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NOTE

From: German delegation
To: Integration, Migration and Expulsion Working Party (IMEX)
Subject: Position paper on the use of the European Border and Coast Guard
Agency's mandate in the field of returns

Delegations will find in annex the above-mentioned position paper from the German delegation for the forthcoming meeting on 7 November 2019.

Position paper

on the use of the European Border and Coast Guard Agency's mandate in the field of returns

On 12 September 2018, the European Commission presented a proposal for amending the Regulation on the European Border and Coast Guard (Frontex). The amended regulation is supposed to enter into force before the end of 2019.

Since it went into operation on 1 May 2005, the Agency has successfully assisted the member states with the operational protection of the external borders by means of joint actions and rapid interventions to protect the borders; risk analyses; information-sharing; cultivation of relations with third countries; and returns.

We are pleased with the Agency's many years of active involvement in the area of returns. We find the following particularly important:

- re-financing of charter flights, in particular for joint charter operations by one or more member states;
- the ability to book scheduled flights for returns through the Agency free of charge, which Germany participates in;
- the Agency's offer to conduct training for the member states, for example for staff assigned to escort returns; and
- the Agency's coordination of joint charter operations and charter flights to the countries of origin.

The amended Regulation will significantly expand the Agency's mandate in the field of returns. The Agency will have more competences and a much larger staff. One important new feature are the "return teams" which can be deployed in individual member states to provide technical and operational support for returns. The new mandate also takes into account the principle that voluntary return should always take precedence over forced return. This is why the Agency will offer comprehensive support related to voluntary returns, including measures following return and arrival (post-return and post-arrival).

The Agency's supporting role should be further reinforced in this context.

We believe it is important that all Frontex support measures be in line with the EU external instruments and closely coordinated well in advance with the member states, and that bureaucratic burdens be kept to a minimum. The member states and the Agency must also focus on increasing voluntary and forced returns.

With this in mind, we have developed ideas for cooperation with Frontex in the field of returns under the new mandate. We would like to briefly present these ideas in the following:

1. Operational support before returns

- a) Technical and logistical support from Frontex for the member states with the implementation and operation of **technical surveillance** measures intended to prevent persons required to leave the country and who constitute a security threat from evading their return (Article 48(2)(d) of the draft Regulation).
- b) Creating and coordinating a **pool of interpreters and medical escort staff** according to a uniform standard for return flights (Article 48(1)(a)(iii); Article 48(2)(a) of the draft Regulation). Interpreters and medical escort staff are absolutely essential for conducting returns, in particular returns by charter flight. Having the necessary staff on hand ensures that the needs of vulnerable persons can be met. In our experience, it can be difficult to arrange for such staff depending on the destination and scheduling. Creating flexible pools of specially trained interpreters and medical escort staff can help ensure that they are available when needed; they must be available at short notice and without unnecessary bureaucracy.
- c) Increasing the number of **Frontex charter flights** to key countries of origin (Article 50(1) of the draft Regulation)
- d) **Increasing funds and support for long-term secondment of officers from the countries of origin** to facilitate on-site identification (Article 48(1)(a)(i), Article 48(1)(e) of the draft Regulation)

2. Operational support during returns

- a) **Frontex independently organizing and conducting return flights for the member states** (with the approval of the relevant member states but without a lead member state) (Article 50(1) of the draft Regulation). Frontex independently conducting returns would provide major relief for the member states most affected.
- b) **Frontex' own escort staff** (Category 1) for returns (Article 55(7)(i) of the draft Regulation). Creating a pool of Frontex' own escort staff as part of Category 1 of the Standing Corps is a useful addition to the member states' own resources. Those who need Frontex escort staff should be able to request them directly at short notice and using a simple procedure.

3. Frontex support for voluntary returns and reintegration

(Article 10(1)(n) and Article 48(1)(a)(iii, iv) of the draft Regulation)

- a) **Continuing ERRIN** under the aegis of Frontex and expanding it as needed to additional countries of origin (such as more African countries). The effectiveness of the ERRIN programme going forward should be independently evaluated and the programme modified as necessary.
- b) **Material travel assistance including medical escort staff and flight booking** provided by Frontex for voluntary returnees
- c) **Frontex funding for return counselling**
Expert advice is essential to encourage voluntary returns. Apart from possible funding from the AMF, funds from Frontex should be better utilized.

- d) **Frontex funding for temporary measures to prepare persons for reintegration** who are willing to return voluntarily
- For example, Germany is currently funding pilot projects with various providers to prepare returnees for reintegration; these projects do not extend the stay of the voluntary returnees. These projects are monitored by representatives from the field of development cooperation, home affairs and civil society. Pursuing and expanding this approach will require a significant amount of additional funding; apart from possible funding from the AMF, funds from Frontex could help.
- e) **Developing best practices and common standards for voluntary return and reintegration**
- Frontex should analyse and compare the member states' various approaches to promoting voluntary return and reintegration in order to identify best practices and set common standards.
- f) **Post-return and post-arrival financial support**
- Frontex should enable financial support for post-return and post-arrival activities in countries of origin (e.g. via ERRIN); Frontex itself should not operate in the field of voluntary return and reintegration (post-arrival, post-return) through its own structures in countries of origin.
- g) There should be a clear and **visible separation between Frontex support for forced returns and Frontex support for voluntary returns.**

We invite the member states to comment.
