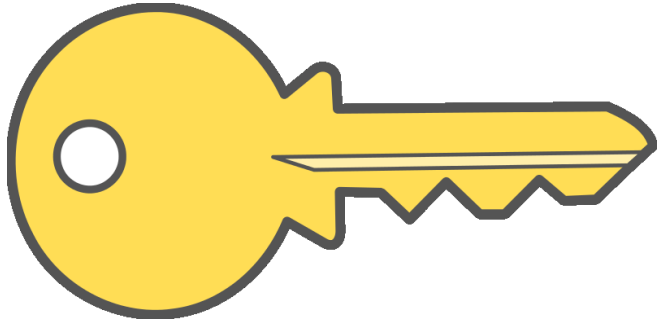


DEPORTATIONS

Mgr. Anna Láníčková, Masaryk University, Office of Public Defender of Rights,
Frontex

5.12.2018



Key terms return policy

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

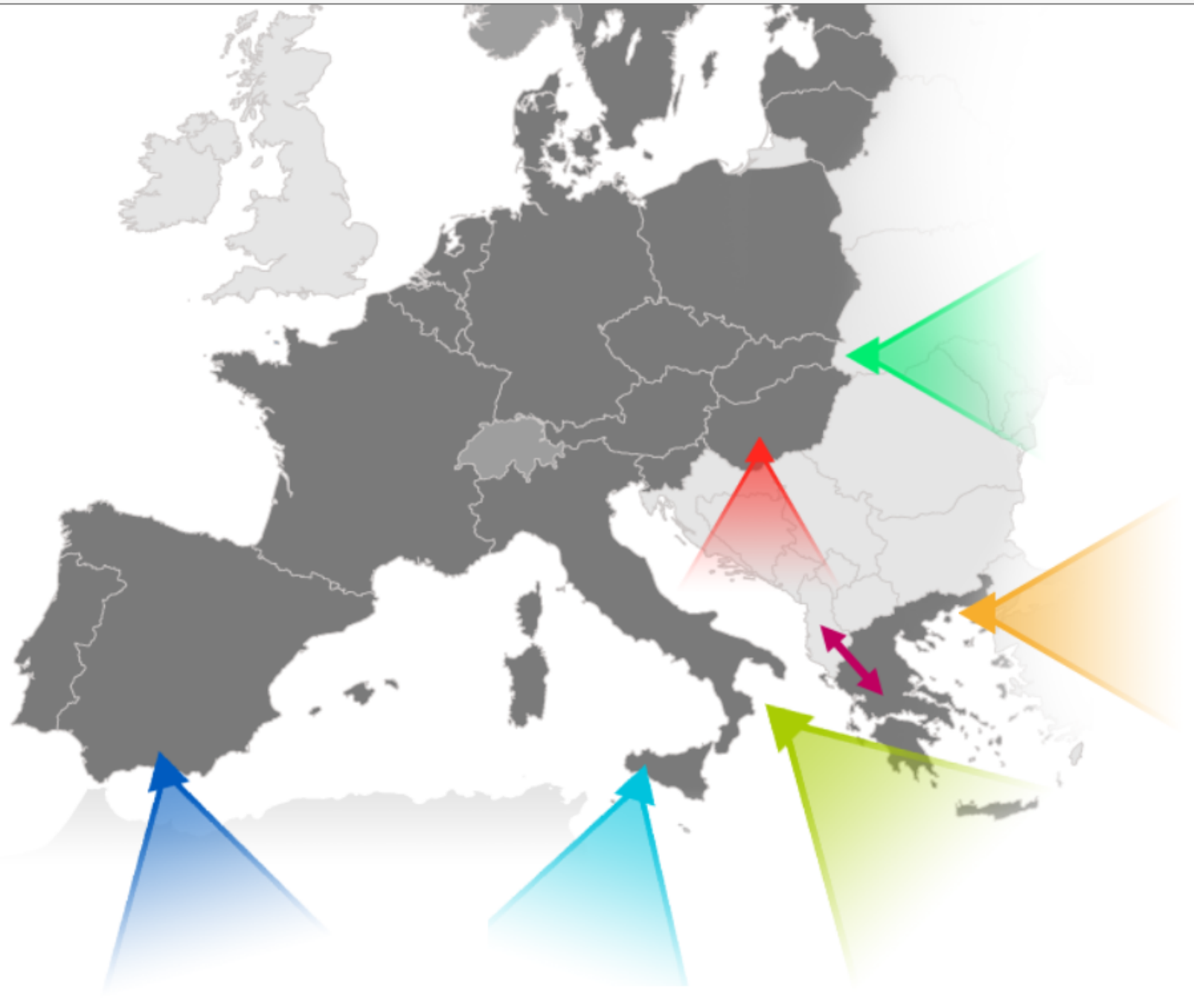
Legal instruments (binding, non-binding)

- 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;
- 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

