;

- Norway requested 4 FRESO to participate in a joint return operation organised by Poland;
- Poland requested 8 FRESO to participate in a joint return operation organised by Poland.

3. Readmission operations: FRESO may carry out escorting tasks also in readmission operations from Greece to Turkey, ensuring continuity of the support previously provided by the former pool of forced-return escorts. Since the readmission operations were suspended, no deployments took place in the reporting period.

1.7. OTHER RETURN-RELATED ACTIVITIES

- Development of FAR, the Frontex Application for Return. FAR is a dedicated online platform for sharing operational information among Member States and Frontex for planning and implementing returns by charter and scheduled flights, as well as readmission operations. FAR is a web-based application, embedded in the Integrated Return Management Application (IRMA) managed by the Agency.

Within the reporting period, the application has been further developed. The new data protection notice, new versions of the implementation plans, as well as the new complaint forms became available in the system. Through FAR Frontex also promoted the 24/7 stand-by support provided by the Agency to Member States.

5 new versions of FAR, both charter and scheduled flights modules, were released in the reporting period. The main new features focused

on improving the user experience and fixing identified bugs, as well as introducing new features enhancing the overall performance of the platform, also for training purposes.

Frontex is currently in the process of developing the business and technical requirements for additional new features that will allow Member States to manage other operational steps within the system, such as the authorisation to transit in other Member States and the notification form to be sent to the airlines prior to the operations via scheduled flights.

The charter flights module of FAR is currently subject to an in-depth analysis aimed at significantly simplifying the platform and making it more user-friendly. The definition of the business requirements is currently in the final stages; the development is due to commence in Q4 2021.

- The Agency is developing 'Health and Safety Guidelines in return operations during pandemics or outbreaks' which will be adopted soon. The document is based on the lessons learnt during the COVID-19 pandemic. It includes open source information tools to prepare returns, measures adopted by Member States and Frontex that help overcome limitations created by the pandemic, as well as practical advice that support Member States and their escort leaders in making decisions in a dynamic operational environment. The document was drafted with the contribution of Member States' experts.

2. EVALUATION OF RETURN-RELATED ACTIVITIES

2.1. MAIN CHALLENGES

2.1.1 Challenges related to COVID-19 restrictions

The organisation of returns under COVID-19 circumstances continued to be challenging and time-consuming. In order to minimise the risks associated with the COVID-19 pandemic, Frontex continued to support additional health and safety measures:

- possibility to perform COVID-19 tests for all participants in returns;
- scanning of all passengers with thermal devices for COVID-19 symptoms (fever) before boarding;
- disinfecting of aircraft;
- maintaining social distancing on board;
- obligation to wear masks and providing hand sanitiser throughout the operation.

Limitations imposed by the authorities of the countries of return were changing constantly. They included quarantine for non-EU nationals on arrival in some destinations, or requirements for COVID-19 vaccination certificates and/or testing for all passengers prior to departure and/or on arrival. These measures were the main limitations in the effective implementation of forced returns due to the lack of returnees' willingness to cooperate (refusing to undergo testing or get vaccinated) in order to hamper the return process. As already said, it brought down the number of forced returns from 46% of the total in 2nd half of 2020 to 39% of the total in the 1st half of 2021.

The above-mentioned restrictions and the risk of postponements and cancellations of flights resulted in a high number of national return operations by charter flights: it was less challenging for Member States to organise such flights in comparison to joint return operations when safety measures in different Member States continued to change frequently. Also, Member States did not always allow the participation of other

Member States in their national return operations due to the limited number of persons on board a flight.

Some collecting return operations were also replaced with joint or national charters, mainly when no forced-return monitors were available to be deployed⁵.

2.1.2 Ensuring the cost-effectiveness of returns by charter flights

Member States regularly faced challenges to ensure the full occupancy of seats available on board of charter flights, mainly due to last minute reductions in the number of returnees because of asylum requests, absconding, administrative or judicial decisions, for medical reasons or for having failed to get the returnees tested or vaccinated as required by the destination countries.

It was even more challenging due to the need to ensure social distancing on board as a safety measure for COVID-19.

Frontex continued to encourage Member States to find operational solutions to prevent absconding of returnees as well as to open return flights to the participation of other Member States, when feasible, considering that in joint return opera-

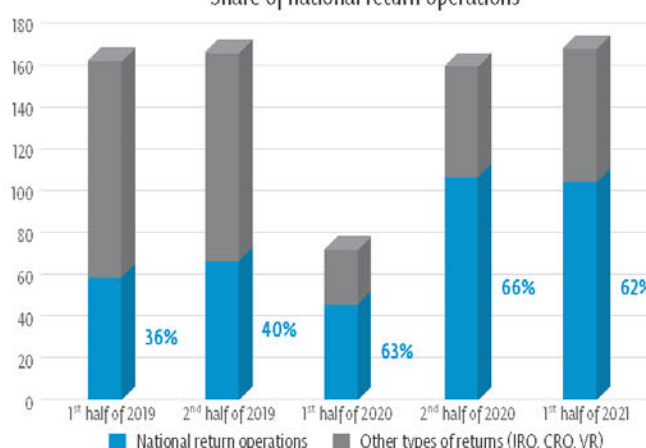
tions participating Member States may be able to fill in places that become available shortly before a return takes place.

