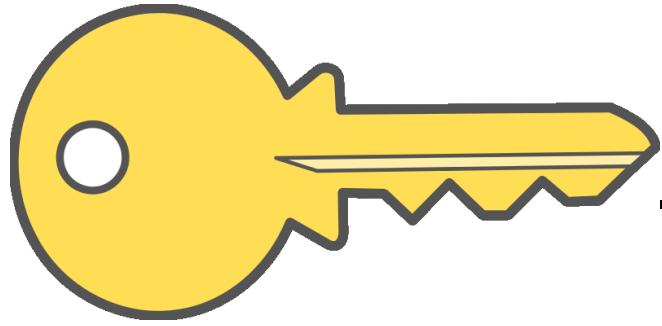


# DEPORTATIONS

Mgr. Anna Láníčková

Masaryk University, Office of Public Defender of Rights, Frontex

24.4.2019



# Key terms return policy

- Return decision
- Return directive
- Returnee
- A third-country national
- Country of Return
- Voluntary return/assisted
- Forced Return
- Fit-to-travel, fit-to-fly
- Readmission agreement
- Use of force
- Coercive measures

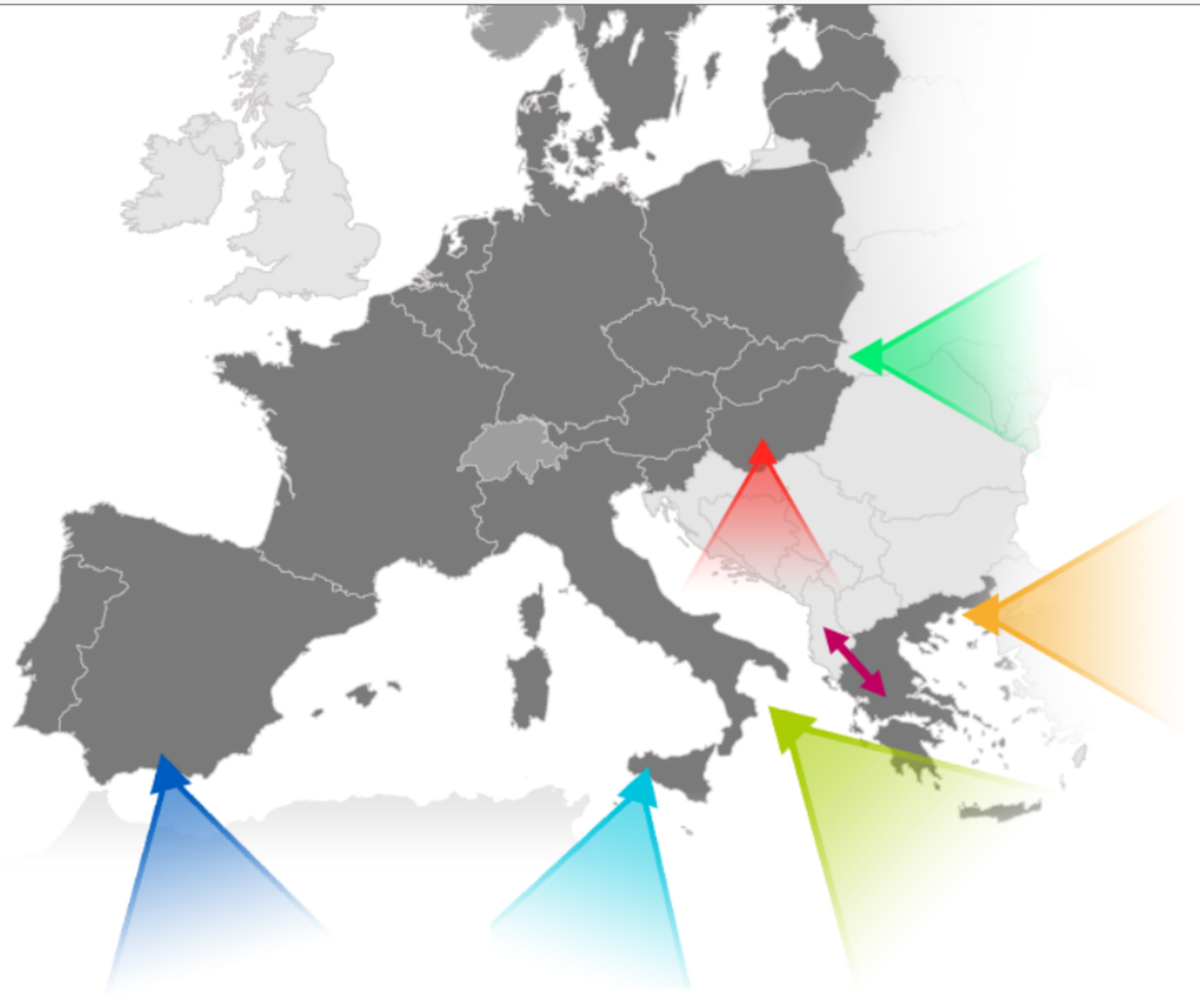
# Legal instruments (binding, non-binding)

