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COVER NOTE

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Delegations will find attached document COM(2023) 45 final-ANNEX.

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ANNEX

ANNEX

to the

POLICY DOCUMENT

Towards an operational strategy for more effective returns

PROPOSED FOCUS AREAS OF THE OPERATIONAL STRATEGY FOR MORE EFFECTIVE RETURNS

1) Targeted actions to respond to immediate needs and obstacles

Responding to immediate needs and obstacles with targeted actions is an important aspect of the work of the EU Return Coordinator and the High-Level Network. The aim under this proposed focus area is to ensure that Member States join forces and that there is seamless coordination and coherence among all actors, to ensure that collective efforts focus on the return to identified third countries in line with political priorities. Obstacles should be quickly flagged and addressed. Work in this area may bring to light more structural issues (such as cooperation among national authorities, resources and training needs) to be addressed in the longer-term, which can feed into other focus areas.

- Common focused efforts on a quarterly basis to implement returns to a limited number of priority third countries to be discussed at each High-Level Network meeting and to be implemented in the following quarter. Nationalities to focus on should be based on the relevant EU Action Plans, the follow up to the mechanism of Article 25a of the Visa Code and Council working group discussions. Nationalities to focus on should also include nationals of visa-free third countries. Such common efforts are to be coordinated with the ones by the Commission to increase returns towards specific third countries, notably in the context of the implementation of EU readmission agreements and arrangements and of the follow up to the mechanism of Article 25a of the Visa Code.
- Facilitate cooperation among Member States with similar needs to join forces and support each other with return related operational activities, opening places for each other on national assisted voluntary return and reintegration programmes. Frontex will adjust its activities, if needed, to provide all the necessary assistance.
- High-Level Network members to work with the relevant national authorities to focus action on specific third countries identified and specifically on gaining efficiency on: ensuring that these returns are prioritised, the preparation of the identification dossiers (documents, individual assessment, biometric data), ensuring availability of returnees for interviews and identification missions, following up of return orders with readmission requests, ensuring sufficient capacity for detention where necessary, establishment of identification routine with embassies, filling charter flights.
- Address ad-hoc issues, such as COVID-19 requirements, quickly flagged to the EU Return Coordinator for a solution to be identified.
- Member States, High-Level Network members, Frontex and other relevant actors, such as European Migration Liaison Officers (EMLO)s and European Return Liaison Officers (EURLOs), should engage to provide relevant information and input for contacts with third countries. This would facilitate the organisation of joint missions of the Commission and relevant Members States to third countries, in cooperation with the European External Action Service, to present a common and coherent approach.

2) Longer-term and structural needs

Gaps in the cooperation and contacts between authorities involved in the return process is a key structural obstacle for a more efficient return process. Work under this proposed area would focus on identifying those gaps and addressing them, to ensure that a decision ending a legal stay in the EU results in a return decision, that such return decisions are enforced and that returns are carried out as swiftly as possible.

a) Gain efficiency in the overall return system by accelerating the process and closing loopholes

- Focus on key points and specific obstacles signalled by Member States or identified in Schengen evaluations to speed up their return process.
- Ensure that a decision ending legal stay is immediately followed by a return decision, including linking the outcome of the asylum procedure to the return procedure, working also in cooperation with Frontex and building on the experience and knowledge of the EU Asylum Agency and the EU Agency on Fundamental Rights.
- Address the gap in the transfer from voluntary to forced returns – gaps between competent authorities to improve the effectiveness and reduce the risk of absconding.
- Address procedural gaps and obstacles linked to the different competences of authorities and bodies responsible for the different phases of the return process, for which the High-Level Network is to explore practical solutions building on the experience and good practices of Member States.
- Work on specifically identified obstacles related to the obstructive behaviour and lack of cooperation from third-country nationals.
- Work on obstacles specific to the return of convicted criminals.
- Address obstacles in Member States' systems related to the submission of readmission requests (including, if relevant, issues related to Readmission Case Management System with third countries).
- Identify practical needs and actions to make the best use of the new feature of the Schengen Information System on the creation of alerts on persons subject to return decisions to facilitate the mutual recognition of return decisions.
- Develop a more coherent approach to determine the risk of absconding, the lack of sufficient capacities and more efficient use of effective alternatives to detention. Work on establishing a better link between the types of risks of absconding and the most appropriate and relevant alternatives to detention.

