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NOTE

From: Presidency

To: Delegations

Subject: Non-binding common standards for Assisted Voluntary Return (and Reintegration) Programmes implemented by Member States

Delegations will find attached the above mentioned Common Standards for AVR(R).



Non-binding common standards for Assisted Voluntary Return (and Reintegration) Programmes implemented by Member States

1. BACKGROUND AND CONTEXT

Voluntary return of irregular migrants to their home countries remains the preferred option whenever possible. Voluntary return and accompanying reintegration measures help consolidate the position of returnees in their home countries and thus deter new irregular migration. Moreover, these measures support the country of return reintegrating their own nationals into their society.

During its meeting on 29 January 2016, the Working Party on Integration, Migration and Expulsion decided to request the Return Expert Group (REG) of the European Migration Network its advice on which draft common standards can be identified for Assisted Voluntary Return (and Reintegration) Programmes (AVR(R)) implemented by the EU Member States and associated states, taking into account the EU action plan on return of September 2015¹, endorsed by the Council Conclusions on the future of return policy of 8 October 2015².

2. COMMON STANDARDS

Following the advice of the REG and the discussion within the Working Party on Integration, Migration and Expulsion of 14 April 2016, Member States agreed on the principle of alignment of existing AVR(R) programmes within the EU, increasing uptake of AVR(R) and minimising the differences between AVR(R) programmes across the EU with the aim of preventing return assistance shopping and misuse. The following conditions and non-binding standards which are proposed for AVR(R) schemes form a basis to achieve this goal.

Member States are encouraged to participate in the basic framework and apply these standards while implementing AVR(R) schemes.

¹ Communication from the Commission to the European Parliament and to the Council, EU Action Plan on Return, Brussels, 9.9.2015 COM(2015) 453 final http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/communication_from_the_ec_to_ep_and_council_-_eu_action_plan_on_return_en.pdf

² <http://www.consilium.europa.eu/en/press/press-releases/2015/10/08-jha-conclusions-return-policy/>

Conditions for AVR(R) so that every potential returnee is informed and can be assisted

- ★ Active promotion of voluntary return possibilities since the earliest stage of every immigration procedure which has a potential enforcement outcome (e.g. asylum, return procedures).

The extraordinary JHA Council of 9 November 2015³ called for the setting up of information campaigns for migrants arriving irregularly in the EU or who have overstayed a legal permission to enter. In this regard information campaigns on the possibilities of access to and benefits of assisted voluntary return are necessary. Member States views on what constitutes best practice for the promotion of voluntary return are identified in the *EMN Inform Dissemination of Information on Voluntary Return: how to reach irregular migrants not in contact with the authorities*.⁴ Member States need to ensure easily accessible contact points for information (e.g. hotlines) and access to AVR(R) programmes.

Once the proposals for common standards and/ or common AVR(R) programmes are clearer, the REG could be made available to advise further on this topic to distil the basic requirements for targeted national information campaigns to be launched by the Member States in line with the extraordinary JHA Council of 9 November.

- ★ Broad access to voluntary return schemes, irrespective of the status (regular/ irregular)⁵ and situation of the migrant and irrespective of the location where the returnee resides (including from detention⁶ and rural areas) guaranteeing equal access to specific or adapted schemes.
- ★ Broad and world-wide coverage of AVR(R) schemes by implementing agencies/ service providers and/ or via cooperation projects between Member States.
- ★ Cooperation and coordination between Member States in order to support returnees who encounter difficulties during their return process, e.g. in obtaining travel documents.
- ★ If EU funds are used for financing AVR(R) programmes, cost-efficient programming is necessary and joint cooperation projects, like the European Re-Integration Network (ERIN) are promoted.

Standards for AVR(R) packages

Providing assistance to returnees is not a vested right but is based on a genuine commitment of the persons concerned. The following standards are set out below:

- ★ Pre-departure counselling in order to inform the returnee about the (legal) proceedings and the AVR(R) scheme.
- ★ Assistance with obtaining a (replacement) travel document.
- ★ Cover travel costs before departure up to the final destination in the country of return.⁷
- ★ If needed, assistance with return arrangements (e.g. disposing of property or transfer of assets to the country of origin).

³ <http://www.eu2015lu.eu/en/actualites/articles-actualite/2015/11/09-conseil-jai-extra/index.html>

⁴ http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-informs/info_on_return_inform_final_20102015.pdf

⁵ AVR(R) schemes are primarily directed at migrants with illegal or irregular status, however some MS also make return schemes available for those migrants in the asylum procedure willing to return.

⁶ Some MS do not grant AVR(R) schemes from detention due to perverse incentives.

⁷ Travel costs can consist of travel in country to obtain travel document, inward travel to the departure airport, ticket to home country, travel inland to final destination.

