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LIMITE

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	FRONTEX's reports on return operations – 2nd half of 2022

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

¹ Reports have been distributed with the consent of FRONTEX.

FRONTEx EVALUATION REPORT

RETURNS IN
THE 2ND HALF
OF 2022



European Centre for Returns Division

Warsaw, 02.03.2023
Ref: ECRET/RVR//2023

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INTRODUCTION

The European Border and Coast Guard Agency (Frontex) assists Member States¹ (MS) in implementing effective returns of people who have exhausted all legal avenues to legitimise their stay.

In practice, Frontex offers support in the organisation, implementation and financing of returns organised by Member States, or organises returns on its own initiative. Returns are mainly implemented by air, with charters or scheduled² flights, but also by sea and by land. Airplanes can be chartered by either Member States or

Frontex. In all cases, the Agency is responsible for the coordination at operational level and can provide technical support, also to voluntary returns.

The competent national authorities are solely responsible for issuing return decisions as well as for supporting the migrants who wish to return voluntarily. The Agency does not enter into the merits of such decisions.

The purpose of this report is to provide a comprehensive, comparative analy-

sis of the results of returns organised or coordinated by Frontex between 01/07/2022 and 31/12/2022 (hereinafter: the 2nd half of 2022), with a view to enhancing the quality, coherence, and effectiveness of future return activities as per Article 50(7) of the European Border and Coast Guard Regulation³ (hereinafter: the Regulation).

This document does not cover returns carried out by Member States at the national level, without the support of the Agency.

Frontex supports the following types of returns by air (by scheduled and charter flights):

Voluntary	Voluntary returns (VR) when non-EU nationals return on a voluntary basis to their country of origin or another country where they have the right to enter, with or without a return decision issued (based on Member States national legislation and procedures).
	Voluntary departures (VD) when non-EU nationals leave within the time-limit fixed for that purpose in the return decision, as described in Art. 7 of the Return Directive.
	Humanitarian voluntary returns (HVR) when non-EU nationals fleeing the war in Ukraine return on a voluntary basis to their countries of origin or non-EU third countries where they choose to return and where they have the right to enter, despite being eligible at the time of the return for legal stay in the respective Member State territory (supported by Frontex on an exceptional basis and in co-operation with the non-EU country diplomatic representations).
	Return operations of unescorted returnees by scheduled flights (DEPU) when, based on the risk assessment performed by the Member State, returnees are returned to their country of origin or another non-EU country without the assistance of forced-return escorts.
	Return operations of escorted returnees by scheduled flights (DEPA) when, based on the risk assessment performed by the Member State, returnees are returned to their country of origin or another non-EU country with the assistance of forced-return escorts.
	Joint return operations by charter flights (JRO) when returnees from two or more Member States are returned to their country of origin or another non-EU country on the same aircraft.
Forced	Frontex organised joint return operations (FX RO) by charter flights when a return operation is organised by Frontex on its own initiative and with the agreement of the Member States concerned and in which the Agency takes over the responsibility for the organisational part of the return operation.
	National return operations by charter flights (NRO) when returnees from a single Member State are returned to their country of origin or another non-EU country, including operations when support is provided by other Member States' resources (e.g. forced-return monitors, forced-return escorts or aircraft provided by another Member State).
	Collecting return operations by charter flights (CRO) when returnees from one or more Member States are returned to their country of origin and the aircraft and forced-return escorts are provided by the country of return, as described in Art. 50(3) of the Regulation.

¹ European Union (EU) Member State and/or Schengen Associated Country (SAC)

² Regular commercial flights

³ 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

1. STATISTICAL OVERVIEW

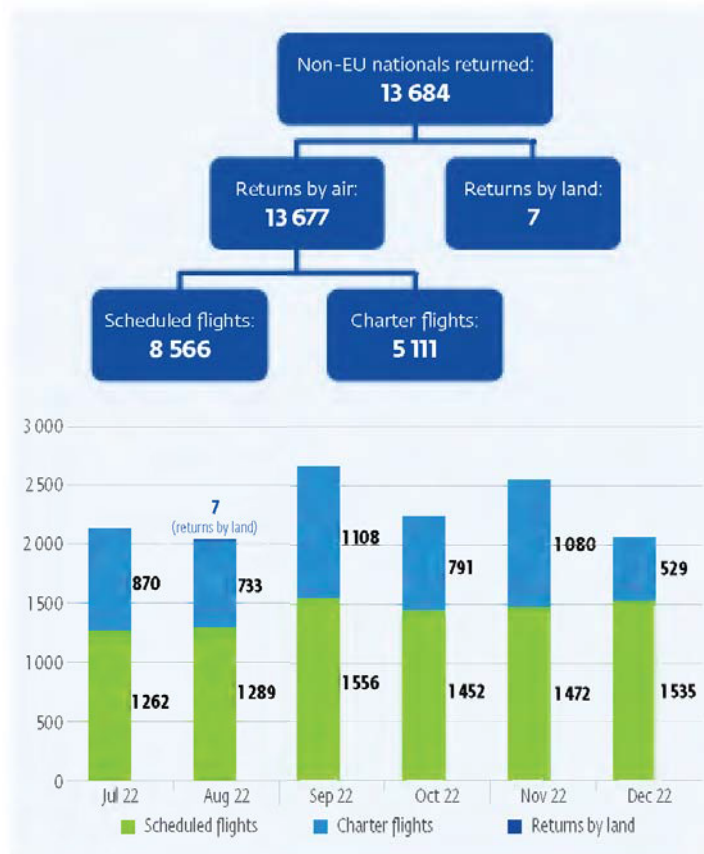
In the 2nd half of 2022, the Member States returned 13 684 non-EU nationals with Frontex support. Almost all of them were returned by air, by the means of scheduled (63%) and charter (37%) flights. In addition to that, Frontex supported Austria in organising 1 return by land (bus), returning a total of 7 non-EU nationals.

Out of all non-EU nationals returned, 60% were forced returns and 40% were returns carried out on a voluntary basis. All returns carried out in the voluntary manner were implemented by scheduled flights.

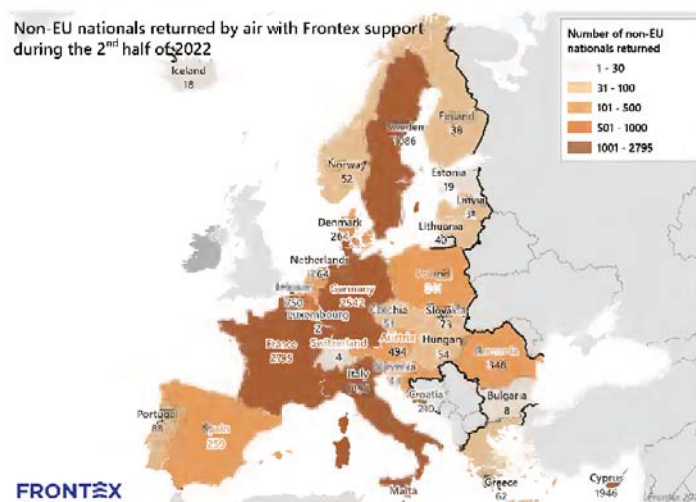
In the 2nd half of 2022, there were 2 incidents which resulted in Serious Incident Reports (SIR): one related to taking pictures during a return operation and another related to a breach of provisions set in the Implementation Plan.

The average number of non-EU nationals returned per month was 2 281 (in comparison to 1 677 reported in the 2nd half of 2021). September with 2 664 returnees was the month with the highest number of non-EU nationals returned in the history of Frontex.

Non-EU nationals returned with Frontex support during the 2nd half of 2022



Non-EU nationals returned by air with Frontex support during the 2nd half of 2022



1.1. RETURNS BY AIR: SCHEDULED FLIGHTS

8 566 non-EU nationals were returned on 4 973 scheduled flights to 106 countries. The average number of returnees per month was 1 428, nearly twice as much as in the corresponding period of 2021.

Most returns, 64%, were carried out in a voluntary manner, while 36% were forced returns.

The growth in the number of returns by scheduled flights was mainly due to the increase of returns implemented on a voluntary basis, which were 113% more than in the corresponding period of 2021.

