

From: [REDACTED]
To: [REDACTED]
CC: [REDACTED]
Sent at: 21/04/09 14:51:43
Subject: JRO Prior Checking - Our Ref. 3611/2009 (Covering Letter +Annexes I and II)

Dear [REDACTED],

Please find enclosed the scanned version of the last letter from Frontex DPO addressed to the EDPS concerning the prior notification of the personal data relating to Joint Return Operations of the Member States supported by Frontex. Enclosed you can find also the two annexes to the letter including the notification.

Should you need additional documents or clarifications do not hesitate to contact us.

Best regards,

[REDACTED]
Legal Assistant

Frontex
Rondo ONZ 1, 00-124 Warsaw, Poland
Tel: [REDACTED]
Fax: +48 22 544 95 01
www.frontex.europa.eu

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From: [REDACTED]
Sent: 21 April 2009 14:24
To: [REDACTED]
Cc: [REDACTED]
Subject: your notification

Dear [REDACTED],

Thanks a lot for your notification relating to JRO.

Would you mind sending me it also by electronic version, for the purpose of the EDPS register?

Thank you for your comprehension.

Yours

[REDACTED]
Supervision
European Data Protection Supervisor
Contrôleur Européen de la protection des données

Fax : + 32 2 283 19 50

web site : www.edps.europa.eu

Warsaw, 6 April 2009
Registration number: 3611



Mr Peter Hustinx
European Data Protection Supervisor
Rue Wiertz 60-B
1047 Brussels
BELGIUM

Subject: Notification for prior checking as regards the Joint Return Operations collection of names and other relevant data of returnees and officials

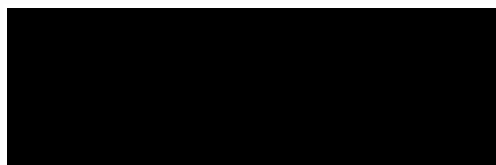
Dear Mr Hustinx,

Frontex plans to start processing certain personal data relating Joint Return Operations of the Member States supported by Frontex (See Annex II). Since certain data in this context may be considered as falling under Article 27 of Regulation (EC) No 45/2001 I have the honour to notify you the attach procedures that may be subject to prior checking.

The attached notification for possible prior checking regards the collection of names and other relevant data of returnees and Member States/Schengen Associated Countries' officials for Joint Operations carried out under Frontex assistance (See Annex I).

The collection of such data is absolutely necessary for the preparation and realization of the Joint Return Operation assisted by Frontex. Should you need additional information on the processing of personal data related to this, do not hesitated to contact the Frontex DPO.

Yours sincerely,



Data Protection Officer

Annexes:

Annex I: Notification for prior checking as regards the collection of names and other relevant data of returnees and Member States/Schengen Associated Countries' officials for Joint Operations

Annex II: Description note of the Return Joint Operations



Description of a Joint Return Operation

- In accordance with Article 9(1) of the Frontex Regulation¹, the Agency shall provide the necessary assistance for organising joint return operations of Member States of the European Union (hereinafter referred as MS).
- The Joint Return Operations by air are enhanced and coordinated in accordance with Council Decision 2004/573/EC².
- Frontex in accordance with Article 9(2) of the Frontex Regulation has brought together the experience of the MS in the field of removal by air and land and has elaborated together with them two guidelines named Best Practices for the Removal of Illegally Present Third-country nationals by Air / by Land.
- The Joint Return Operations are organised for removal of third-country nationals who do not, or no longer, fulfill the conditions for entry to, presence in, or residence on the territory of two or more MS and are subjects of individual removal orders (hereinafter referred to as returnees).
- The MS take the decisions on which third-country nationals shall be removed, not Frontex. The Agency has no background information about the individual cases of returnees.
- The returnees are during the Joint Return Operation (hereinafter referred to as JRO) accompanied by the escorts, i.e. security personnel responsible for escorting. The number of escorts from each MS depends on each returnee's risk assessment made by the MS.
- The JRO can be carried out by air, land and sea, depending on destination country/countries and means of transport to be used. Frontex has so far coordinated only JRO by air.
- The country/countries of destination are chosen according to:
 - removal needs: presence of illegal immigrants of a given nationality, and
 - acceptance of the JRO and conditions applied by the third countryIt is preferable to have only 1 destination country, maximum two, from the logistic point of view.
- Frontex has established a network of the MS' Direct Contact Points in Return Matters and out of them a smaller Core Country Group of the MS experienced in return activities (hereinafter referred to as CCG). Meetings are organised on regular basis. The needs and possibilities for JRO are identified either by Frontex together with CCG or announced by the MS individually, depending on the actual return situation in the State.
- Frontex can co-organise and co-finance JRO.
- Frontex assistance to MS in organising JRO:
 - to inform all MS on the intended JRO and available seats within the operation;
 - to distribute the available seats, taking account of all requests of MS;
 - to search for partners;
 - to collect and spread different info;

¹ Council 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.

² Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (2004/573/EC), including Annex - Common Guidelines on Security Provisions for Joint Removals by Air



- to create and update overviews of numbers of passengers, contact points, embarking places, needs for accommodation etc;
 - to comment on the routing and the seating plan;
 - to prepare an operational plan together with the organising MS;
 - to help to solve problems;
 - to be involved in talks with third countries;
 - to give assistance to the organising MS on the spot some days prior to the departure;
 - to participate in advance parties³;
 - to take part in JRO.
- The communication⁴ between the organising⁵ and participating⁶ MS during the JRO is via Frontex Joint Return Coordination Center.
- All MS, both organising and participating, taking part in the JRO have to ensure:
- respect for human rights and fundamental freedoms;
 - that the legal situation of the returnees for which they are responsible allows removal;
 - that the returnees for which they are responsible are in appropriate health state, which permits legally and factually a safe removal;
 - a valid travel document and other necessary additional documents for each returnee;
 - that the relevant third-country diplomatic representations are informed about the removal of the returnees within the JRO;
 - the observance of the aforementioned Council Decision (2004/573/EC), including Annex, in case of joint flights;
 - that the respective escort leaders and escorts are acquainted with the operational plan of the JRO, including the security measures.
- The organising MS:
- arranges means of transport to reach the destination country;
 - obtains relevant permission for arrival to the destination country;
 - defines an overall security;
 - the head of the operation of the organising MS, in close liaison with or under instruction of the captain in case of JRO by air, is in charge of the operational command;
 - arranges medical personnel, interpreter (language staff is not always needed);
 - makes the initial contact with the competent local authorities in the destination country after the arrival there;
 - provides Frontex with a standardised Final Return Operation Report after the JRO.
- Time scale:
- the first general intention to organise a JRO is communicated by a MS approx. 6-8 weeks prior to the operation;
 - the concrete decision on organising a JRO is announced by a MS approx. 3-4 weeks before the JRO and this is the period to organise and implement the operation;
 - the removal transportation from the MS takes place within hours, the length depends on the distance to and number of the destination country/countries.

³ A delegation of representatives of the organising/participating country/ies who travel to the country/ies of destination before the JRO to talk to the local authorities, facilitate the operation, prepare everything on the spot, e.g. security issues, technical/operational matters re. the disembarking of the returnees etc.

⁴ The communication will include in particular the offer of the operation, countries' interest in participation, a number of returnees, escorts and their updates, information on embarkation places, means of connecting transport, time schedules, overnight stays etc.

⁵ A MS which is responsible for the organisation of JRO

⁶ A MS which participates in JRO arranged by an organising MS



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