2.1.3. High share of national return operations vs. joint operations

Frontex encourages Member States to organise joint return operations as they generally result in a higher number of returnees and a lower number of flights. However, in the 1st half of 2021 the possibility for the Member States to join efforts continued to be limited mainly due to some COVID-19-related travel restrictions among different Member States, and the difficulties in accommodating a higher number of escorts and returnees on board while respecting the safety measures in place.

Notwithstanding the difficulties, Member States managed to organise more joint return operations (25 in the 2nd half of 2020 and 40 in the 1st half of 2021) and less national return operations (106 in the 2nd half of 2020 and 104 in the 1st half of 2021). Frontex will put efforts to strengthen this trend and to increase Member States' participation in joint return operations which are generally more efficient and cost effective

Share of national return operations



⁵ The physical presence of forced-return monitors is legally required in the collecting return operations (Article 50(3) of the Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624).

2.1.4. Information exchange with Member States

A regularly updated overview of Member States' return related needs and future plans is crucial to enable the Agency to better coordinate the operations. This is to allow Frontex to take account of the possible limitations in applying readmission agreements and arrangements with the countries of return when it comes to the frequency and the number of flights and in the number of returnees, as well as to ensure cost effectiveness and a more efficient management of human resources and technical equipment.

In some cases the lack of a timely and complete communication by Member States to Frontex limited the possibility for the Agency to provide its assistance, for instance due to contractual deadlines foreseen by the framework contract to charter an aircraft, or to provide Member States with more details about the situation in the country of return (for example security, health related, etc.), especially in the areas where EURLOs are deployed.

2.1.5. Participation of forced return monitors in return operations

Since the outbreak of the pandemic, the participation of forced-return monitors

has been lower than in previous years. This was mainly due to COVID-19 restrictions limiting the possibility for the monitors to travel within EU Member States and to non-EU countries (e.g. quarantine periods on entry and/or upon return, type and required validity of the COVID testing, etc.) which also lead to the decision of some national monitoring institutions not to deploy monitors to physically monitor return operations.

As the presence of at least one forced-return monitor on board of collecting return operations is legally required, the lack of monitors directly affected the regular implementation of this type of return operation.

The 21 working-days' notice set by the Regulation to get resources from the pool continued to be an additional limitation on effective deployment of monitors, especially under the above mentioned COVID-19 circumstances which resulted in cancellations, postponements and change of dates of operations.

Member States are therefore constantly encouraged to provide national monitors in their operations, and whenever needed to continue to make full use of the Frontex pool of forced-return monitors while facilitating their deployment, for instance

ensuring possible exceptions of existing sanitary entry measures for those categories, in order to always ensure at least one monitor physically present in return operations coordinated by the Agency.

To address the issue of a shortage of monitors provided by Member States, Frontex fundamental rights monitors took part in some operations as members of the pool of forced-return monitors. However, this solution would not be sufficient to replace a more systematic involvement of the Member States' national monitoring institutions in the operations supported by the Agency.

2.1.6. Suspension of readmission operations from Greece to Turkey

The Turkish authorities suspended readmissions from Greece to Turkey within the EU-Turkey Statement in March 2020 as a response to the global outbreak of COVID-19.

The planned deployment of FRESO to Greece to support throughout 2021 the possible restore of the readmission activities (as mentioned under point 1.6) was progressively cancelled per relevant operational periods of the 1st half of 2021.

2.2. MAIN ACHIEVEMENTS

2.2.1. Voluntary returns and voluntary departures

Upon Member States' request, the Agency provided technical assistance to voluntary returns, which constituted over 61% of all Frontex supported returns by scheduled flights.

After the successful implementation of some charter flights for returns in voluntary manner in 2020, in the reporting period the Agency did not receive any request from Member States to get technical assistance to such charters. Most probably it was because of the increased availability of routes by scheduled flights which offered an easier and safer way of carrying out returns of individuals and smaller groups while taking into account the COVID-19 circumstances and limitations.

The chart above depicts the evolution of Frontex support to voluntary returns and voluntary departures by scheduled flights since the beginning of 2020.

In the reported period, Frontex supported the return of 2 unaccompanied minors and 173 families with 555 non-EU nationals. All returns were carried out in a voluntary manner and were in full agreement and in coordination with Frontex Fundamental Rights Office.

The Agency constantly promotes its assistance to voluntary returns, and proactively tries to reach out to relevant Member States' institutions responsible for the implementation of such type of returns.

2.2.2. Deployment of Standing Corps – FRESO profile

The deployment of FRESOs to support the implementation of return operations increased in the 1st half of 2021: apart from the long-term deployments of FRESOs at Fiumicino and Frankfurt airports, where they regularly provide ground support at departure and transit, some Member States requested ad-hoc deployment of FRESOs in return operations by charter flight.



A similar type of support was already made available by the Agency as escorts from the Frontex pool of forced-return escorts, based on the former Regulation, but as mentioned in previous reports the Member States have always been quite reluctant to request this service.

What made the FRESO concept successful was not only some shortage of Member States' own resources during COVID-19, but also the fact that now the Member States are more aware of the background and training of the FRESO. This increased the overall level of trust in the skills of FRESOs and the services they provide. The ad hoc re-deployment of some FRESOs in Fiumicino and Frankfurt in Frontex coordinated operations shows this tendency.

The Agency will continue to promote the concept and offer the deployment of FRESOs in different return activities, based on Member States' needs, with a focus on either increasing the number of key airports of deployment, and being able to deploy FRESOs in return operations based on short term requests.