3 new Member States' institutions responsible for the implementation of voluntary returns started to make use of Frontex support during the semes-

ter, while others intensified their involvement. In addition, 110 persons were repatriated by Austria, Germany, and Poland as humanitarian voluntary returns.

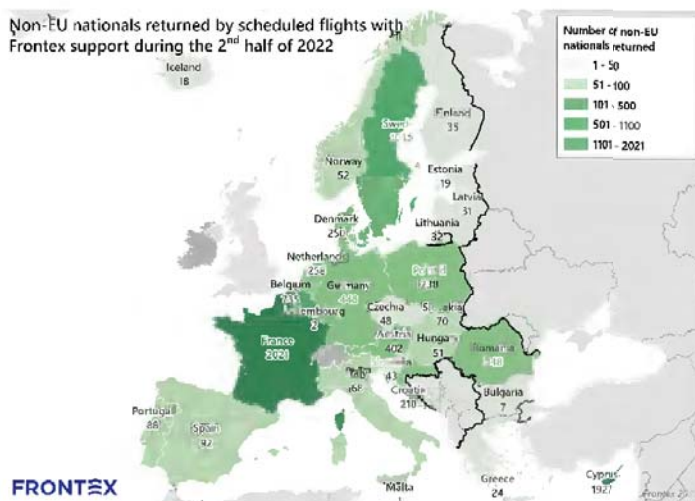
The return of 1 248 non-EU nationals booked into the Frontex dedicated IT system, was cancelled for the following main reasons:

- Lack of travel documents (30%)
- Returnee refused to depart (25%)
- Returnee absconded (24%)
- Returnee applied for asylum (11%)
- COVID-19 (Coronavirus) (10%)

Given the flexibility of the system and possibility to reschedule or cancel free of charge, the financial burden of unsuccessful returns was lowered.



Non-EU nationals returned by scheduled flights with Frontex support during the 2nd half of 2022

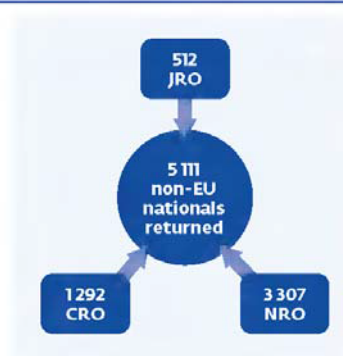


1.2. RETURNS BY AIR: CHARTER FLIGHTS

5 111 non-EU nationals were returned on 151 charter flights to 24 countries:

- 19 joint return operations (512 returnees)
- 95 national return operations (3 307 returnees)
- 37 collecting return operations (1 292 returnees)

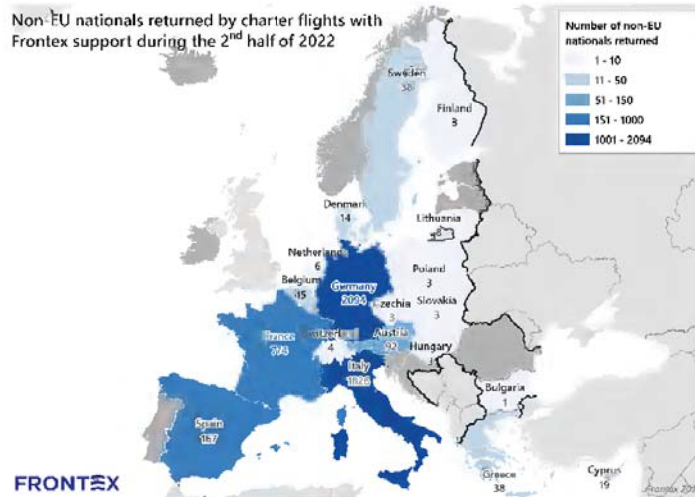
The Agency did not receive any Member States' requests to provide technical assistance to voluntary returns by charter flights.



The map on the right side shows the number of returnees on charter flights from each of the 19 Member States that either organised or participated in those return operations. 1 joint return operation was organised by Frontex.

Frontex chartered 11 aircraft, 2 for joint return operations (1 by Frontex), 5 for national return operations and 4 for connecting flights from participating Member States to the place of departure of main return charters.

Non-EU nationals returned by charter flights with Frontex support during the 2nd half of 2022



1.3. MONITORING OF RETURNS

134 monitors participated in 104 return operations by charter flights coordinated by the Agency⁴. 66% of the monitors were deployed from the Frontex pool, 25% by Member States' monitoring institutions

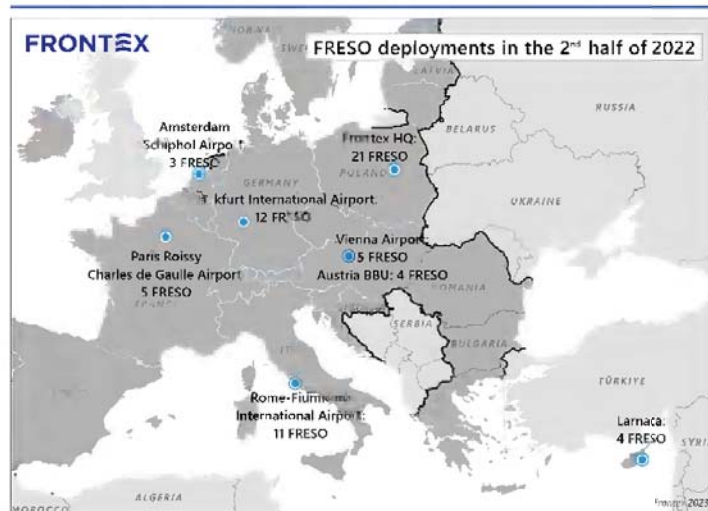
and 9% were Frontex fundamental rights monitors.

Similarly, to the 2nd semester 2021, at least one monitor was present on board of

69% of all Frontex coordinated return operations by charter flights:

- 100% of collecting return operations;
- 89% of joint return operations;
- 53% of national return operations.

1.4. FORCED RETURN ESCORT AND SUPPORT OFFICERS (FRESO)



'Forced Return Escort and Support Officer' (FRESO)⁵ from the European Border and Coast Guard standing corps can be deployed to Member States to support return-related activities. FRESO carry out their tasks in accordance with Member States' national legislation, under their command-and-control structures and in compliance with operational plans agreed between Frontex and the relevant host Member States.

⁴ In some operations there was more than just one monitor deployed by Member States' national monitoring institutions or by Fundamental Rights Officer (FRO).

⁵ Starting from 2023 this standing corps profile has been renamed to 'Frontex Return Escort and Support Officer' (Management Board decision 8/2022 of 26 January 2022 adopting the profiles to be made available to the European Border and Coast Guard standing corps for 2023).

2 new teams of FRESO were deployed in the 2nd half of 2022 to support Austria and Cyprus in the daily handling of departing and transiting returns:

- 4 FRESO from July to the Austrian Federal Agency for Reception and Support Services (BBU) to specifically support voluntary returns;

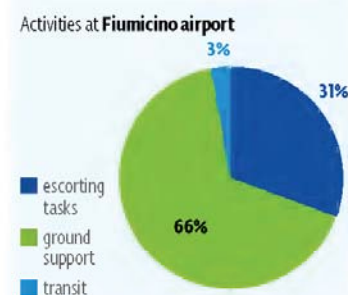
- 4 FRESO from October to the Larnaca Branch of the Cypriot Aliens and Immigration Unit.

All 65 deployed FRESO supported the return of 3 968 non-EU nationals. They reinforced the local authorities' capacity in the implementation of returns by

charter and scheduled flights (including voluntary returns), both departing or transiting from other Member States *en route* to non-EU countries. Upon Member States' request, FRESO also participated as escorts in some return operations coordinated by Frontex.

Main operational results from the FRESO deployments to Member States in the reporting period⁶:

Italy, Rome



Types of return supported: departing and transiting charter and scheduled flights.

Number of non-EU nationals handled: 346 non-EU nationals were provided with ground support.

153 returnees were escorted on 11 Frontex-coordinated charter flights.

Number of supported returns: 152 national returns and 47 Frontex-coordinated flights (18 in transit from other Member States).

Germany, Frankfurt



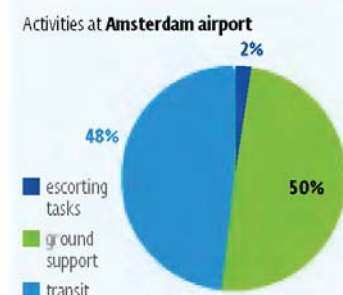
Types of return supported: departing charter and scheduled flights.