b) Promote return counselling and reintegration as core elements in the return systems, both for voluntary and forced returns

Return counsellors play a central role in the return process, accompanying the returnee at every step of the procedure, including by ensuring full respect of fundamental rights at all steps of the

return process. Building on the ongoing work under the EU strategy on voluntary return and reintegration, including discussions in relevant Council groups and experts' fora, work under this proposed area would focus on ensuring that all Member States have well-trained return counsellors with the necessary tools to support a more efficient process, including opportunities in the country of return, referral to initiatives launched by international organisations, local actors, national authorities or development cooperation projects. Moreover, work will focus on ensuring a coherent approach to sustainable reintegration and their funding, which has the potential to further encourage both returnees and third country authorities to cooperate through the return process.

- Support Member States to establish more effective assisted voluntary return schemes, return counselling structures building on the work ongoing at practitioners' level and with the support of Frontex. All Member States should use Frontex's Joint Reintegration Services by the end of the year. The aim should be to increase the absolute number of voluntary returns for all Member States.
- Ensure that all Member States have return counselling as a professional profile in place and through which the uptake of voluntary return is promoted as part of the general objective to increase returns overall.
- Ensure that there is full awareness at all levels on the available tools and training (including on fundamental rights) to address structural challenges.
- Member States more experienced are encouraged to support those with less experience through a more targeted and strategic exchange between High-Level Network members.
- Promote the consistency of assisted voluntary return and reintegration support among Member States towards specific third countries where needed and ensure coordination of the relevant existing programmes in third countries.
- Ensure that the return counsellors of Member States and Frontex are aware of - and able to use - the referral and reintegration possibilities made available to returnees in the countries of return by initiatives launched by international organisations, local actors, national authorities or development cooperation projects.
- Double the number of third countries covered by the Frontex's Joint Reintegration Services by the end of 2023.

c) Digitalise return management and improve data analysis

The lack of regular and reliable data in the area of return is an important shortcoming that needs to be addressed. An important piece of the puzzle is to ensure that each Member State has a digital return case management system, which can be connected to other IT systems relevant for the return process, and which can support a more efficient and reliable analysis of relevant data.

- Set up clear timelines to support the digitalisation of Member States' return case management systems implementing the Frontex model; Frontex finalises the gap analysis for all Member States by the end of 2023, then develops and implements a plan together with Member States in view of reaching full digitalisation as soon as possible and by

2026 at the latest; use the available funding under the Asylum Migration and Integration Fund for these projects.

- Further analyse the possibility to establish interoperability among IT systems relevant for the return process, including the necessity and proportionality of such interconnections.
- Increase the use of the Reintegration Assistance Tool (RIAT) and the existing Readmission Case Management System with third countries (RCMS).
- Ensure awareness of the state of play of uploads and updates of return alerts in SIS II, access to SIS II by different Member States' authorities, monitoring of returns and established practices regarding hits.
- Identify new opportunities provided by the Entry-Exit System to utilise effectively data on overstayers automatically generated by the system.
- Building on the new feature of the Schengen Information System on the creation of alerts on persons subject to return decisions, identify and make use of the possibilities to facilitate the mutual recognition of return decisions for a quicker and more efficient effective return process.
- Work with all stakeholders (Commission, Frontex, Member States) to enhance collection of statistics relating to return and to develop fit-for-purpose analytics, analysis and situational awareness products on the functioning of return, to enable proactive planning of joint actions to remedy identified challenges.
- Develop a common understanding of good performance in the return domain beyond the return rate and identify appropriate indicators for reporting and efficiency.

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The progress and achievements of the operational strategy should be monitored with a clearly defined set of indicators. The following indicators are to be considered:

- Number of return decisions issued upon negative asylum decisions.
- Number of readmission requests issued based on return decisions.
- Share of voluntary returns in relation to the overall number of returns.
- Number of Member States with a return case management IT system in place.
- Number of Member States with a return counselling system in place.
- Number of Member States regularly using Frontex return-related services (pre-return, post return, reintegration) and participating in return operations.
- Number of third countries covered by the Frontex Joint Reintegration Services.

The EU Return Coordinator will provide regular progress reports to the High-Level Network also feeding into the Schengen Barometer. Whilst serving as a solid base to monitor progress, the indicators may evolve with the development and implementation of the operational strategy.