- Universal Declaration of Human Rights 1948;
- International Covenant on Civil and Political Rights 1979;
- Convention relating to the Status of Refugees (Geneva Convention) 1951;
- Optional Protocol relating to the Status of Refugees 1967;
- European Convention of Human Rights 1950 (and all related protocols);
- Charter of Fundamental Rights of the European Union 2000;
- European Convention for the Prevention of Torture 1987;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984; and Optional Protocol to the Convention (OPCAT) → NPM
- UN Convention on the Rights of the Child 1989
- Codes of Conduct (2x), 20 guidelines for forced-returns
- + Tokyo Convention, Chicago Convention
- + Return Directive

## Main migratory routes into the EU / land & sea

- ▶ Western African route
- ▶ Western Mediterranean route
- ▶ Central Mediterranean route
- ▶ Apulia and Calabria route
- ▶ Circular route from Albania to Greece
- ▶ Western Balkan route
- ▶ Eastern Mediterranean route
- ▶ Eastern Borders route
- Schengen area
- Schengen associate countries

Canary Islands



# Current Migratory Flows



- State of the Union (13. 9. 2017)  
„When it comes to **returns**: people who have no right to stay in Europe must be returned to their countries of origin. When only 36% of irregular migrants are returned, it is **clear we need to significantly step up our work**. This is the only way Europe will be able to show solidarity with refugees in real need of protection.“

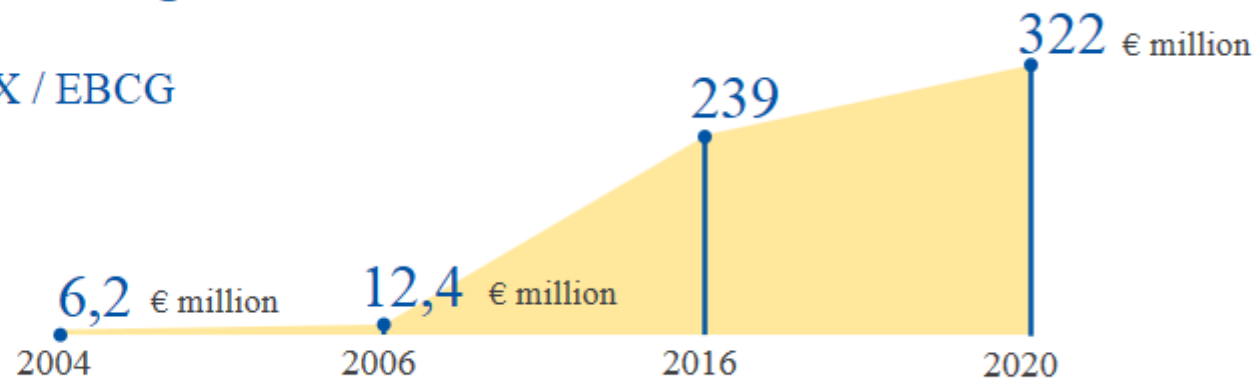
- → Voluntary returns
- → Frontex
- → Negotiation with third countries