2.2.3. Other achievements

The 1st half of 2021 brought other positive developments in the area of return:

- Cooperation with European Return Liaison Officers (EURLO) was further enhanced. This was helpful especially in organising returns under COVID-19 circumstances and facilitated contacts with non-EU countries authorities.

- Implementation Plans were revised to better adapt to the needs of Member States and to respond to specific situations related to COVID-19.
- Since the COVID-19 outbreak, Frontex has been closely monitoring COVID-19-related developments in the countries of return and the activities of air carriers. In order to support Member States in organising and carrying out returns, updates were regularly published in the Frontex Integrated Return Management Application (IRMA).
- In cooperation with Member States Frontex also recently mapped the non-EU countries requiring a mandatory COVID-19 vaccination of returnees as a precondition to accept returns. The Agency is constantly in touch with the Member States to find viable solutions for cases of returnees who refuse to be vaccinated (e.g. proposing to the countries of return to hand over vaccines to the local authorities and to continue to adopt alternatives measure at departure and/or on arrival such as testing, etc.).
- Member States were encouraged to exchange best practices, share information and plans aimed at better coordination of returns and identifying long term solutions. When possible, the Agency maintained contacts with non-EU countries in order to ensure continuous cooperation, and actively exchanged information with relevant stakeholders (e.g. via ministries, consulates, airports, airlines, European Return Liaison Officers based in non-EU countries).

3. CONCLUSIONS AND OUTLOOK

Although the impact of COVID-19 was still visible, in the 1st half of 2021 Frontex supported the largest number of returns ever in a semester: 8235 non-EU nationals were returned to their countries of origin, twice as many as those returned in the corresponding period of 2020 and 9% more than in the 1st half of 2019, before the COVID-19 outbreak.

These results were achieved mainly thanks to the growing share of voluntary returns supported by the Agency, which compensated for the still existing gap with the number of forced returns coordinated by Frontex in previous years. Some COVID-19 safety requirements, such as mandatory testing and more recently also vaccinations, had a substantial impact on the operational implementation of forced returns, mainly due to the lack of returnees' willingness to cooperate.

Returns by charter and scheduled flights proved once again to be complementary. Charter flights were exclusively used to implement forced returns, while the 61% of returns via scheduled flights were voluntary cases, the remainder being mainly low risk profile forced returns.

The number of voluntary returns is expected to grow even more in next months and years when considering the Member States' needs and the increasing number of relevant national institutions that expressed interest in cooperating with Frontex.

When the remaining COVID-19 restrictions will be further relaxed and limitations will cease to exist, the forced returns are expected to resume fully and the Agency will play an even stronger role in assisting with an unprec-

edented number of returns, also taking into account possible backlogs in Member States.

For the time being the Agency will focus on continuing to provide comprehensive support to Member States, to allow the maximum extent of flexibility in this ever-changing environment: new operational solutions, supporting tools and financial support will be aimed at facilitating the organisation and implementation of all types of returns and to gain an even higher level of operational activities on EU level.

Also, the upcoming adoption of *"Health and safety guidelines in return operations during pandemics or outbreaks"* goes in this direction as it aims to enhance the safety and effectiveness of all return-related activities in COVID-19 times, in line with international best practices.

Frontex continues to encourage Member States to open their return flights to the participation of other Member States when allowed by the agreements with the countries of return. The joint return operations are generally more cost effective when considering the number of flights to certain destinations vs. the number of returnees per flight; more participating Member States may be able to fill in places that become available shortly before the operations due to absconding of returnees, last minute asylum requests, lack of sanitary requirements to enter the country of destination, etc.

As long as the COVID-19 restrictions are in place, a certain share of national return operations by charter is still expected. Travel restrictions, which may limit participating Member States' con-

necting flights to reach the airports of departure of the charters and the difficulties in accommodating a higher number of escorts and returnees on board flights due to social distancing requirements, are seen as limiting for now a more extensive use of joint operations.

The Agency will continue to engage with relevant Member States to increase the number of key EU airports where to deploy FRESOs, as well as the number of their deployments in return operations, including the support to readmissions from Greece to Turkey. A more systematic deployment of FRESOs would not necessarily lead to an increase in the number of returns but it would contribute to the overall effectiveness of returns on EU level, for instance by facilitating returns which require a transit authorisation by another Member States.

The requests for technical support are on the rise. More and more Member States are requesting the Agency to charter aircraft. The Agency is also developing for the near future its own capacity to organise Frontex-led return operations, which will further relieve the Member States from some organisational burden.

Member States are expected to timely inform the Agency about their needs, including for the deployments of Standing Corps return teams and to get technical support and equipment. This will enable the Agency to play an even more central role in the effective coordination of returns, by creating synergies, opportunities for cooperation and ensuring overall effectiveness, while reinforcing the EU dimension in line with the external policy on return.

