



Council of the
European Union

Brussels, 8 December 2023
(OR. en)

16135/23

LIMITE

JAI 1583
MIGR 425
FRONT 383
COMIX 550

NOTE

From: Presidency

To: Delegations

Subject: Presidency discussion paper on innovative approaches to return operations: mixed voluntary and non-voluntary returns on the same charter flight

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (27.03.2024)

Delegations will find in annex the above-mentioned Presidency discussion paper for the Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 20 December 2023.

INNOVATIVE APPROACHES TO RETURN OPERATIONS: MIXED VOLUNTARY AND NON-VOLUNTARY RETURNS ON THE SAME CHARTER FLIGHT

Despite the importance of return policy for effective migration management and good functioning of the asylum systems, the numbers of effective returns remain low. Therefore different options, including innovative solutions, have to be explored, especially those which would allow to pull together the resources.

As part of the consultation procedure of the FOA-R 2023 operational plan package with the Member States, Spain sent a specific proposal to the Frontex European Centre for Returns Division (ECRET) referring to the possibility to carry out two separate types of return activities (return operation and voluntary return) sharing the same chartered aircraft. In follow-up, ECRET undertook further discussions on this topic and decided to evaluate the feasibility of the proposed operational activity.

After internal consultations within Frontex (including Fundamental Rights Office (FRO), Legal Sector and Security) no strict objections or non-conformities with EBCGA Regulation and other legal instruments have been found, allowing thus the Agency to launch a pilot initiative for the implementation of mixed voluntary and non-voluntary returns on the same charters.

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Following the successful implementation of four such return flights in 2023, this new activity will be evaluated, based on the findings of the participating staff. If the evaluation of the activity is positive, then ECRET will consider it to be included as a standard service under its portfolio.

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Based on our experience, the main advantages of this kind of return operations are:

- Given that cooperation with third countries is crucial for effective returns, such operations allow improving the relationship with third countries by supporting their nationals who do not have resources to come back to their countries.
- Cost-effectiveness of the charter flights by using most of the seats available.
- Reducing uncertainty, since voluntary returnees are not likely to fall off the list at the last minute, contrary to those returning in a non-voluntary manner, who often claim international protection or invoke other circumstances in order to avoid embarking.
- Moreover, it can also provide for increased possibilities for intra-Schengen transit while mitigating the risk of absconding.

Given this positive experience and the need to find innovative solutions to increase effective returns and pull together resources, the Presidency encourages this kind of mixed operations and would like to promote the use for the rest of Member States within the services under Frontex portfolio.

At the forthcoming Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 20 December 2023 the Presidency would like to invite delegations to reflect and share their views on the following questions:

1. Have you ever organized return operations combining voluntary and non-voluntary returnees on the same charter flight? What challenges have you faced with?
2. Do you see any (legal or practical) obstacles in your national system to combining voluntary and non-voluntary returns on the same return operation? What kind of solutions to address these obstacles could be envisaged?
3. In which situations, or for which categories of third countries nationals would this type of mixed return operation make sense? Based on this initial experience with mixed flights, do you consider there is a need to establish specific good practices to carry out such return operations?