Number of non-EU nationals handled: 668 non-EU nationals were provided with ground support.

278 returnees were escorted on 12 Frontex-coordinated charter flights and 7 Frontex-coordinated scheduled flights.

Number of supported returns: 461 national returns and 19 Frontex-coordinated flights.

The Netherlands, Amsterdam



Types of return supported: departing and transiting scheduled flights.

Number of non-EU nationals handled: 164 non-EU nationals were provided with ground support.

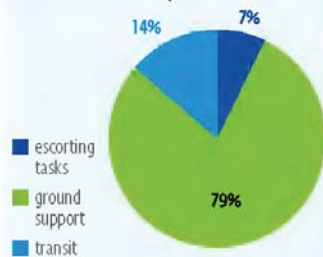
4 returnees were escorted on 4 Frontex-coordinated scheduled flights.

Number of supported returns: 62 national returns and 74 Frontex-coordinated flights (69 in transit from other Member States).

⁶ The information in the charts of this section is based on the number of times the operational support was provided by the FRESOs deployed to EU airports and other locations. It is possible that the same non-EU national was supported by the same FRESO team during one operation but in different types of activities, for example, first in ground support and later in escorting. The number of non-EU nationals handled by FRESOs is an important indicator but to provide an accurate picture about their support, the volume of engagement is measured here.

Austria, Vienna

Activities at Vienna airport



Types of return supported: departing and transiting charter and scheduled flights.

Number of non-EU nationals handled: 334 non-EU nationals were provided with ground support.

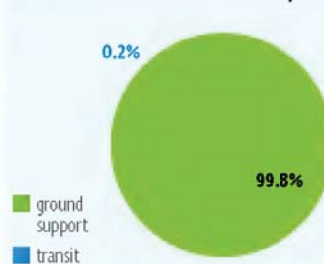
26 returnees were escorted on 6 Frontex-coordinated charter flights.

Number of supported returns: 105 national returns and 140 Frontex-coordinated flights (57 in transit from other Member States).

Transfers provided to voluntary returns: 614 non-EU nationals were supported on 394 transfers. These returns were carried out to 44 countries.

France, Paris

Activities at Paris Charles de Gaulle airport



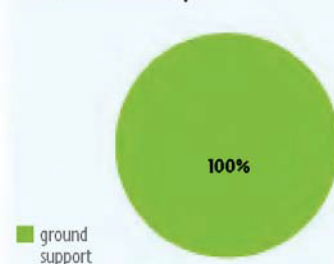
Types of return supported: departing and transiting charter and scheduled flights.

Number of non-EU nationals handled: 524 non-EU nationals were provided with ground support. FRESO have not yet provided *ad-hoc* escorting tasks.

Number of supported returns: 369 national returns and 5 Frontex-coordinated flights (4 in transit from other Member States).

Larnaca, Cyprus

Activities at Larnaca airport



Types of return supported: departing scheduled flights.

Number of non-EU nationals handled: 50 non-EU nationals were provided with ground support. FRESO have not yet provided *ad-hoc* escorting tasks.

Number of supported returns: 7 national returns and 15 Frontex-coordinated flights.

Voluntary returns: 859 non-EU nationals on voluntary returns by 67 scheduled flights. These returns were carried out to 31 countries.

2. EVALUATION OF RETURNS

Returns by air

In the 2nd half of 2022 Frontex assisted Member States in returning almost 13 700 non-EU nationals. This represents an increase of 22% compared to the 1st half of 2022 and of 36% compared to the 2nd half of 2021. The upward trend is a result of an increase of returns by scheduled flight, mainly carried out in a voluntary manner.

63% of non-EU nationals were returned by scheduled flights and 37% by charter flights⁷. Both types of returns increased in com-



Non-EU nationals returned with Frontex support Comparison between semesters and years



⁷ In addition, 7 non-EU nationals were returned by land (bus).

parison to the first half of the year, by 34% (scheduled flights) and 6% (charter flights).

In comparison to the corresponding period of 2021, the figures for the scheduled flights increased by almost 78%, the number of returns by charter flights decreased by 3%.

Charter and scheduled flights complemented each other: while scheduled flights allowed Member States to return small groups and single low-risk cases, mostly in a voluntary manner, to a wide range of countries of return, charters were mainly used to return large groups and high risk cases, but only to a limited number of countries that accept this way of implementing returns.

Returns by land

Return by land, though rare among Frontex operations, is common and very cost-effective for Member States which have land borders with non-EU countries. Additionally, when returns cannot be implemented by air because of security concerns (scheduled flights) or when the number of returnees is not sufficient to fill a plane (charter flights), the solution to carry them out by land may be a good alternative when the geographical distance between the countries allows for it. The main challenge in returns by land are generally the long working hours of the escorts.

Recommendations:

- Member States are encouraged to use Frontex support to implement both forced and voluntary returns, depending on their needs, this includes not only returns by air but also returns by land.
- Member States are encouraged to inform the Agency about their training needs and update their knowledge about the new functions of the module of the Agency's Integrated Return Management Application (IRMA) dedicated to Frontex Assisted Returns (FAR).
- Member States are encouraged to share their good practices and challenges in the dedicated Frontex networks, also to allow the Agency to further tailor its support to respond to their needs.

2.1. RETURNS BY AIR: SCHEDULED FLIGHTS

Scheduled flights are generally the easiest and more immediate solution to implement returns unless the analysis of potential risks or the behaviour of the returnees do not allow them to travel with other regular passengers. Those commercial flights offer to the Member States an alternative to implement returns to same countries of return when the risk of having a low number of returnees on charter flights would not be cost effective.

The wide availability of routes in the Frontex mechanism (106 countries reached in the semester) offered to the Member States a safe and efficient way of returning individuals or small groups, with almost no financial consequences in case of last-minute cancellations, significantly increasing the overall efficiency of such returns.

Returns by scheduled flights are generally more easily accepted by non-EU authorities because they do not require major organisational efforts in ensuring the handover of the persons returned,

Non-EU nationals returned by scheduled flights
Comparison between semesters



and do not draw public attention as it may be the case for charters.

75% of forced returns the returnees travelled unescorted to their countries. Escorted returns were the type of return more heavily impacted by the COVID-19 restrictions in previous years. In the 2nd semester of 2022, their number finally started to grow again, thanks to the progressive decrease in travel restrictions, and almost doubled in compari-

son to the corresponding period of 2021. It also increased by 60% compared to 2019, prior to the pandemic. Such growth was also facilitated by the implementation of a new tool in the Agency's dedicated IT system that also allows the handling of transit requests to other Member States⁸ in one single platform. The introduction of this new system reduced the administrative burden on Member States and with this made it easier to send and approve transit requests.

⁸ in accordance with Council Directive 2003/110/EC

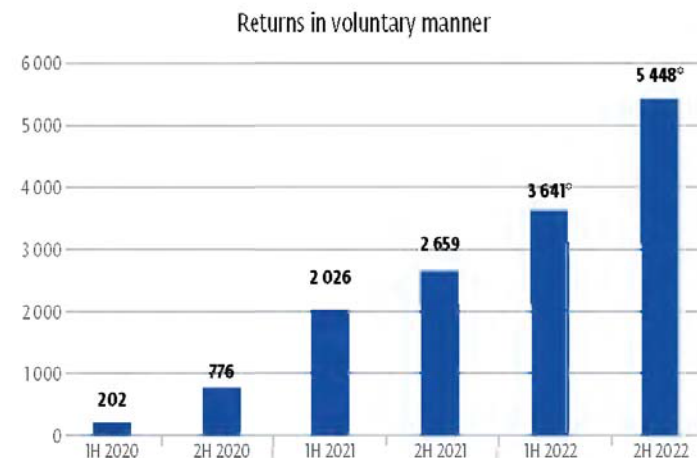
28 Member States used Frontex support, although only three countries (France, Cyprus and Sweden) returned close to the 60% of all the non-EU nationals returned by scheduled flights with Frontex support.

Voluntary returns

In the absence of a legal definition of “voluntary returns” and when looking at the diverse Member States’ national practices, it is not always possible to clearly differentiate such returns from “voluntary departures”, also considering that in both types of return the non-EU nationals travel as regular passengers.