LIMITED

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LIMITED

FUNDAMENTAL RIGHTS OFFICER'S OBSERVATIONS

TO RETURN OPERATIONS
CONDUCTED IN THE 1ST HALF
OF 2021

1 JANUARY – 30 JUNE 2021

Warsaw, 30.08.2021
Reg. FRO/JOGR/2021

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BACKGROUND AND OVERVIEW OF ACTIVITIES

In accordance with Article 50(7) of the European Border and Coast Guard Regulation 2019/1896 (hereinafter "the Regulation") the Fundamental Rights Officer (hereinafter "the FRO") shall provide observations on fundamental rights covering all return operations. His observations are attached to the Frontex Executive Director's semi-annual evaluation report. The reporting period is therefore adapted to the submission of the evaluation report by the Frontex Executive Director, covering the 1st half of 2021. The FRO Observations from the 2nd half of 2020 (June – December 2020) were shared also with the Member States' Direct Contact Points on Returns, Member States' return monitoring bodies and monitors from the pool of forced return monitors (hereinafter "the pool").

The pool, indicated in Article 51 of the Regulation, became fully operational on 7 January 2017. As set forth by Article 50(5) of the Regulation, the monitoring

of forced-return operations shall be carried out by the forced-return monitor on the basis of objective and transparent criteria and shall cover the whole return operation from the pre-departure phase until the hand-over of the returnees in the country of return, with the aim of observing and reporting if the fundamental rights safeguards are in place. The mechanism *de facto* acts as a subsidiary guarantee to the Member States' obligation to provide an effective forced-return monitoring system, as per Article 8(6) of the Return Directive 2008/115/EC. Prior to the enactment of the Regulation, the European Border and Coast Guard Agency (hereinafter "Frontex") and the FRO have constantly encouraged Member States to enhance the systematic use of their national monitoring bodies in all return operations, as the strengthening of national monitoring mechanisms would have a direct positive impact on the overall capacity to monitor return operations, both at national and European level.

As foreseen in Article 62(5) of the Regulation, the forced-return monitors shall be provided with a specific training covering all aspects regarding fundamental rights, especially concerning the use of force and means of restraint, and access to international protection.

Furthermore, under the Forced Return Monitoring Project currently implemented by ICMPD and foreseen to be taken over by Frontex in the course of 2021, a new reporting framework for the pool of Forced Return Monitors via an IT system is being developed. The reporting via an IT application by each monitor on a device as well as a web supported Platform for Communication, Coordination and Info Sharing for monitors will facilitate networking, regular reporting by the FRO and follow up of monitors' reports, thus enhancing the overall coordination of the Frontex pool of forced-return monitors.

OBSERVATIONS OF THE FUNDAMENTAL RIGHTS OFFICER

In the present Return Observations, the FRO provides an overview of the **findings and conclusions** from the 57 reports submitted in the reporting period by forced-return monitors activated from the pool as well as by national monitors. The FRO also highlights examples of good practices for the consideration of both the Frontex Management Board and the Executive Director as well as **recommendations** to act upon in order to ensure fundamental rights compliance during the Frontex' return activities. A considerable part of the monitoring reports findings identified that the return operations were undertaken in a proper manner and in respect for fundamental rights.

According to the information provided in the Frontex Evaluation Report on Return Operations in the 1st half of 2021 (hereinafter "the FER of the 1st half 2021") in the reporting period Frontex coordinated 169 return operations by charter flights².

At least one monitor was present on board of 47% of all Frontex-coordinated return operations, 73% of joint return operations, 100% of collecting return operations and 23% of national return operations. In comparison to the previous half-year (June – December 2020), the share of return operations with at least one monitor on board decreased by 7%, mainly due to pandemic restrictions.

As regards the profile of monitors Frontex Management Board adopted its respective Decision no. 40/2020 of 26 November 2020 on the revised profile and determining the number of forced-return monitors to be made available to the pool of forced-return monitors. The Agency took into due account the opinion of the Fundamental Rights Officer of November 2020 pursuant to Article 51(1) of the Regulation. According to Article 2 of the Decision, the number of forced-return monitors to be made available to the pool shall be composed of a minimum of:

- a. fifty forced-return monitors to be nominated by the Member States; and

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² In the 1st half of 2020 there were altogether 72 return operations (NRO, JRO and CRO); in the 2nd half of 2020 there were altogether 160 return operations coordinated by Frontex.

- b. five Fundamental Rights Monitors, acting as forced return monitors, to be nominated by the Fundamental Rights Officer on the basis of Article 109(3)(c) of the Regulation. In the reporting period one newly appointed Fundamental Rights Monitor already participated in two RO.³

During the 1st half of 2021, 109 monitors participated in return operations by charter flights coordinated by the Agency, of which 51 were deployed from the Frontex pool upon Member States' request. The involvement of forced return pool monitors was also considerably affected by the COVID-19 pandemic in the reporting period.

Further, based on the information in the FER of the 1st half 2021, all of the collecting return operations supported by Frontex in the 1st half of 2021 had on board a forced-return monitor from the pool or from a national monitoring system of the participating Member States through the entire return operation, as required by Article 50(3) of the Regulation.

There were no Serious Incident Report and no complaints, relating to the return operations coordinated by Frontex, submitted during the reporting period.

1. PREPARATION OF RETURN OPERATIONS

Based on Article 4 of the Code of Conduct for Return Operations (ROs) and Return Interventions (RIs) coordinated or organised by Frontex (hereinafter "the Frontex CoC"), Frontex shall ensure that ROs and RIs are conducted in a humane manner and in compliance with fundamental rights. Therefore, the provisions of sufficient and adequate safeguards are to be ensured already in the preparation phase of the RO and RI.

As to the positive observations obtained by the FRO from the monitors, it was pointed out by several of them that the escort leaders of the forced return oper-

ations were very professional in organizing and directing the operations, as well as that majority of the monitors received the necessary information about the return operation in due time.