- Video – European Border and Coast Agency  
<https://www.youtube.com/watch?v=O6NO3b6liTs>
- Frontex → EBCG (2016) **and now?**



FRONTEX / EBCG

Budget







- Manage external borders of MS (2002, fully operational in 2005), Warsaw
  - Surveillance of the borders
  - Return actions, Rapid intervention
  - Hot-spots, identification
  - finance/co-finance the MS' activities ... (see the [hand-out!](#))
- European Ombudsman review of Frontex → complaint mechanism was created, 2016!

# Obstacles to effective return system

- Lack of cooperation with third countries
  - Travel documents, identification, visa issue
- National rules on detention – thin line!
- Civil society? Media? Air-companies?
- Resources – financial, logistical



# Who?

- Rejected asylum seekers (no refoulement, because the claims was assessed)
- Irregular migrants (individual return decision)
- Person convicted for criminal offences
  
- Third-country national
- EU national can get deported for breach of public order, public security, public health (for eternity? See Donatella Calfa Case)
  
- KEY ACTORS: MS, FRA, EBCG, CPT
- PARTICIPANTS: returnee, escort officers+leader,back-up team, doctor, interpreter, monitor, return specialist from EBCG

# The procedure

- Irregular situation
- Return decision – possible remedy – time limit for voluntary return
- **detention**/alternatives to detention
  - And Preparation, identification
  - Social work in the center
- Pick-up, Pre-departure
- In-flight
- Arrival
- Return phase

