

Overview of the Legal Framework Laws, Policies and Practices related to Return Operations

Handover Workshop for Gambian authorities
14-16 January 2020, Banjul, The Gambia

Overview of the Legal Framework

Laws, policies and practices related to return Operations

International Law



European Law



National Law





Human rights (Universal instruments):

- 1948 United Nations Declaration of Human Rights
- 1984 UN Convention Against Torture
- 1989 UN Convention on the Rights of the Child
- 1951 Convention relating to the Status of Refugees
 - ➡ The following 1967 Protocol relating to the Status of Refugees

European Law



Fundamental rights (European instruments):

- 1950 European Convention of human rights
- 2000 EU Charter of Fundamental Rights



- **ICAO Convention**

(International Civil Aviation Organization)

- **Tokyo Convention**

(Convention on offences and other acts committed on board aircraft)

- **IATA Guidelines for the Removal of Deportees May 2010**





Organization of a Return Operation

Council Decision 2004/573

(on organization 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)

Council Directive 2003/110

(on assistance in cases of transit for the purposes of removal by air)

Directive 2008/115/EC

(on common standards and procedures for returning illegal third-country nationals)

European Law



Legal Base for Frontex

COUNCIL REGULATION 2007/2004

establishing a EU Agency for management of operational cooperation at external borders of the MS of the EU

REGULATION 1168/2011 OF THE EU PARLIAMENT AND OF THE COUNCIL

amending Council Regulation 2007/2004

European Border and Coast Guard Agency Regulation 2016/1624

giving a new mandate to Frontex

European Border and Coast Guard Agency Regulation 2019/1896

giving the latest mandate to Frontex and repealed regulation 2016/1624

European Law



Operations

The agency deploys border and coast guard officers along with vessels, aircraft, helicopters and other equipment to assist countries requiring support at their borders.

NEW In emergency situations it can quickly deploy border and coast guard officers from the rapid reaction pool of at least 1 500 officers.



Returns

The agency assists the member states in the return of migrants who are ineligible to stay in the EU. The decision as to who should be returned remains the exclusive responsibility of the national authorities of the EU member states.



Situation Monitoring

The agency enables swift data exchange between border authorities of EU member states, the European Commission and other agencies. It provides situation and crisis monitoring, delivering early alerts and updates about the events at the external borders.

NEW To assist in this task, the agency deploys liaison officers to the individual member states.

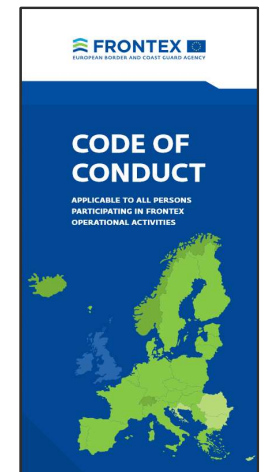


FRONTEX Documents and Policies

- Guide for Joint Return Operations b coordinated by Frontex



- Code of Conduct for all persons participating in Frontex activities



- Code of Conduct for RO and RI

National Law



Use of Legal Force

- In general inside of an airplane in operation
 - Upon consent of the captain
- On the apron of a MS, doors open
 - Upon consent of the local police law of this MS
- During RO inside an airplane in operation
 - Upon consent of the EL of OMS
- On the apron during handover in BJL/GMB, doors open
 - Up to the GMB authorities according national law