As shown in the chart on the right side, in comparison to the corresponding period of 2021 there was a twofold increase in the number of voluntary returns, and the trend is in constant growth since 2020.

The Agency has been identifying and reaching out to different Member States’ institutions responsible for the organisation and implementation of voluntary returns to proactively promote the available support. More national authorities are expected to start using Frontex assistance in the future. The Voluntary Return Network (VRN) was also established to allow sharing and aligning of good practices.



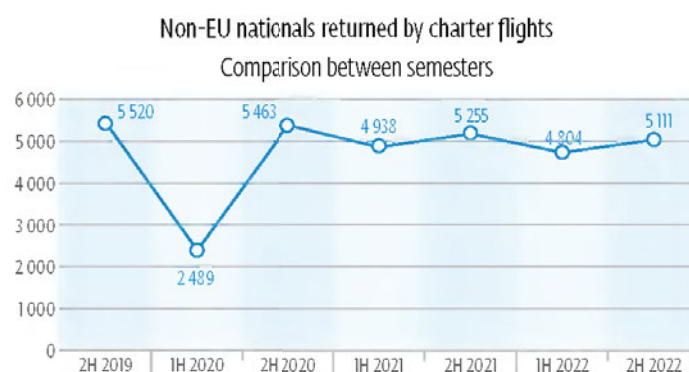
* 2022 figures also include numbers for humanitarian voluntary returns (HVR)

Undertaken actions:

- Frontex has been adding new functionalities, air companies and routes to its scheduled flights mechanism to better meet Member States’ needs. New routes, countries of return and airports are being added to the portfolio.
- Frontex has been actively working towards digitalising processes related to the organisation and implementation of returns to facilitate Member States’ use of the system.
- The Agency has been identifying and reaching out to all Member States’ institutions responsible for the organisation and implementation of voluntary returns, to proactively promote the available support.
- The Agency organised the second meeting of the Voluntary Return Network aimed at sharing and aligning good practices among the different Member States’ institutions.

2.2. RETURNS BY AIR: CHARTER FLIGHTS

The number of non-EU nationals returned by charters increased by 6% in comparison to 1st half of 2022 but decreased by 3% in comparison to the corresponding period of 2021. This decrease was mainly due to the unstable situation in countries such as Afghanistan, Russia and Ukraine to which returns coordinated by Frontex have been suspended (in the 2nd half of 2021, 369 persons were returned by charter to those countries). If returns to these countries were not discontinued in 2022, there would have been rather an increase in the total number of returns by charters in the last semester.



⁹ as defined by Article 7 of the Return Directive

Charter flights are generally used by Member States to return large groups of people and/or high-risk profile of returnees who cannot safely travel on regular scheduled flights.

The operational added value of returns by charters is high: Member States can concentrate their efforts and resources to gather and accompany groups rather than individuals on one flight, which may also imply releasing places in detention centres for other returnees to be identified/returned. Also, the political dimension of the charters is most relevant in implementing the external EU policy on return.

Nevertheless, the overall efficiency of such type of returns is always very much linked to the final number of returnees on board and level of occupancy of the aircraft's seats:

- While cancellations of returns can sometimes happen due to changing personal circumstances or legal status of each person to be returned, significant last-minute drops in the number of returnees can severely impact the cost effectiveness of those flights. Furthermore, the contracts for chartering aircraft always imply high costs for cancellation, that are generally higher the closer to the planned date of the operation.
- Lower number of returnees on a charter than the number agreed and accepted by the non-EU countries of arrival, may send contradicting messages to those non-EU countries on the real dimension of illegal migratory presence in the EU.

There are well-known reasons for last minute reductions in the number of returnees, such as asylum requests, absconding, medical cases or failing for instance to get returnees tested or vaccinated against COVID as required by the non-EU countries. Unfortunately, Member States are not always able to timely replace returnees, especially when returns are organised on a national level, and no other Member State participates. This happens more frequently with those non-EU countries that do not always

ensure a high and timely rate of successful identification of their nationals.

Still, an efficient organisation of charter flights requires shared responsibility between Frontex and Member States in adopting appropriate measures to ensure a constant sound management of EU and national funds. In the 9th Frontex High Level Round Table on Returns on 16 November 2022, the Agency and the Member States agreed to increase their efforts in making sure that the chartered airplanes are used at their maximum capacity. This can be achieved by:

- Whenever possible, opening operations to the participation of other Member States (as joint return operations) as well as by participating in the already available joint flights instead of organising additional ones, on a national level. Furthermore, the higher is the number of Member States jointly participating in a return by charter, the higher the likelihood of replacing returnees no longer able to leave.
- While some national charters implemented based on bilateral agreements between individual Member States and certain non-EU countries have proven to be fully effective, EU agreements with non-EU countries should be more regularly used as they envisage the possibility to organise joint return operations by charter.
- Including in the provisional passengers lists a reasonable number of potential additional returnees ready to replace those who may have last minute impediments to being returned. While this "overbooking" system may require the agreement of the authorities of countries of return, when applied by all the participating Member States it would considerably increase the likelihoods to have on board a final number of returnees that would ensure an overall cost effectiveness of the operations. The level of "overbooking" should be tailored to specific Member States and non-EU countries of returns, based on past experience and statistical data.

- Increasing prevention of returnees' absconding on national territories.
- Planning operations enough in advance (at least 8 weeks ahead) and, whenever possible, negotiate with air-carriers/broker the best possible cancellation policy.

Joint and national return operations

Member States organised almost 5 times as many national return operations as joint ones (19 joint return operations versus 95 national return operations). Despite their low number compared to the national charters, all the 19 joint operations were successful: in total 17 Member States participated (3 or more Member States on each charter).

National return operations by charters are based on bilateral agreements between Member States and non-EU countries, which in most of the cases do not foresee the possible participation of other Member States.

Joint return operations ideally imply same or higher numbers of non-EU nationals returned in a lower number of flights, resulting in improved cost-efficiency, less CO₂ emissions in line with the EU Green Deal and in fostering inter-EU cooperation. They also provide an excellent operational solution for Member States that struggle with a small number of non-EU nationals who cannot be returned by scheduled flights (e.g., due to the risk assessment). Moreover, joining a return charter flight organised by another Member State reduces organisational burden and reinforces the EU approach on return vis-à-vis the non-EU countries concerned.

Sometimes EU and Member States bilateral agreements with non-EU countries set a maximum number of returnees allowed per charter flight, which may be lower than the capacity of the large aircraft required to fly directly from EU to these countries (it is mainly due to fuel capacity, considering that technical stop-over in other non-EU countries are generally not allowed/possible for security reasons). In such cases, the overall effectiveness of operations by charter can be still positively assessed consider-

ing for instance the political relevance of start implementing potential large-scale returns to certain new countries.

Frontex organised return operations

The Frontex organised return operations proved to be effective in taking over from Member States organisational burden, streamlining procedures and fostering the cooperation among various actors on EU and international level. The Agency chartered the aircraft, coordinates the participation of Member States in the operation, sets operational and security procedures, provides assistance by deploying FRESO from the European Border and Coast Guard standing corps, and maintains contacts with the non-EU authorities in cooperation with relevant local EU entities.

Frontex organised its second return operation in September 2022, in close cooperation with the European External Action Service (EEAS), the relevant EU delegation and the local European Return Liaison Officer (EURLO). Germany, Italy, Austria and the Netherlands were the participating Member States.

Collecting return operations

After a decrease in the number of collecting return operations (CROs) during the pandemic, in the 2nd half of 2022 Frontex supported 37 collecting return operations with 1,292 returnees, in comparison to 34 collecting return operations with 1,099 returnees in the 1st half of the year. All collecting return operations were organised by France and Germany.

The collecting return operations create fewer operational challenges and result in improved non-EU countries' ownership and cooperation in the return process and sharing good practices. The collecting return operations imply fewer complex procedures to obtain aircraft's landing permits and a more effective interaction with returnees thanks to the presence on board of non-EU escort officers. Additionally, they indirectly contribute to capacity building in non-EU partner countries in implementing returns to other non-EU countries.