# Pre-departure phase



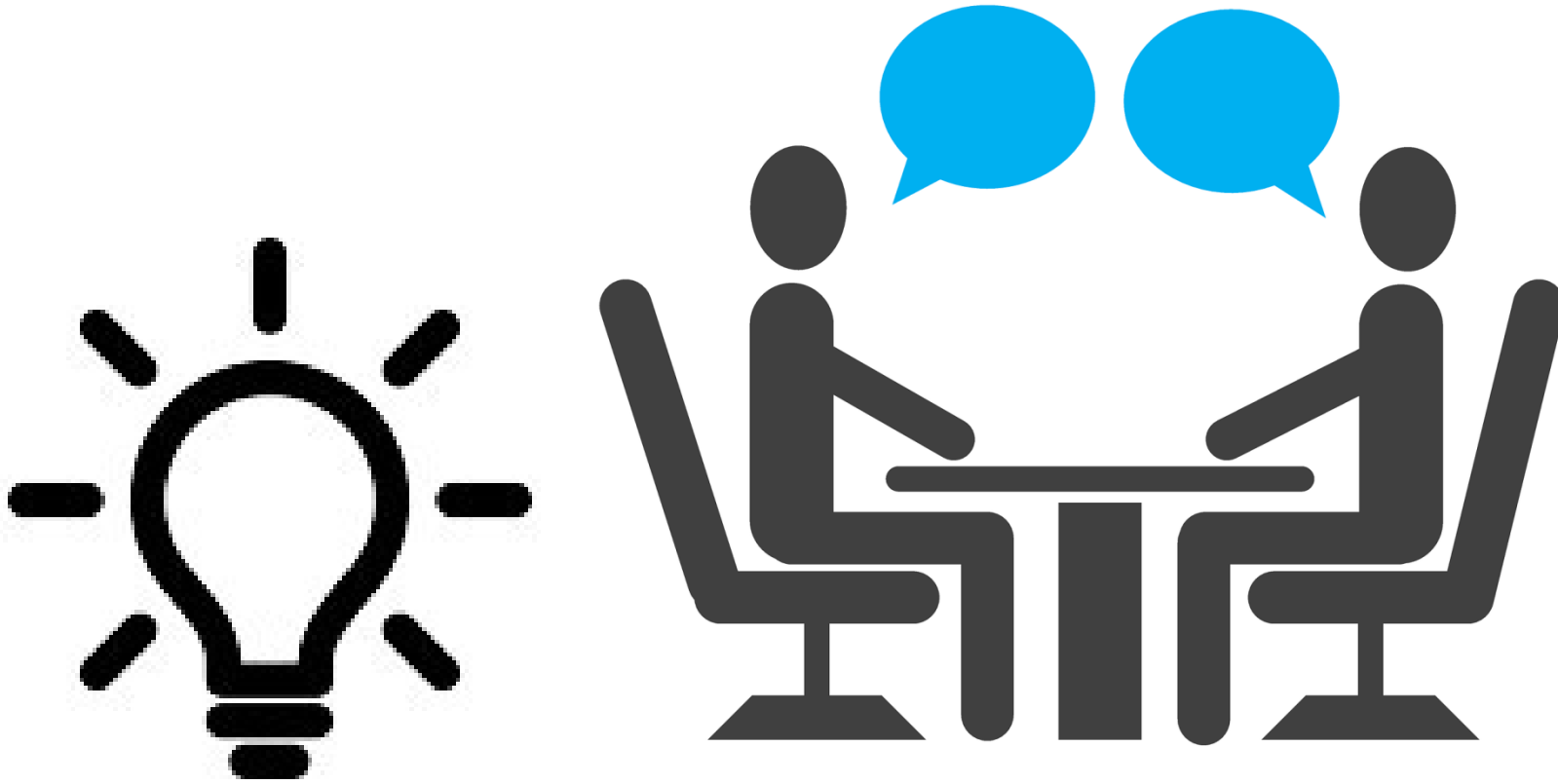
# In-flight phase



# Arrival phase



# Return-flight phase





# Types of R

1. National,
2. Joint return operations
3. Collecting operations





# Human rights at stake?

- Brainstorming – think of possible rights that could be breached during return operation

- Right to life, liberty and security;
- Freedom from torture, cruel, inhuman and degrading treatment and punishment;
- Right to human dignity;
- Right to non-discrimination;
- Right to Religion;
- Access to information;
- Right to health and access to medical assistance
- Access to food and water;
- Rights of vulnerable groups;
- Right to family unity;
- Rights of the child/best interest of the child;
- Right to personal data protection;
- Right to privacy;
- Right to property

# Forced Return Monitoring

- Return Directive art 8/6

*Member States shall provide for an effective forced-return monitoring system.*

- Frontex Regulation art. 29

*The Agency shall, after consulting the fundamental rights officer, constitute a pool of forced-return monitors from competent bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 36 of this Regulation.*

- reality? <http://fra.europa.eu/en/theme/asylum-migration-borders/forced-return>

AND possibly <https://apt.ch/en/opcat-database>

# What is forced-return monitoring?

- For the monitor to see and report, whether the return is conducted in
  - **a humane manner,**
  - **respectful of the dignity of the person and**
  - **in compliance with the EU Charter of Fundamental Rights;**
- Monitoring involves observation of and reporting on return operations **without powers of intervention;**

# Why having a monitoring system?



- **Returnees** → can support possible claims of mistreatment and/or excessive use of force;
- **EL&escorts** → clear themselves of possible unfounded accusations;
- Investigation;
- Assessment and/or revision of future ROs

# Czech Republic – **Public Defender of Rights**, mandate:

## **1. Public Administration**

Protection against unlawful or incorrect conduct or inactivity

*Since 2000*

## **2. Protection of Persons Restricted in their Freedom**

Preventive systematic visits

*Since 2006*

## **3.**

## **Discrimination**

Promotion of the right to equal treatment and protection against discrimination

*Since 2009*

## **4. Monitoring of Forced Returns**

Monitoring of enforcement of expulsions, transfers and transits

*Since 2011*



# *In connection with the so-called “Return Directive” of the European Parliament and of the Council*

- Monitoring of decisions (expulsion, detention)
- Monitoring of detention (NPM – systematic visits - to strengthen the protection of persons placed in various facilities against ill-treatment, to ensure that their fundamental rights are respected → Formulation of standards of treatment)
- Monitoring of expulsions, transfers, transits (air, land)