Furthermore, it was observed by one monitor that all returnees were exceptionally calm upon their arrival at the airport, which was due to the good preparation by their respective detention centres.

However, the monitors also had a few remarks and recommendations relating to the preparation of the return operations, to which the FRO fully subscribes:

- A few monitors had remarks regarding the information relevant for the operation, provided to them. While the majority of the information was given properly and in advance, some monitors did not receive the list of the returnees or did not receive it in due time. The FRO hereby recommends that relevant information, including the Frontex Implementation Plan with Annexes and the list of returnees with details on their gender, age, vulnerabilities and any other relevant detail, be provided to monitors on time. The Frontex implementation plan for each return operation should thus be distributed at least 2-3 days ahead of the operation and should contain sufficient information, in particular about the number, origin and vulnerabilities and/or other special considerations regarding returnees (Article 16 of the Frontex CoC). Furthermore, the FRO reiterates that the escort leaders should give detailed briefings and inform the participants of return operations, in particular, about the list of returnees (data protection rules of Member States apply), seating plan, embarkation and in-flight procedures, movements on board, access to the toilets, hand-over of personal belongings, and the security, including the use of coercive measures;
- As to the monitors' unhindered access to all areas used in a return

operation, one monitor pointed out that the wish to join a car ride to the airport to observe the transport of one returnee was denied by the driver, on the grounds that only police officers were allowed to ride along. Another monitor was not allowed to be present in a vehicle with returnees during their transport, as a matter of a common practice, due to the lack of space in a car, although one seat appeared to be vacant according to the reporting monitor. Therefore, the FRO recommends to ensure that, in the performance of their tasks, monitors have unimpeded access to returnees as well as all areas used for return, including vehicles for transportation of returnees, unless there are certain risks connected to such access;

- Further, one monitor reported that he was not allowed to be present in a space where a body search of a naked returnee took place and could thus not properly observe the search behind the screens (the gender of the monitor and the returnee is assumed to have been the same);
- Moreover, it was not possible to monitor the reunion of one vulnerable family, which remained separated during the whole return operation;
- One monitor reported that the conditions in the airport used in the pre-departure phase were inappropriate: the waiting rooms were cold and poorly equipped, with no vending machines available; the family room, as described more in detail below, was in a scanty condition; the toilets used by the returnees in the departure area had doors removed, which was inconsiderate of the returnees' rights to dignity, integrity and privacy. Frontex has already addressed such issues with the concerned Member States and there are plans to renovate the dedicated area for returns.

3 JRO Germany Azerbaijan (organised on 28 April) and CRO France Albania (organised on 18 May)

2. COMMUNICATION AND RIGHT TO INFORMATION

The competent authorities of the Member States and other participants have to seek cooperation with each person being returned at all stages of the return operation, in line with Article 6 of the Frontex CoC.

In this section the FRO would like to bring to light the existence of good practices, as noted through the positive observations of some monitors in relation to the communication and the right to information:

- Escort leaders talked to every returnee upon their arrival to the airport, in a convincing and soothing manner, which also contributed to the smooth operation;
- Escorts had a professional and reassuring approach, were respectful in their treatment and had good communication with the returnees throughout the whole operation, with great empathy to them;
- The communication methods used by some escorts significantly helped in de-escalating the tension on the plane;
- Some interpreters, doctors and paramedics had a vest on by which they could easily be identified and addressed by escorts and returnees.
- Good and proactive interpretation services provided by the interpreters;
- The interpreters played an essential role in de-escalating the tensions.

However, it was also reported by one monitor that the escorts did not always address returnees in the politest way.

Analysing the monitors' observations, the FRO reiterates the following recommendations:

- As long as it is in line with national procedures, it is advised that escorts use vests with numbers to facilitate their identification, which is needed in case of complaints;
- Ensure two interpreters of different gender for the languages spoken by the returnees, at least at the airport. As only one interpreter does not suffice to cover all the needs during a return operation, the FRO strongly

ly encourages Member States to deploy in return operations an adequate number of interpreters of both genders, speaking the relevant languages, which should be further supported and reimbursed by Frontex. There is no legal obligation to deploy interpreters in return operations, however it has been noticed that the presence of interpreters, especially those who speak the native language of the returnees, is crucial for a proper communication between returnees and escorts and may help preventing conflicts resulting from the language misunderstandings between them (in line with Article 14 of the Frontex CoC). Further, the FRO reiterates the request as to the reporting in the bi-annual Evaluation Report about the number of interpreters engaged in return operations and encouraging their deployment, with a view to enhance communication between participants of return operations and returnees.

3. MEDICAL ISSUES

According to Article 14 of the Frontex CoC, the presence of medical staff (doctor, nurse or paramedic) should be ensured in all return operations coordinated or organised by Frontex. Furthermore, on the basis of Article 8 of the Frontex CoC, in a reasonable time prior to the return operation, the authorities of the Member State are required to provide for a medical examination of returnees, subject to their agreement, where they have a known medical condition or where medical treatment is required. These medical procedures have to be carried out in a manner that respects returnees' dignity and the principle of medical confidentiality.