Chartering of aircraft

Over the last two years, many airports and airlines have considerably reduced their capacity, mainly with regard to flying crews and staff supporting ground handling. The raising costs of fuel and services and the closure of a wide areal space due to the war in Ukraine, did not help the aviation market to fully recover after the pandemic, and it resulted in a limited availability of aircraft requested on short notice during the 2nd semester of 2022.

In the reporting period, Frontex chartered 11 aircraft for return operations. 15 Member States' requests to charter aircraft could not be fulfilled. In addition, on one occasion, Frontex facilitated the chartering of an aircraft by a MS to support another requesting MS. The risk of unavailability of offers from contractors due to the sudden raise of fuel price no longer in line with the negotiated cost range, will be addressed in future Frontex framework contracts.

Undertaken actions:

- In November, during the 9th High Level Round Table on Returns, Frontex and Member States agreed to increase their efforts in making sure that the chartered airplanes are used at their maximum capacity.
- After the first successful Frontex organised return operation, the Agency implemented a new joint charter in September 2022. The Agency, in consultations with Member States, finalised the concept of Frontex organised flights, and aligned position with the European Commission and European External Action Service to ensure a comprehensive approach at political, diplomatic, and operational levels.
- Due to contractual limitations posed by the challenging situation of the aviation market, the Agency promoted the cooperation between Member States in chartering aircraft for return operational for other Member States and covered related costs.

Recommendations:

- Scheduled flights are available to Member States to implement returns to a large number of non-EU countries. Member States should look at the possibility to return non-EU nationals via scheduled flights when the risk of having a low number of returnees on charter flights due to last minute drops would result into a non-cost effective solution. The numbers of returned persons should be the main guiding factor to assess the overall efficiency of returns, rather than the specific means used or the visibility of operations.
- Whenever possible, the organising Member States should open the return charters to other Member States.
- When organising national operations, Member States should first assess their possible participation in already available operations organised by other countries.
- Stopovers of joint charters to collect returnees from different Member States are encouraged by the Agency. Participating Member States should facilitate it by offering their airports as stopover hubs.
- When feasible, Member States may consider organising return charters to multiple non-EU countries, in order to optimise costs and resources, and limit the possible number of additional return operations to the same or close geographical area.
- When organising returns by charters, Member States should properly estimate the costs of the operations and look into possibilities to negotiate with air-carriers/ and brokers cancellation policies that mitigate risks of high costs of cancellation in cases of last-minute drops in the number of returnees.
- When possible, Frontex and Member States should plan the charter operations well in advance. Member States should inform the Agency in a more timely manner about their needs.

Recommendations:

- A reserve list of returnees should be created and kept updated for each return by charter by all participating Member States.
- For the effective return of non-EU nationals, Member States should also look at possible measures alternative to detention to prevent absconding.
- Member States should request chartering of aircraft at the earliest, in order to allow the Agency to find solutions to the limited availability of aircraft on the market.

2.3. MONITORING OF RETURNS

According to Article 8(6) of Directive 2008/115/EC (hereinafter: the Return Directive), Member States shall provide for an effective forced-return monitoring system. The Agency keeps encouraging Member States to facilitate the physical deployment of forced-return monitors from their respective national monitoring Institutions in all return operations, or to request the Agency to deploy monitors from the Frontex pool of forced-return monitors¹⁰.

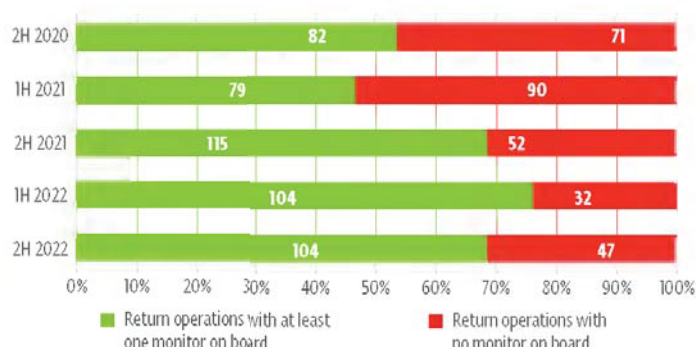
While the Agency contributes to the pool of monitors by nominating fundamental rights monitors (FROMs), the same fundamental rights monitors may be deployed in return operations also based on Article 110 of the Regulation¹¹, depending on to the interest of the Fundamental Rights Officer in gathering information and reporting on fundamental rights compliance. In the reporting period, the participation of FROMs was mainly ensured in return operations where no national monitor was present on board and no request of monitors from the pool was received by the participating Member States.

As the chart above on the right shows, at least one monitor was present on board of 69% of all Frontex coordinated return operations by charter flights.

The Agency is striving to facilitate the participation of forced-return monitors in all charters:

- According to the current EU legal framework, the decision to have a monitor physically present in

Return operations with at least one monitor on board
vs with no monitors on board
Comparison between semesters



a given operation is a solely decision of the Member States' monitoring institutions (only in Collecting Return Operations the presence of a forced-return monitor throughout the operation is a precondition for Frontex to provide its operational and technical support).

- In the absence of Member States' national monitors on board, the Agency has no legal basis to autonomously deploy a monitor from its pool of forced-return monitors; it has to be always requested by at least one Member State.
- Furthermore, the legal deadline of 21 working days ahead of the operation to submit such requests, often prevents the effective deployment of monitors from the pool in case of last minutes needs.

Recommendations:

- Member States' national institutions are encouraged to provide monitors in all operations by charters.
- Member States are encouraged to systematically and timely request the Agency to deploy forced-return monitors from the Frontex pool.
- Member States are encouraged to nominate monitors to the Frontex pool.
- Based on Article 110. of the Regulation, Frontex will continue to engage also fundamental rights monitors from the Fundamental Rights Office in Frontex supported returns, in addition to the scope of the monitoring of forced returns set by the Return Directive.

¹⁰ It is a legal requirement based on Article 51 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

¹¹ Not in the scope of Article 8(6) of Directive 2008/115/EC and Article 51(2) of the Regulation

2.4. CONTINUATION AND EXPANSION OF FRESO DEPLOYMENTS

The deployments of FRESO in Member States contribute to the overall effectiveness of returns at the EU level, not only in a quantitative but also in a qualitative way.

They support the departure of non-EU nationals to be returned by both charter and scheduled flights, on a voluntary or forced basis. They also support forced returns in transit at Member States' airports. On a need basis, FRESO also support Member States by performing escorting functions in Frontex organised or coordinated return operations.

When deployed in different Member States, FRESO more easily gain and

share experience on different Member States' practices and procedures, which considerably increases the value of their support.

As a result of the high level of integration into the national teams, FRESO can carry out a wide range of tasks, tailored to the specific needs of the hosting authority. All Member States where FRESO are currently deployed have requested to prolong those deployments for the operational year 2023, and some of them also expressed interest in increasing in the future the number of FRESO or in deploying them to additional locations.

Recommendations:

- Member States are invited to consider the possibility to host FRESO to support the implementation of forced and voluntary returns departing from their airports or in transit from other Member States.
- *Ad hoc* deployments of FRESO as escorts in Frontex coordinated return operations are available to all Member States. In case such support is needed, Member States should inform the Agency accordingly.
- Frontex will enhance the sharing of good practices among relevant Member States and the various teams of FRESO deployed in current and future locations.

3. CONCLUSIONS AND OUTLOOK

The increasing number of returns supported by the Agency, almost 13 700 non-EU nationals returned in the 2nd half of 2022 and nearly 25 000 in the whole year, clearly shows that return is steadily among the Agency's core priorities.

The number of charter flights is not expected to increase much in 2023, also considering the still unstable international situation and the agreed Frontex-Member States joint efforts to ensure an efficient planning and implementation of such operations on a more EU perspective. On the other hand, the support of Frontex in the implementation of returns by scheduled flights will certainly continue to grow. The geographical scope of the service is constantly expanding, as well as the number of Member States' national institutions requesting

the Agency's support, also with regard to voluntary returns, in line with the EU strategy on reintegration and voluntary return.

The Agency is fully committed to further alleviate the Member States' administrative and financial burden in implementing returns, as well as to strengthen its operational support in the field: new joint return operations will be directly organised by Frontex, based on Member States' needs, while the Agency's contractual framework will be further strengthened to more easily allow for chartering of aircraft necessary to carry out return operations and voluntary returns. Finally, additional specialised standing corps officers will be made available to Member States to escort returnees and provide ground

support to returns, including those transiting from another Member States.