- ★ If needed, medical checks and health assistance before and/ or after departure.
- ★ Providing **in-cash assistance** in order to support the returnee in the basic costs upon arrival. For convergence purposes and to minimise the differences between Member States which can have unintended consequences such as AVR(R) shopping or can constitute pull-factors, it is advised to provide only minimum in-cash assistance. As a reference **an amount not higher than 500 euro** is advised.⁸ Possibility for frontline Member States / Member States of first arrival to offer a more enticing AVR(R) package so as to increase the readiness of voluntary departure at early stages of the migratory route and to remove incentives for onward irregular secondary movements.⁹
- ★ Providing **in-kind assistance** to the returnee in order to support the returnee with his/ her reintegration in the country of return and thus preventing irregular re-migration. For convergence purposes and to minimise the differences between Member States, it is advised to use a **minimum amount for in-kind assistance of 500 euro and a maximum amount of 2500 euro**.¹⁰ Reintegration assistance could consist of business start-up, training and mediation, education for children, lodging and health care.¹¹
- ★ Special attention and – if necessary additional - support for vulnerable groups and unaccompanied minors.
- ★ Optional, but recommended, is to provide return and reintegration assistance for forced returnees. To provide reintegration assistance to non-voluntary returnees can increase acceptance and gain leverage with the authorities of third countries. Moreover, it supports the forced returnee with reintegration in the country of return. If used however, the reintegration package for non-voluntary returnees should be more modest than the package for voluntary returnees and be limited to in kind assistance.

Alignment of existing AVR(R) programmes within the EU in order to minimise differences in AVR(R) and prevent AVR(R) shopping and/ or misuse

- ★ The Dublin procedure regulates two possible ways of return, either to the first Member State, or to the country of return. If AVR(R) shopping is identified it is highly advised to either use the Dublin procedure or consider the possibility of lowering or suspending assistance for that particular group.
- ★ Constant monitoring should be undertaken ensuring that trends of unfair or misuse of AVR(R) assistance by particular (categories of) nationalities can be identified at an early stage and followed by consideration of the possibility of lowering or suspending assistance for that group.
- ★ In order to decrease pull factors, Member States are advised not to provide AVR(R) assistance to returnees from visa-free countries or only the minimum. For returnees from other (e.g. neighbouring) countries, AVR(R) packages should be designed in a way so as to limit as much as possible pull factors.¹²

⁸ The current AVR(R) packages vary enormously. The differences and its consequences are described in the EMN Inform: Overview: Incentives to return to a third-country and support provided to migrants for their reintegration. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-informs/emn_req_inform_in_cash_in_kind_assistance_to_returnees_final.pdf

⁹ Assistance to returnees from visa-free countries, or if abuse is demonstrated, can be lowered or suspended, see next paragraph.

¹⁰ Member States have discretionary power of decision to make exceptions and use other reference amounts.

¹¹ Assistance to returnees from visa-free countries, or if abuse is demonstrated, can be lowered or suspended, see next paragraph.

¹² Additional support for vulnerable cases is still possible, it is left at the discretion of the Member States to make exceptions.

- ★ Up to the decision of Member States, but highly advised is to exclude returnees with a (strong) criminal background from return assistance, who should in principle be subject to enforced removal, as might also be the case for individual returnees whenever unfair misuse of AVR(R) assistance is identified. It is left at the discretion of the Member States to make exceptions.
- ★ Returnees in the EU should only be able to make use of return assistance once, or only after a period of at least 5 years following their (previous) return to the country of return. For this reason methods of monitoring will be explored how to prevent re-use of AVR(R) schemes across the EU.
- ★ Information exchange between Member States on possible AVR(R) shopping, e.g. information on prior stay or attempts to obtain AVR(R) in other Member State.

3. CONSIDERATIONS

The European Commission makes funds available for joint AVR(R) programmes and for the national AVR(R) schemes funds are made available via the AMIF funded national programmes.

In order to increase voluntary return at the earliest stage after arrival of the migrant in the EU, AVR(R) should already be made accessible and available upon arrival, e.g. in the hotspots. A Member State in need should be able to request assistance from Frontex and ERIN for this purpose.

In order to increase effectiveness, transparency, efficiency and economies of scale, Member States are advised to join the ERIN project which implements reintegration projects in countries of return, or to set-up additional joint AVR(R) programmes within the EU with the participation of as many Member States as possible.

There is a close link between forced return and voluntary return. The option of forced return might have an impact firstly on the willingness of returnees to voluntary return. Secondly, investment by Member States and EU in return and especially reintegration assistance can increase the willingness of third countries to cooperate on forced return. In this regard the EU and Member States can invest in capacity building programmes to set-up national reintegration programmes for (voluntary/ forced) returnees in order to gain ownership and support government structures of third countries.