The FRO fully follows the below recommendations provided in the monitoring reports:

- One monitor recommended that medication for returnees be easily accessible throughout the return operation. In one operation the local police packed the medication in the returnees' luggage prior to the fit for flight check, which complicated the work of the doctors performing it;

- Another monitor advised a proper summary medical handover from the organising/participating Member States' doctor to the doctor of the country of return, as well as establishing a standard operating procedure for such handover of medical information between doctors accompanying different stages of return operations.

Throughout the pandemic, Frontex continued showing flexibility when confronted with the health and safety restrictions imposed by Member States, non-EU countries and airlines, for example by:

- cancelling and rebooking forced and voluntary returns by scheduled flights;
- re-scheduling charter flights affected by COVID-19;
- replacing collecting return operations with other types of return operations (joint or national);
- promotion of voluntary returns and voluntary departures (as returns that do not require participation of escorts);
- taking advantage of repatriation flights organised by non-EU countries;
- reimbursement of eligible cancellation costs;
- reimbursement of COVID-19 tests for persons returned, Member States officials and all participants of Frontex-supported returns;
- adaptation and tailoring of safety measures to each return operation.

4. RIGHT TO RESPECT FOR PRIVATE LIFE

The FRO reiterates the obligation to respect the returnees' private life, their dignity and the right to the protection of their personal data, with due regard to the below remarks provided by the monitors:

- It was noticed by one monitor that a doctor seemed to offer medical advice to a returnee without ensuring privacy from the surrounding persons;
- As mentioned above, it was reported by another monitor that doors were removed from the departure airport toilets, in contravention of the returnees' right to privacy;

- Furthermore, it was pointed out by one monitor that attention was paid to the privacy of returnees, although escorts could have kept more distance with some returnees during the use of the toilets or the fit for flight assessment.

On a positive note, it was noted by one monitor that the strip searches were carried out in a humane way, covering the returnees with blankets and doctors being the only ones who looked at the returnees' pubic area.

Another monitor also confirmed that the strip-searches were carried out in the respect of the returnees' dignity, which was not always so in the past, according to the monitor's experience.

Lastly, these were the recommendations of a few monitors in connection to the respect for the returnees' right to privacy, which the FRO entirely upholds:

- Providing escorts only with the information on the returnees' health which is needed in relation to possible risks. The FRO reiterates that returnees' medical data is to be safely stored, to ensure that it is not unjustifiably disclosed, as well as that the details on returnees' diseases are not to be shared with escorts;
- Ensuring that the escort leader carries the fit-to-fly forms in a sealed envelope, as the forms contain sensitive data, and transfers them to the doctor of the organising Member State;
- Proper sharing of the relevant information on the health condition of returnees between the escort leader and the doctor present in the operation, with respect to the principle of confidentiality.

5. RIGHT TO PROPERTY OF PERSONS RETURNED

One monitor observed that returnees in one return flight kept their personal belongings, such as money and watches. The FRO thus reiterates the recommendation for escorts to properly handle returnees' personal belongings. According to the Frontex Implementation Plan valuable personal belongings (e.g. money, jewellery, mobile devices)

are not to be placed in the luggage hold of the aircraft, but stored in a sealed envelope or a transparent bag and marked with the name of the returnee, and handled only by a designated escort, who hands them back to returnees prior to disembarkation. The FRO would further reiterate the recommendation brought up in the last few FRO Observations, namely, to strengthen luggage handling procedures in the upcoming revision of the Frontex Guide on Joint Return Operations currently ongoing within Frontex.

As to the handling of returnees' financial means, it was noticed by another monitor that one returnee was not present when his money was counted at the airport before departure, thus he could not have provided his signature for approval of the amount.

One monitor advised to provide returnees with all necessary info as to the implemented procedures, concretely ensure that returnees understand until which moment they can do the last call before their mobile phones are put in stored luggage. One returnee could not make a call after the security check as her phone with the needed phone number has already been stored

6. TREATMENT OF VULNERABLE GROUPS

The FRO reiterates that in the preparation and throughout the implementation of return operations, special consideration should be given to vulnerable persons such as children, disabled persons, elderly people, pregnant women, etc.

The FRO is pleased to obtain the below positive observations:

- Several monitors reported that special care was provided for families with children;
- One monitor observed an excellent handling of small children and provision of play area with toys;
- Another monitor was happy to see that toys and movies were made available for children;
- As a matter of good practice one monitor pointed out that families arrived last to the airport, which minimised the waiting time;

- Yet another monitor found it good that a room was foreseen for those returnees who had to be moved to a separate room, away from children and families.

The following were the remarks and recommendations of several monitors, which the FRO wholly endorses:

- In a couple of return operations there was no dedicated space at the airport for children to play or no toys available. It was thus recommended to buy some toys. As the lack of toys is a recurring issue often underlined in forced-return monitoring reports, and being the concerned Member States already recommended with the practices in the past, the FRO strongly reiterates the recommendation that sufficient toys, including those appropriate for boys and girls, be at the disposal of children in return operations, or cartoon videos be provided, in case toys are not handed out due to the Covid-19 protective measures, in line with the right of the child to engage in play (Article 31 of the International Convention on the Rights of the Child), in order to contribute to the child's proper development;
- A few monitors reported that the food provided during the flight was not appropriate for young children and infants (e.g. sandwiches were too hot and thus not appropriate for toddlers), as opposed to the food available in the waiting area of the airport. Provision of an adequate food for children, including baby milk products, was therefore advised and concerned Member States were requested to improve such food service;
- Some airports do not have facilities suitable for children; there was only one waiting room thus the children were sitting and playing close to the returnees with applied restrictive measures;
- One monitor observed that there were somewhere in the waiting area some toys available, however nobody showed them to the children;
- Another monitor wrote about consideration for vulnerable children, pointing out the need to separate

children in due time from their parent being body searched. The monitor added that in the specific case the children were put together with their mother later on, but they still witnessed the body search of their father, who was also under influence of substances, which was not in line with their best interest;