Safeguarding fundamental rights remains the Agency's guiding principle in supporting Member States' returns. Frontex will continue to make efforts in ensuring the presence of monitors in returns by charters, mainly by promoting and facilitating the full use of its pool of forced-return monitors. At the same time, the parallel participation of the Agency's Fundamental Rights Monitors in return operations will be further enhanced.

Finally, the Agency aims to minimise the impact of returns on the environment by offsetting the carbon footprint, mainly by financially supporting green initiatives already made available by many airlines to compensate the CO₂ emissions.



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OBSERVATIONS TO RETURN OPERATIONS CONDUCTED IN THE 2ND HALF OF 2022

BY THE FUNDAMENTAL
RIGHTS OFFICER

Warsaw, 02.03.2023
Reg. FRO/JOGR/2023

Frontex's Fundamental Rights Officer (FRO) is, according to the EBCG Regulation¹, to provide observations on fundamental rights on return operations, covering returns organised or coordinated by Frontex.

"The executive director shall evaluate the results of the return operations and shall transmit every six months a detailed evaluation report to the European Parliament, to the Council, to the Commission and to the management board covering all return operations conducted in the previous semester, together with the

observations of the fundamental rights officer. The executive director shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future return operations. The executive director shall include that analysis in the Agency's annual activity report."

¹ Art 50 (7) 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

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1. FORCED-RETURN MONITORING

Frontex, the European Border and Coast Guard Agency, assists Member States in returning non-EU nationals, subject to European Union return policy and in compliance with the Return Directive 2008/115/EC – persons who have no right to stay.² The Agency is responsible for the coordination and organisation of return operations as well as voluntary returns from the EU, but Member States also conduct returns on their own.

Forced-return monitoring, pursuant to Article 8(6) of the Return Directive,³ serves to promote fundamental rights compliant returns while also ensuring accountability and transparency. One of the tasks of the Fundamental Rights Office at Frontex is to monitor the Agency's compliance with fundamental rights, including return operations, voluntary returns and return interventions.

The observations provided by the FRO include an overview of findings and conclusions based on reports by forced-return monitors. These include reports drafted by forced-return monitors from a pool of monitors established by Frontex (as per Article 51(2) of the EBCG Regulation).⁴ This pool of monitors, which also includes Frontex' own fundamental rights monitors (FROMs), reinforces national monitoring mechanisms.⁵ The Observations of the FRO also include recommendations on compliance with fundamental rights during Frontex supported return operations but also examples of good practices.

In the current reporting period, from 1 July 2022 to 31 December 2022, the pool of forced-return monitors consisted of 60 forced-return monitors nominated by Member States.⁶ In addition, 6 FROMs acted as forced-return monitors in the

pool. Additional FROMs were trained in order to ensure sufficient capacity to monitoring return operations.

FROMs are also engaged in monitoring return operations of the Agency which fall outside of the scope of the pool of monitors. This applies to monitoring of all types of Frontex returns, even if there are no requests from Member States to draw on the pool of forced-return monitors (as per Article 51(4) of the EBCG Regulation). This can be done where Frontex's Fundamental Rights Officer has an interest to assign FROMs to monitor fundamental rights compliance and issue recommendations.

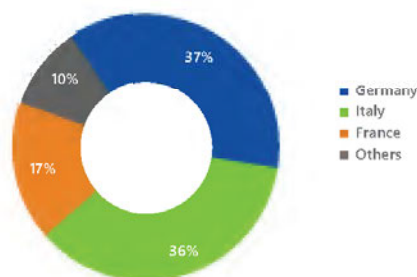
The Observations of the FRO are attached to a report prepared by Frontex as a whole, entitled Frontex Evaluation Report – Returns in the 2nd half of 2022 ('FER').

2. DATA ON RETURN MONITORING

In the 2nd half of 2022, Frontex supported 151 return operations by charter flights to 24 countries. Most of these operations (90%) were organised by three Member States: Germany, Italy and France. In about two-thirds (68%, 104 of the 151) of the charter flights monitors were present on board. Figure 1 provides the percentage of return operations supported by Frontex, by organising Member State.

10 organising Member States made use of national forced-return monitors, monitors from the pool, as well as FROMs (not serving as monitors from the pool but under the more general mandate): Germany, Italy, France, Austria, Spain, Greece, Sweden, Switzerland, Denmark

Figure 1: Percentage of return operations supported by Frontex, by organising Member State



Note: Organising Member State – the Member State which is responsible for the organisation of a return operation which could be from one specific Member State or a joint one from several Member States, Participating Member State(s) – the Member State which participates in a joint return operation (or collecting return operation, if applicable) organised by the organising Member State

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying non-EU nationals

³ The Return Directive obliges Member States in Article 8(6) to establish an effective national forced-return monitoring system

⁴ Art 51 (1) of the EBCG Regulation specifies that "The Agency shall, after taking due account of the opinion of the fundamental rights officer, constitute a pool of forced-return monitors from competent bodies of the Member States who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 62 of this Regulation"

⁵ Art 110 (3) of the EBCG Regulation specifies that "the fundamental rights officer shall assign at least one fundamental rights monitor to each operation. The fundamental rights officer may also decide to assign fundamental rights monitors to monitor any other operational activity he or she considers relevant."

⁶ Art 51 (2) of the EBCG Regulation provides "[...] Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile, without prejudice to the independence of those monitors under national law, where national law so provides"

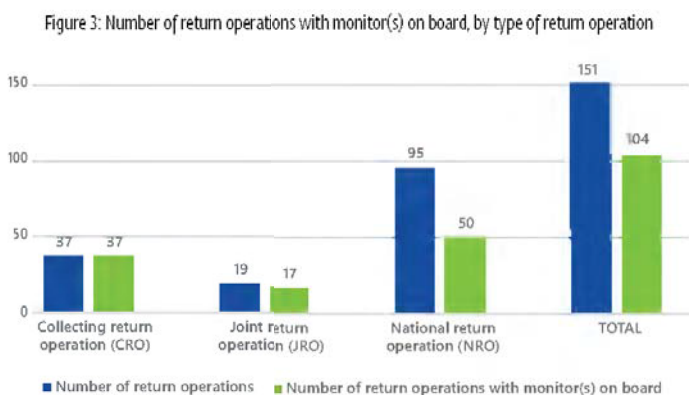
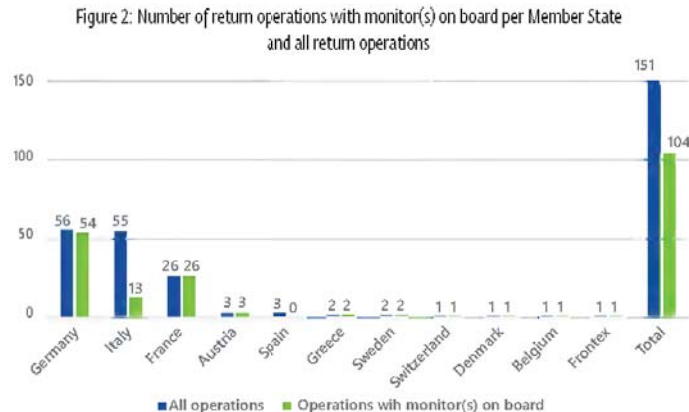
and Belgium. In addition, Frontex was the lead organiser of one return operation during the reporting period. Figure 2 provides an overview of the number of return operations with one or more monitors, showing this by organising Member State and where Frontex is the lead organiser.

Three main types of return operations are organised:

1. Collecting return operations, where an aircraft and escorts are provided by the country of return.
2. Joint return operations, where several Member States jointly return persons on one flight.
3. National return operations, where one Member State returns persons on one flight.

Of the 104 Frontex supported return operations organised by charter flight, monitors were present on board on all collecting return operations (as required under Article 50(3) of the EBCG Regulation); in 89% (17 flights) for joint returns, and in 53% (50 flights) for national return operations. Figure 3 provides an overview of the number of return operations with monitor(s) on board, by type of return operation.

