

12 January 2018- FAR Meeting – Frontex EDPS

Henry Dillen:

- Presentation of the structure of Frontex
- Frontex' field of activity → Return support focus
- Return procedure: timeline (voluntary departure → With the help of OIM, the migrant is issued a decision with a timeline stating they will have to leave and he/she decides to return to the country of origin with a subsidy to start up a business etc: this does not fall within the mandate of Frontex./ Voluntary return has a different meaning, it is completely voluntary. So they just meet the returnee at the airport. Otherwise, the migrant will be issued a decision; the migrant can appeal and in between he will be secluded. If the migrant decides not to comply with the return decision, he will be obliged and the Third country will be called to identify the migrant's identity. FAR enters into force in this phase, since the return operation takes place.
- Different types of operations [REDACTED]
[REDACTED] These operations involve chartering of airplanes. Frontex purchases air tickets for the MSs so that they can be returned.
- Frontex does/ Frontex does not enter into the merit of the return → purely national decision
- What operations are processed in FAR?: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- **Questions EDPS:**
 - FAR operations by sea: Returns by sea does not process personal data, because they only provide for the means. Frontex does not support any operation by sea. There is a difference with regards to readmission, they refer to bilateral agreements, and in that case Frontex does not process data because they only provide for the tools until migrants get to the Third Country.
 - Identification missions: the Third Country officials are invited by the Organising MSs purchasing tickets and Frontex provides with the funding.

- Explain difference between “voluntary departure” and “voluntary return”

[REDACTED]

- What is FAR? We are in the phase of CHARTERS return operations. The idea of FAR was not a mere store information but a management platform, “more management than information platform”.
- In FAR also connecting flights from a MS to another are included.

[REDACTED]

- Registration [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- Who has access to FAR up to this moment [REDACTED]

- Rolling Operational Plan [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

- [REDACTED]
- Anonimisation of data: after 30 days from the end of the return operation (meaning the flight arrives to the Third Country and returns back to the MS with the operational and support staff/or some migrant who was not accepted) data is anonymised. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Scheduled flights- Air carriers etc Return Operations

- Frontex needed to create a module to manage the return operations within FAR.

[REDACTED]

- Remarkable response by MSs on the survey on a service of return operations through airline carriers.

[REDACTED]



Frontex Application for Return- Information Security Risk Assessment.

 requested specific information on Article 22 paragraph 2(b) of Regulation 45/2001. Frontex clarified on this during the meeting. However,  should make a list of the documents needed to be sent by Frontex.



Joint controllership or not? If Frontex went for a scenario of joint controllership, it would have been worse for responsibilities. So Frontex decided to be the controller and MSs processors, would be able to “force” the MSs to comply with specific data protection security standards. Frontex is unlikely to request for joint controllership with the European Commission.

- Legal basis: in-house proceeding and development with specific budget. Returns are also provided within the Frontex Regulation so there is no need to trigger any additional legal basis, as per Articles 27 and 28, 4, 46(1)(b), 48. The objectives are transformed in a practical scenario through the technical platform of the FAR.
- Data privacy statement: the Member States should provide the returnees with the privacy statement. Each MS will have to comply with the national legal basis. In Frontex there is a Fundamental Rights Officer (FRO). There is an idea of making an agreement between MSs and FRO to make sure they are complying with the data protection rules. In this case the discussion between controllership and joint controllership comes up. The sole business of

the MS is to apply the data protection rules before Frontex even enters into the merit of the return operation itself. Everytime a MS is on board of a return operation, it will acknowledge an implementation plan that they have given a privacy statement to the returnee, so that is the moment when Fontex steps out. The privacy statement provided by Frontex as a documentation is on FAR.

- Right of access: generalised application of Article 20 for returnees. It should be a case by case basis scenario. Access within 30 days after the return operation, rights of access imply also a right to rectification and deletion (also focus on NGOs and Migration lawyers). Still, Frontex DPO defines the right of access analysed on a case by case basis.

In case of a negative hit, no issue arises. In case of a positive hit, instead, it would always be assessed on a case by case basis.