- Yet another monitor recommended avoiding situations where children witness their parents in hand cuffs, body cuffs or other coercive measures, reporting that in one case children witnessed their father being released from hand cuffs by officers and complaining of headache;
- It was advised by one monitor that the needs of vulnerable groups be appropriately considered, as in one return operation there were not enough rooms at the airport for repatriated families, thus two families had to wait in rooms together with other returnees. Moreover, the only available family room was not clean, so children had to play on the dirty floor, and was equipped in a way that was dangerous for children, storing some excess items which were removed once the monitor pointed them out to the responsible escort;
- It was further recommended to ensure wheelchairs which could pass between the aisles inside an aircraft and would also have footrest, as the feet of one returnee in a wheelchair were dragging on the ground;
- Lastly, one monitor expressed the doubts about a return of one returnee who was possibly a mentally ill person, despite of being declared fit to fly by the doctor on board accompanying the return operation, pointing out that in line with the Implementation Plan removal of such persons is not permitted. The monitor further recommended the review of the classification of returnees as a 'mental case' while preparing the return operation and use it in a uniformed way for forced and voluntary returns, as well as to ensure compliance with the Implementation plan for those categories of persons not permitted on board.

7. USE OF FORCE AND MEANS OF RESTRAINT

Article 7 of the Frontex CoC reflects the international and European standards on the use of force and means of restraint, which can be applied only in accordance with the principles of necessity, legality and proportionality, and in response to an immediate and serious risk. Any decision to use coercive measures is to be based on an individual risk assessment. The use of force requires the application of specific techniques employed by trained staff, who are also submitted to periodical refresher training sessions, otherwise, although the mission of carrying out a forced repatriation is accomplished, potential risks to the physical safety and dignity of returnees might exist.

For each return operation a list of authorised restraints and equipment permitted during that operation is to be provided. The list is to be decided by the organising Member State (hereinafter "OMS") together with Frontex, in accordance with its national legislation, international law and EU law, in particular the EU Charter. However, no participating Member State should use coercive measures that its legislation does not allow, even if those measures are accepted by the organising Member State for that particular return operation.

The FRO welcomes observations made by most of the monitors about the fact that the use of coercive measures was reasonable in intensity and duration, necessary in the circumstances and proportional to the assessed risk of harm, with full respect of fundamental rights of the returnees.

However, one monitor noticed that even though a doctor and an interpreter expressed that coercive measures were not necessary, escorts still applied them.

Another monitor observed that coercive measures applied to one returnee in the security check phase were removed only at the end of the operation, whereas, according to the observations of the monitor, the returnee was cooperative, calm and quiet the whole time after being body cuffed. Thus the monitor pro-

vided a recommendation, with which the FRO fully agrees, that the de-escalation and negotiation techniques based upon communication be used during the whole operation, and that a continuous assessment of the risk related to the application of constraints be carried out, without the continuous application of the coercive measures on a returnee who showed the will for cooperation.

Moreover, two monitors reported that the proportionality of the applied coercive measures could not be assessed in light of the insufficient information. The FRO therefore recommends that monitors be provided by the escort leaders and escorts with all necessary information relating to the coercive measures applied in RO. The FRO further recommends to monitors that they raise their observations also during the de-briefings to obtain explanation from the escorts whether the use of restraints was indeed based on a solid individual risk assessment.

When analysing the monitoring reports the FRO again observed as in previous reporting periods that a larger number of returnees arrived to airports or were brought to aircraft with applied hand or body cuffs, as a standard practice of the use of preventive measures and not due to any incident or resistance from the returnees. While the FRO acknowledges the fact that in many Member States the authorities responsible for transporting the returnees to the airport differ from the authorities enforcing the return operations, and such practice may be considered legal in many Member States, the FRO would recommend the re-examination of the need for systematic use of such preventive measures and replacing it with an individual and dynamic risk assessment as well as appropriate coercive measures.

8. BASIC NEEDS

These were the comments and recommendations of some monitors, fully accepted by the FRO:

- On a positive note it was observed by one monitor that a returnee, who during the winter weather came to the airport wearing only a

- t-shirt and a jacket, was provided with a pullover;
- As to the point whether special needs of returnees were taken into account, it was observed by one monitor that an older man with a walking stick should have boarded the plane first instead of waiting longer in a transfer bus;
 - As to the provision of food, one monitor considered the food provided in the aircraft to be inadequate, as the returnees only obtained one small sandwich and a cold drink, with no suitable food for babies, during a four-hour flight. Yet another monitor reported about the shortage of packed lunches, where two returnees were left without lunch in the pre-departure phase; as well as that the same food was given to adults, children, and infants. Moreover, one monitor reported that a salad was served without cutlery, so it had to be eaten by hands. The monitors thus recommended providing appropriate meals in due quantity, with food suitable for babies, both at the airport and during the flight;
 - One monitor once more reported that only the toilets in the back of the plane were accessible to the participants of the return operation. However, this could have been due to the practice followed by a number of airlines in COVID-19 times;
 - Another monitor added that returnees who had to wait in a bus should have rather been put in a waiting room;
 - Many monitors reported that due to the Covid-19 preventive measures there was no smoking area for returnees at the pre-departure waiting space of different airports.