# How does it work?

## ➤ **Authorization**

- enter to the facility/place
  - speak with returnee (in private)
  - check documentation (inc. medical files)
- 
- be in escort vans/buses
  - service passports
  - access to the airport (Security Restricted Area)
  - camera (images)

## ➤ **Provided information**

- Personal data
- Health condition
- Date, time and place, where the return operation starts
- Way of transport
- Flight information
- etc.

NOTIFICATION - OF AN EXPULSION (ADMINISTRATIVE/PUNITIVE)  
 - OF AN TRANSIT (INTERNATIONAL TRAVEL)  
 OR



POLICIE ČESKÉ REPUBLIKY  
 Ředitelství služby cizinecké policie  
 Odbor podpory v výkonu služby  
 Oddělení pobytového režimu cizinců

DIRECTIVE 2003/109/EC

základní právní předpis

Č.j. CPR-10431/ČJ-2013-930310-V253

Praha 20. března 2014

Počet listů: 1

**OZNÁMENÍ**  
**o realizaci trestu vyhoštění**

KIND OF EXPULSION

na základě ustanovení § 21a, odst. 2 zákona č. 349/1999 Sb., o Veřejném ochránci práv.

NAME	Jméno a příjmení:	Muž / Žena	SOJ
DATE AND PLACE OF BIRTH	Datum a místo narození:		
	Adresa bydliště v domovském státě: VIETNAM		
NATIONALITY	Státní příslušnost: VIETNAM		
TRAV. DOC.	Cestovní doklad: LAISSEZ - PASSER		
HEALTH COND.	Údaje o zdravotním stavu:		
PLACE OF DETENTION	Umístění ve věznici: VAZEBNÍ VĚZNICE PRAHA - RUZYNĚ		
DATE OF FOLLOWED DECISION LEAVING PRISON	Datum a čas (orientační) propuštění z věznice: 06.04.2014, 05:00 hod.		
OTHER PERSON	Kontakt na vedoucího policistu: 974 841 823		
DATE/TIME BEING AT THE BORDERS	Datum a čas realizace trestu vyhoštění: 06.04.2014, 07:10 hod.		
WAY OF TRANSPORT	Způsob: LETECKY WITH/WITHOUT THE ESCORT		
PLACE OF THE BORDERS	Místo / Hraniční přechod: LETIŠTĚ PRAHA - RUZYNĚ		
FLIGHT INFO	Číslo letu: PRAHA - PAŘÍŽ PAŘÍŽ- HANOJ	OK758 VN016	

plk. Mgr. Soňa Szelesová v.r.  
 vedoucí oddělení

## ➤ Checklist

- Documents
- Conditions
- Treatment

## ➤ Inspiration

- CPT standards
- Twenty guidelines of forced return
- Criteria for assessing the conditions for and treatment of immigration detainees (HM'S INSPECTORATE OF PRISONS FOR ENGLAND AND WALES)
- Etc.

# Post-arrival phase - Pandora's box

- Economic hardship, psycho-social hardship
- Vulnerable position – non/state authorities
- Inhuman and degrading treatment
- NON-REFOULEMENT
- Who, when, how? Mandate?
  - The Post-Deportation Monitoring Network
    - Better protection
    - COI
    - Better asylum system



- Criminalisation de iure:
  - Tunisia, Morocco, Algeria, Cameroon, Egypt
  - fine, deprivation of liberty
- Criminalisation de facto:
  - Albania, Libya, Congo
  - Threats, destroying of investigation



Thank you for your attention!

[Anna.lanickova@seznam.cz](mailto:Anna.lanickova@seznam.cz)