In order to properly assess and follow up, as required by the EBCG Regulation, Frontex's Fundamental Rights Office depends on reports from the monitors. Of the 104 Frontex supported return operations organised by charter flight, only 90



monitoring reports (86% of monitored flights) were submitted in the reporting period. Missing reports were mainly reports from national return operations. Table 1 provides an overview by organising

country and with the number of flights organised with monitor on board and the number and percentage of these operations where reports were submitted to Frontex's Fundamental Rights Office.

Table 1: Number of return operations with monitor(s) on board, as well as number and percentage of return flights where reports were submitted to Frontex's Fundamental Rights Office

Organising Member State/ Frontex	Number of return operations with monitor on board	Number of return operations with reports submitted to FRO	Report submission rate (%)
Germany	54	52	96
Italy	13	4	31
France	26	25	96
Austria	3	3	100
Spain*	0	0	0
Greece	2	0	0
Sweden	2	2	100
Switzerland	1	1	100
Denmark	1	1	100
Belgium	1	1	100
Frontex	1	1	100
Total	104	90	

* Spain conducted 3 return operations out of which none with a monitor on board/no report submitted

2.1 RETURN OPERATIONS MONITORED BY FUNDAMENTAL RIGHTS MONITORS

Of the 104 return operations with monitors on board, 87 (84%) had monitors from the pool. The remaining 17 operations were covered by Frontex's fundamental rights monitors, who acted either as members of the pool (5 flights) or under the broader monitoring mandate (Article 110(3) of the EBCG Regulation) (12 flights). This mandate allows for FROMs presence, in addition to the

flights covered in the framework of the pool, at strategically important operations in order to get a more comprehensive overview of return operations. Such operations are identified based on several factors, among others, a high security risk assessment of returnees' behaviour, a high probability of the use of force, a need to guarantee the presence of a monitor in some cases where operations are not covered by the pool, or in the case of operations conducted by a new organising/participating Member State. In the reporting period, the funda-

mental rights monitors took part in 2 collecting return operations, 10 joint returns, and 6 national return operations. All of these were chartered operations, covering 8 different organising Member States as well as Frontex. During the monitoring of return operations, the monitors were able to access all relevant areas and were well-received by the escorts at all stages. In the coming reporting period (first half of 2023), Frontex's fundamental rights monitors will also cover selected scheduled flights with voluntary departures supported by Frontex.

3. OBSERVATIONS

These observations are based on an analysis of the findings of the 90 monitoring reports submitted. The monitoring reports include specific incidents as well as more general practices.

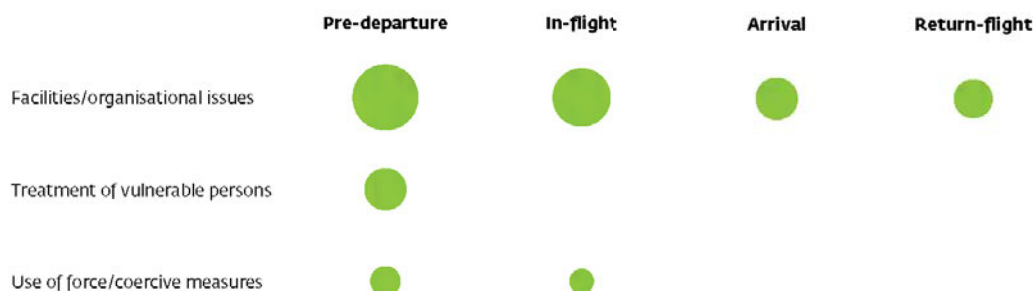
The monitoring of return operations shall be carried out by a forced-return mon-

itor based on 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 on the compliance of all activities with fundamental

rights (as per Article 50(5) of the EBCG Regulation).

Figure 4 provides an overview of the issues raised in the 90 reports, with the size of the circles indicating the number of references.

Figure 4: Issues covered in monitoring reports by category and phase of return operation⁷



⁷ **Pre-departure** – It covers the period from leaving the (temporary) holding/detention facility until embarkation to the aircraft, **in-flight** – starts with the closure of the doors of the aircraft used for the removal and ends with the arrival at the final destination and the opening of the doors on arrival, **arrival** – covers the period starting from arrival in the country of return and ending when the returnees are handed over to the national authority in the country of return, **return-flight** – the period starting after the handover procedure in the country of return until arrival at the airport of departure. Source: *Forced-return monitoring. Background reader*, ICMPD, 2021.

The following three tables provide details on key observations based on the 90 reports. Table 2 deals with facilities










and organisational issues, Table 3 with treatment of persons with vulnerabilities

and Table 4 with the use of force and coercive measures.

Table 2: Observations on facilities and organisational issues

Concern/Issue	Location	Phase	Recommendation	Follow-up Member States/Frontex
At some airports the premises designated as waiting areas are inadequate in terms of maintenance, hygienic and security conditions, as well as lack of minimum furnishing and services.	 Trieste, Palermo	Pre-departure	Improve conditions in all facilities designated for conducting return operations or designate other locations/premises for the performance of those procedures.	Frontex to cooperate with the competent authorities in the Member States and to support in improving the quality and standards of facilities used in return operations.
In one case, there was insufficient number of female escorts in the operation - disproportionate in relation to participating female and children returnees.	 Munich	All phases	Both organising and participating Member States to ensure an adequate number of female forced-return escorts to better match the gender of the returnees.	Member States to promote the participation of female escorts and other female participants (interpreters, medics).
In one case, the doctor did not have access to the full medical history of the returnees.	 Leipzig	All phases	Medical staff participating in return operation shall be informed about the medical condition of the returnees and whenever appropriate, provided with their medical records.	
In one case, a returnee was examined by the doctor in front of other persons. In several cases money and other personal belongings were checked and handled in front of other persons.	 Hamburg  Lille	Pre-departure	All procedures involving returnees shall be conducted with appropriate regard to their privacy and dignity and according to data protection rules. As far as possible, the physical security check and medical check shall be carried out at a distance from other returnees and participants of the return operation.	
At least in two cases, participants (escorts and others) were not properly identifiable.*	 Palermo, Trieste	All phases	In order to easily identify the various roles, the participants shall wear proper vests during a return operation.	Frontex to provide a sufficient number of vests and to ensure they are used at each return operation.
Lack of interpreters in some return operations.	 Palermo, Trieste  Geneva	All phases	Engage interpreters in all operations to ensure that returnees can understand the procedures and communicate their needs. The presence of the interpreter is advisable also in terms of security, to anticipate potential tensions/violent situations.	Frontex to consider introducing a requirement of at least one interpreter present during each return operation supported by the Agency.
In one case, there was lack of debriefing after the return operation.	 Rome	Arrival	Ensure debriefings are an obligatory part of each operation. It is essential to enable all participants to raise and discuss potential concerns.	Frontex, in cooperation with the Member State, to ensure that debriefing is an integral part of each return operation.

* In some Member States vests are not used at all, in others their use is incompatible with the applicable rules

Concern/Issue	Location	Phase	Recommendation	Follow-up Member States/Frontex
Video recording was used in two operations.	 Frankfurt  Trieste	Pre-departure	Member States to ensure that filming and photographing of individuals (including for legal purposes according to relevant national law) is carried out upon prior communication to organising Member State and subsequent authorisation by Frontex and that they are officially carried out by forensic police/other national authorised entity.	Member State to act in accordance with Article 13 of the Code of Conduct for Return Operations and Return Interventions Coordinated or Organised by Frontex. ⁹
Lack of sufficient space and equipment for children.	 Copenhagen  Lille  Munich  Trieste, Palermo	Pre-departure In-flight	Member State to designate a separate area for families and children during pre-departure phase and sufficient equipment at all stages of the return operation.	Continued monitoring of the improvement of conditions in waiting areas dedicated to children.
In several cases, lack of sufficient food and drinks and not compliant with needs of returnees.	 Copenhagen  Lille	Pre-departure In-flight	Member States to ensure water and food supplies at all stages of the return operation. ¹⁰ Organising Member State or Frontex should liaise with airline brokers and ensure supplies which are compliant with returnees' dietary needs (including medical diets or diets resulting from religious beliefs).	
In one case, there was an uncovered and slippery gangway to the aircraft which could have incurred risks.	 Munich	Pre-departure	Ensure proper and safe boardings.	
In several operations, there was a lack of a seating plan which made it difficult to properly seat families with children.	General comments	Pre-departure In-flight	Frontex to follow up with Member States for more adequate planning of return operations. The FRO and forced-return monitors to continue monitoring organisational issues.	