9. COMPLAINTS MECHANISM

Article 111 of the EBCG Regulation establishes a complaints mechanism to monitor and ensure the respect for fundamental rights in all Frontex activities. Any person who is directly affected by alleged fundamental rights violations during operational activities by staff involved in Frontex activities may submit a complaint in writing to Frontex. The FRO is responsible for handling complaints received by Frontex

in accordance with the right to good administration.

The FRO reiterates the importance for forced return monitors to report on the availability of complaint forms and information material, during the return operations coordinated or financed by Frontex. Furthermore, the FRO once again calls attention to the duty to inform about the right to submit a complaint, which is imposed on escort leaders and Frontex staff, in case a complaint arises during an operation, as well as provide complaint forms and information leaflets, if possible in the languages spoken by returnees.

As to the availability of the Frontex complaint forms, the FRO positively welcomes that, as reported by several monitors, escort leaders had the forms available and informed the participants about that at the briefing. The monitors observed that no information was given directly to the returnees, but that the escorts were informed about the complaints mechanism and the forms as well as instructed to inform returnees about it if there were any complaints during the operation. The escort leaders also reminded of the code of conduct and that the returnees' rights should be respected throughout the operation.

However, one monitor reported that there was no way to see if the forms were available on paper, and a few other monitors observed that the complaint forms were not available on paper during the operation and that there were also no booklets on the complaints mechanism.

Another monitor advised that the complaint form be more visible in the waiting area.

A few monitors added that the forms should be available in the languages relevant for the specific return operation.

Further, regarding the availability of the information material, one monitor reported that there was a complaints mechanism poster in a waiting area, however it was only in the English language, and the monitor did not see anyone reading it.

Moreover, it was observed by another monitor that a poster on the complaints mechanism was hanging on the door in the airport waiting room but was not visible to returnees nor understandable as it was only in the English language.

Lastly, as regards the duty to inform about the right to submit a complaint, it was noticed by one monitor that this was insufficiently fulfilled as the information was provided in a language not appropriate to the specific operation.

Based on the above remarks the FRO recommends that the information material on the Frontex complaints mechanism, including the complaint forms, be made available during return operations in a visible manner and in the languages relevant to each return operation

10. COLLECTING RETURN OPERATIONS (CRO)

The FRO continues encouraging the presence of non-EU country monitors together with forced return monitors from the Member States or the pool, as an additional safeguard to ensure the follow-up of possible incidents with the non-EU country authorities.

12. FURTHER OBSERVATIONS OF MONITORS AND FRO

In addition, some monitors provided the below comments and recommendations:

- It was advised to assign two monitors to cover a return operation when the operation hub in the airport has separate areas, as one monitor cannot oversee all the happening in different parts of the hub at the same time;
- It was mentioned by one monitor that escorts provided as a reason for a strip-search the lack of collaboration and avoidance of escalation by two returnees, however in the monitor's opinion escorts did not prove that the strip-searches were reasonable;
- It was also observed that in retention centres there was no water or food available for escorts.

Moreover, the FRO would reiterate the obligation that, in line with Article 50(5) of the Regulation, each return operation organised or coordinated by Frontex shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. According to the FER 1st half 2021, all Frontex supported returns during the reporting period were monitored but not all involved physical presence of a monitor(s) on board.

Furthermore, the FRO restates the recommendation to the national monitoring bodies that the number of monitors be adapted to each return operation, taking into account e.g. their duration, complexity, number of returnees and the risk profile of the returnees. It is already an existing Frontex rule and practice agreed with Member States to support the presence of more than one monitor when requested by monitoring institutions.

Further discussion is also advisable concerning the obligation to notify the date of the expected operation to returnees in due time. It should be ensured that

all returnees are aware of the circumstance in advance, so that they have sufficient time to take necessary steps, collect their belongings, and alert their relatives in the country of destination of their return and the expected date of return and arrival at their destination.

The FRO also advises the OMS to ensure that the number of doctors and interpreters be proportionate to the number and possible conditions of returnees.

On the basis of some monitoring reports the FRO repeats the suggestion that more detailed information be provided in the reports by monitors (e.g. number of female escorts; number of available interpreters; information as to whether interpreters speak the native language of returnees; more information as to the necessity and proportionality of applied coercive measures; information as to the availability of Frontex complaints mechanism information material, including complaint forms; potential agreement with a non-EU country on specific conditions of returnees' acceptance).

Lastly, the FRO will follow up on the observations and address raised concerns, in particular, in the following ways:

- Providing information regarding the relevant issues and present recommendations to Frontex ECRt/participants in return operations;
- Set up a meeting with the Pool of forced-return monitors nominated in 2021 for a relevant briefing and information sharing concerning return and monitoring activities;
- Providing regular feedback to the monitoring institutions;
- Delivering dedicated fundamental rights sessions in the course of trainings for forced-return monitors, escort leaders and other participants of return operations;
- Collecting the observations with a view to discuss the main conclusions in different fora, including during the training of escort leaders and return monitors;
- Systematically gathering information and identify challenges regarding particular areas of return operations for discussions with relevant Member States.

Fundamental Rights Officer

LIMITED