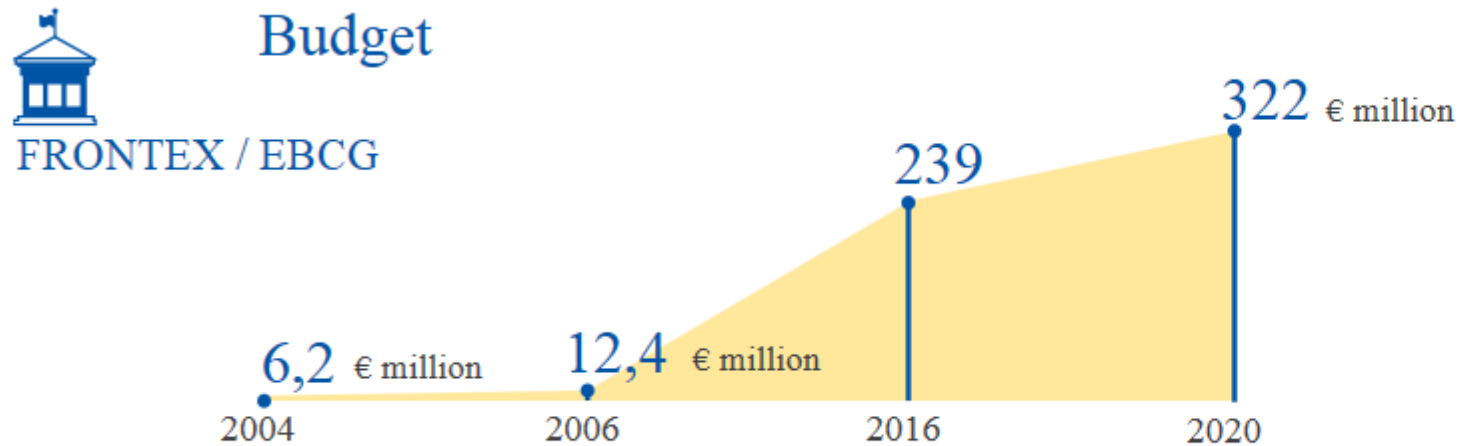


Current Migratory Flows



- 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)





- 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

Obstacles to effective return system

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

Types of RO

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>

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

Phases of RO

- Pre-departure
- In-flight
- Arrival
- Return flight

Pre-departure phase



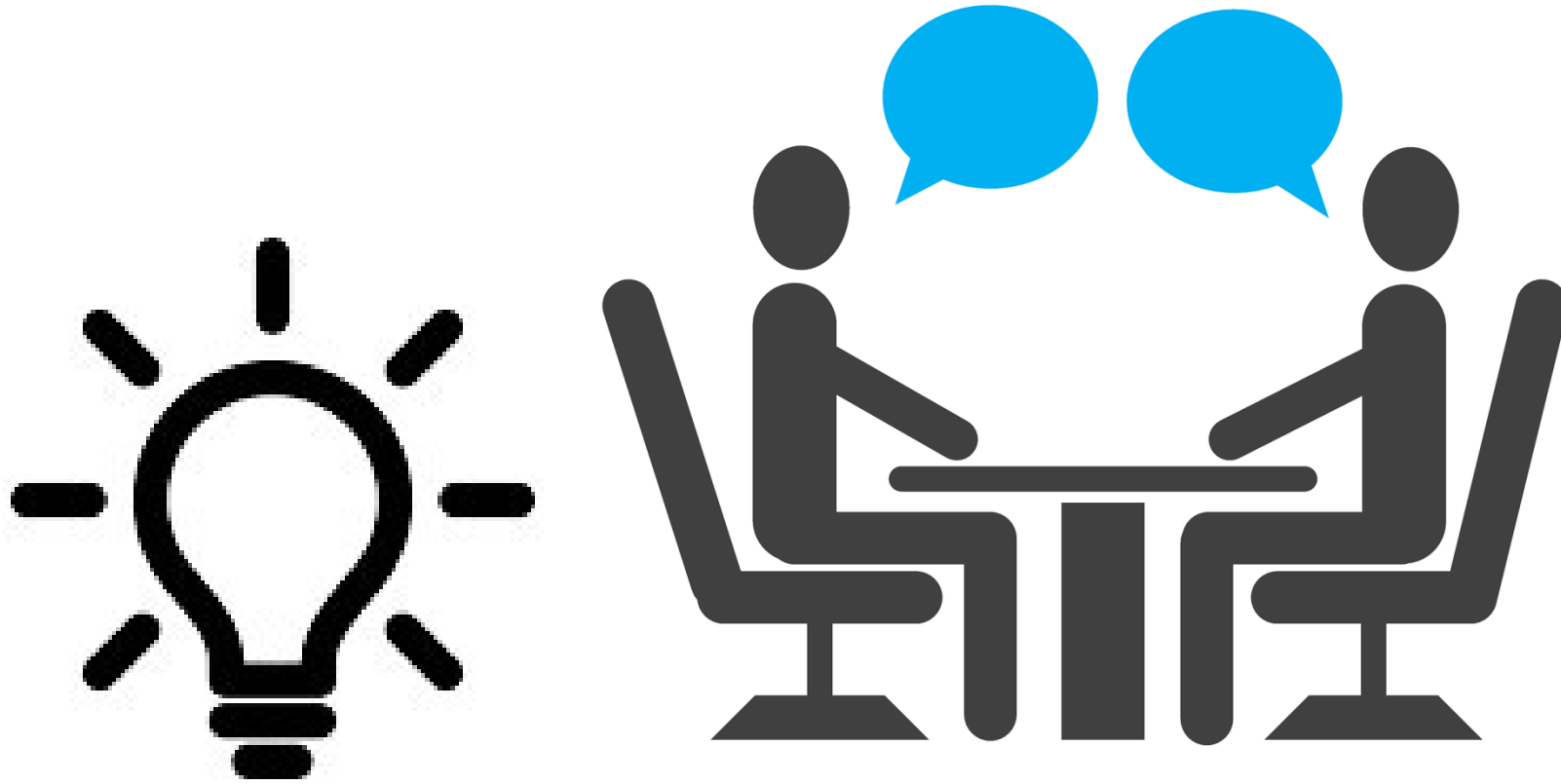
In-flight phase



Arrival phase



Return-flight phase



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



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
- Expectations - Criteria for assessing the conditions for and treatment of immigration detainees (HM'S INSPECTORATE OF PRISONS FOR ENGLAND AND WALES)
- Etc.

Thank you for your attention!

Anna.lanickova@seznam.cz