⁹ Article 13 of the Code of Conduct for Return Operations and Return Interventions coordinated and organised by Frontex provides that "Any form of recording during an RO or RI is possible only when specifically agreed between the relevant MS, Frontex and/or the company operating the means of transport and when in compliance with applicable legislation on the protection of personal data. Recording for private use is prohibited".

¹⁰ In case of unexpected circumstances (like unexpected flight delay etc.) fixed number of bottles and food supplies/snacks shall be stored in the pre-departure area premises

Table 3: Observations on persons with vulnerabilities


Concern/Issue	Location	Phase	Recommendation	Follow-up Member States/Frontex
In several operations, monitors pointed out poor seating arrangements, resulting in families with children staying in one room with disruptive or restrained returnees.	 Berlin, Munich	Pre-departure	The seating plan (both in the waiting area and in the aircraft) and the embarkation procedure should be properly planned to ensure that families with children are separated from potentially violent returnees. Special needs of vulnerable persons during the whole operation should be assessed in advance.	Frontex to follow up with Member States for more adequate planning of return operations.
An incident was reported concerning coercive measures applied by escorts (participating Member State). The measure was applied against a returnee in the presence of his children.	General comment	In-flight	<i>Addressed to all Member States:</i> In the event of the use of force/means of restraint, children shall be kept at a safe distance from potentially disruptive returnees, including their family members, unless it is not in the child's best interest, or the circumstances do not allow for that. A detailed and case-specific risk assessment shall be conducted by escorts.	Frontex to provide training sessions on child rights approach and protection to officers assigned to the operations.

Table 4: Observations on use of force and coercive measures

Concern/Issue	Location	Phase	Recommendation	Follow-up Member States/Frontex
In one case, a monitor assessed the measure used as excessive. According to the information provided by the monitor, restraints were applied unnecessarily and for too long, in relation to the non-obstructive behaviour of the returnee.	 Hanover	Pre-departure	Continued monitoring and reporting.	
Use of restraints on all returnees for the entire (or the most of) duration of the operation and regardless of the undefined level of risk assessment.	 Palermo, Rome, Trieste  As participating Member State	Pre-departure In-flight	Means of restraint shall be used as a last resort and only in exceptional circumstances. Means of restraint shall not be used as a preventive measure. Each situation should be treated individually. The use of restraints should be systematically reviewed and assessed considering the principle of necessity and proportionality.	The FRO to continuously monitor the use of coercive measures (including the use of restraints) and assess their necessity and proportionality.

4. DETAILS ON SERIOUS INCIDENT REPORTS AND COMPLAINTS

All Frontex operations include an obligation for all participants to report fundamental rights issues through Serious Incident Reports¹¹ and the EBCG Regulation also provides for a complaints mechanism for persons who want to raise issues.¹²

4.1 SERIOUS INCIDENT REPORTS

In the reporting period, Frontex's Fundamental Rights Officer handled one Serious Incident related to a return operation. It was launched in July 2022, investigated, and closed in October 2022 with respective recommendations issued to the Member State and subject to further monitoring and follow-up.

4.2 COMPLAINTS

In the reporting period, Frontex's Fundamental Rights Officer handled one complaint related to a return operation. The complaint was proceeded with the Member State concerned, and will soon be closed with efforts made by the Member State and a positive outcome for the complainant.

Information materials about Frontex's Complaints Mechanism are available in waiting areas of some airports. Some escort leaders also verbally inform the returnees about their possibility to submit a complaint.

As stressed in previous reports, it is important that forced-return monitors systematically report on the availability of complaint forms and information materials about the complaints mechanism during Frontex supported return operations.

Forms and leaflets on the complaints mechanism are available in fourteen languages and should be made present in common areas at the airports (as also recommended by the European Ombudsman).

Member States are also encouraged to display Complaints Mechanism posters (more than one piece) and leaflets in the languages relevant for the specific return operation in a clearly visible place. Frontex' Fundamental Rights Office will make sure that sufficient material is delivered to the Member States' airports.

Member States are also encouraged to inform returnees about the Complaints Mechanism more actively and to provide information and relevant forms in languages that they understand.

5. GOOD PRACTICES

Based on forced-return monitoring reports, a number of good practices were noted, that should be replicated.

5.1 VULNERABLE GROUPS, INCLUDING FAMILIES WITH CHILDREN

- Priority treatment and special attention was given to persons with disabilities, specific safeguards were put in place during various phases of the operation, for example a wheelchair provided during pre-departure, hoist/lift was used to facilitate boarding (observed at Copenhagen airport - Denmark);
- Overall improvement of conditions in waiting areas dedicated to children, including the adaptation of the rooms or corners with soft play-

ing carpets, toys, and cartoons on screens (observed at Berlin, Düsseldorf, Frankfurt, Leipzig and Munich airports – Germany).

5.2 FORCED-RETURN ESCORTS (AS WELL AS OTHER PARTICIPANTS OF RETURN OPERATIONS)

- Overall, professional, and proactive engagement of escorts, reducing tension and creating a more friendly environment with attentive and individual approach to the returnees (observed in all Member States);
- Proper communication and respect of the escorts towards the returnees and other participants of the operation (observed in all Member States);

- Pro-active behaviour of interpreters and medical staff, allowing to de-escalate tensions on several occasions (observed in all Member States);
- Individual contact of the escort leader with each returnee upon arrival to the airport of departure for introductory talk, explanation of the return procedure and risk assessment (observed at Frankfurt airport – Germany).

5.3 LOGISTICS AND ORGANISATIONAL ISSUES

- Responding to different needs of returnees: provision of a mobile phone for returnees to call their lawyer or relatives, access to a smoking area etc. (observed at Frankfurt, Leipzig and Munich airports – Germany);

¹¹ A Serious Incident (SI) is an event, caused by an action or failure to act by a person or by the force of nature, that directly or indirectly involves Frontex participants or assets and that entails a potential violation of EU or international law related to fundamental rights and international protection of obligations (SIR-Category 1)

¹² 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

- Proper assessment of the composition of the group of returnees leading to the provision of interpreters from two different languages (observed at Hamburg, Leipzig and Munich airports – Germany);
- Proper assessment of the composition of the group of returnees leading to the provision of both male and female medics (observed at Hamburg, Leipzig and Munich airports – Germany);
- Smooth execution of procedures and a rapid response to unforeseen organisational obstacles (last-minute replacement of the escort leader), which helped to minimise the risk of potential incidents (observed at Frankfurt airport – Germany);
- Briefing for escorts, including a comprehensive component on fundamental rights in return operations, as well as important elements covering operational logistics, the seating plan, security, and health situation in the country of return and cultural/behavioural aspects (observed at Geneva airport – Switzerland).

6. OVERARCHING RECOMMENDATIONS

Looking into the future, a number of steps should be taken.

1. Monitoring institutions in different Member States need to increase the number of national monitors and to ensure effective monitoring systems.
2. Member States should consider increasing the number of return operations with the Agency's support. In countries with no effective national monitoring system, Frontex may support with monitors from the pool or through the engagement of fundamental rights monitors.
3. Frontex's Fundamental Rights Office, together with Member States, monitoring institutions and pool monitors shall aim to monitor every single forced-return operation supported by the Agency.
4. Member States should refrain from using restraints as a preventive measure when conducting return operations and encourage the introduction of relevant changes in the national legislation in this regard.
5. Whenever Member States provide national monitors to return operations coordinated by Frontex, they should also ensure that monitoring reports are submitted to Frontex's Fundamental Rights Office as required by Art. 50 (5) of the EBCG Regulation.
6. Frontex should ensure information to all Member States about the existing post-return and post-arrival support available for returnees - Joint Reintegration Services programme, and to ensure harmonisation with national reintegration programmes.
7. Member States should inform returnees about the Complaints Mechanism more actively and provide information and relevant forms in a language they understand.
8. Frontex should consider introducing a requirement of at least one interpreter present during each return operation supported by the Agency.
9. Frontex's Fundamental Rights Office, in cooperation with the Agency's training entity, organises regular training sessions and meetings for monitors in the pool, in order to ensure and further improve fundamental rights in return operations.

The Fundamental Rights Officer

