

Decision of the Executive Director
No. 2016/..36
on the financing scheme for joint return operations
and return related activities
of 23 /03 /2016

THE EXECUTIVE DIRECTOR,

Having regard to the Frontex Regulation¹, and in particular Article 25(3) thereof,

Whereas:

1. Pursuant to Article 9(1) of the Frontex Regulation, Frontex finances or co-finances joint return operations with grants from its budget in accordance with the financial rules applicable to Frontex.
2. Pursuant to Article 9(2) of the Frontex Regulation, Frontex shall cooperate with the competent authorities of the Third Countries referred to in Article 14 to identify best practices on the acquisition of travel documents and on the return of illegally present third-country nationals.
3. Grants are awarded in accordance with the relevant EU provisions concerning the general budget of the EU.
4. As specified in Article II.16(4) of the Framework Partnership Agreement, officers from the Member States² participating in joint return operations are not part of the European Border Guard Teams, therefore the full financing referred to in Article 8(h) of the Frontex Regulation does not apply.
5. In its Conclusions from the meeting of 15 June 2015, the European Council invited Frontex to scale up the cooperation on return as part of the border management, in particular in times of exceptional migratory flows.
6. In its Communication of 9 September 2015 on the EU Action Plan on Return the EU Commission called for a strong operational cooperation between the Member States, EU Agencies and Third Countries with a view to identify irregular migrants and to issue travel documents.
7. The EU Action Plan for Return urged Frontex to provide on-the-spot operational and information support on return to frontline Member States, including the organisation, coordination and co-financing of return operations to countries of origin or transit and other return related activities.
8. The budgetary authority amended the general budget of the EU for the financial year 2016, increasing Frontex's budget to be used for the implementation of the EU Action Plan on Return, in line with the European Council conclusions.
9. The European Council, at its meeting of 17/18 March 2016, called for the full assistance of the EU, upscaling the return of irregular migrants in the context of the existing readmission agreements.

¹Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, (OJ L 349, 25.11.2004, p. 1), as last amended.

²For the purpose of this decision, the term "Member State" hereby includes also the States participating in the relevant development of the Schengen acquis in the meaning of the Treaty on the Functioning of the European Union and its Protocol (No 19) on the Schengen acquis integrated into the framework of the European Union.

HAS DECIDED AS FOLLOWS:

Article 1

The present decision defines the modalities of co-financing both joint return operations and return related activities, including when implemented in cooperation with Third Country authorities.

Article 2

Frontex (co-)finances joint return operations of the Member States in accordance with the Frontex Regulation, the relevant provisions of the Framework Partnership Agreement, the Executive Director's Decision on other eligible direct costs and the provisions of the present Decision.

For the purpose of the present decision, joint return operations are operations that serve the interests of two or more Member States, namely:

- a) Return operations where there is an element of connection between two Member States;
- b) Return operations from one frontline Member State with hotspots, or from one Member State facing a disproportionate number of persons staying irregularly in its territory due to the specific and disproportionate migratory pressure at the external borders, as they serve the common interest of all EU Member States;
- c) Collecting Joint Return Operations.³

Article 3

In the framework of the (co-)financing scheme for joint return operation, Frontex fully reimburses the following costs:

- a) Staff costs:
 - a. Advance Party⁴ costs (accommodation, travel costs and Daily Subsistence Allowances);
 - b. Accommodation costs of officials during joint return operation;
 - c. Daily subsistence allowance for Third Country escorts team.

The maximum reimbursable amount for accommodation is limited to the maximum rate applied by the European Commission for the destination Third Country of the joint return operation or the Third Country where the preparations take place except if, for security reasons, only accommodation above such limits is feasible.

- b) Other eligible costs as listed in the Executive Director Decision on other eligible direct costs.

Article 4

Frontex reserves the right to (co-)finance only the Organizing Member States or only the Participating Member States, or to (co-)finance only some of the eligible costs in accordance with the principle of sound financial management. The Beneficiaries will be informed by Frontex in writing in due time about the (co-) financing decision taken.

Article 5

³ A Collecting Joint Return Operation is a Joint Return Operation (initiated by an Organising Member State), coordinated and co-financed by Frontex, with the aircraft and escorts provided by the Destination Country (a Third Country) picking up the returnees in a Member State.

⁴ Advance Party - Representative(s) of Member States and/or Third Country who travel(s) either to the country/ies of return or to another Member States and/or Third Country in order to make preparations for the implementation of a joint return operation.

Frontex supports and reimburses return related activities in particular administrative activities for persons who were apprehended or intercepted in connection with the irregular crossing of the external borders as well as activities aimed at identifying migrants and issuing travel documents, including those implemented by a Member State in cooperation with a Third Country. In particular, the following costs are eligible:

- a) Staff costs of Third Country officials (daily subsistence allowance, accommodation, travel)
- b) Other eligible costs as listed in the Executive Director Decision on other eligible costs.

Article 6

This decision supersedes ED decision No. 2016/27 of 19 January 2016 on the financing scheme for joint return operations.

Article 7

This Decision enters into force on the day following the date of its signature.

Done in Warsaw, 23 / 03 / 2016

[Signed]

Fabrice Leggeri

Executive Director

