

DATA PROTECTION NOTICE FOR THE FRONTEx APPLICATION FOR RETURNS (FAR) OF THE INTEGRATED RETURN MANAGEMENT APPLICATION

Frontex, the European Border and Coast Guard Agency, processes personal data (a) of third country nationals returning voluntarily for the purpose of providing technical assistance to Member States in relation to voluntary returns and (b) of third-country nationals subject to return decisions issued by Member States¹ ('returnees') for the purpose of organising and coordinating return operations, in accordance with Articles 48, 49, 50 of Regulation (EU) 2019/1896² of 13 November 2019 on the European Border and Coast Guard (hereinafter "the Regulation") and Management Board Decision 8/2021 of 20 January 2021 (Reg. No. 110³).

Frontex also processes personal data of third country nationals returning voluntarily and returnees for financial purposes.

DISCLAIMER:

The MS Institution is solely responsible to decide on voluntary returns and voluntary departures on national level and to ensure that the persons granted with voluntary return or a period for voluntary departure fulfil all the conditions for such return based on all applicable national and international laws, at the same time giving particular attention to the principle of non-refoulement and the incumbent international protection obligations. Frontex does not enter into the merit of such decisions.

Frontex has no competence in issuing return decisions and does not enter into their merits, whose responsibility exclusively falls under the remit of Member States.

The personal data processed in relation to third country nationals returning voluntarily and returnees refer to: name and surname, flight schedule, date of birth/age group, nationality, gender, type and validity of travel document, travel document details (when requested by few airlines), reason for return (when requested for the booking by few airlines), health status and possible special needs (ex. wheelchair needed), type of return, a security risk assessment, national case reference number (in case provided), Frontex operation number, GDS, booking reference and ticket number/e-ticket (where applicable) and family links. The data of third country nationals returning voluntarily and returnees is provided by the Member States' national competent authorities into the Frontex Application for Returns⁴ (FAR), a tool aimed at supporting the organisation of return operations and providing technical assistance to voluntary returns.

Complementary to the data described above, there is additional data that is processed for the purpose of requesting transit authorization as an integral part of the organisation of the return, in accordance with Council Directive 2003/110/EC⁵. Such data include place of birth, travel document number/type/validity, type of returnee, photocopy of travel document, medical information (if medical care is required, possible

¹ For the purposes of this document, 'Member States' include EU Member States and Schengen Associated Countries.

² Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1).

³ Management Board Decision 8/2021 of 20 January 2021 adopting the modus operandi of the rolling operational plan for Return.

⁴ The development of the information exchange system for the management of RO is currently ongoing. This requires that the Management Board Decision 8/2021 of 20 January 2021 adopting the modus operandi of the rolling operational plan for Return is amended to reflect inter alia the introduction of the term "Frontex Assisted Returns" which is a section of IRMA 2.0, currently referred to as Frontex Application for Returns (FAR)

⁵ Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

contagious identifiable diseases), previous unsuccessful attempts with specification of reason, whether the presence of a police escort at the airport is recommended.

In accordance with Article 48(1)(a) of the Regulation, Frontex is providing technical and operational assistance to Member States in the area of return. Such assistance may include the organisation of flights or other means of transport (Article 50 (1)) and may require transfer of certain personal data to the service provider, the airline or to another MS (to request transit authorization). Personal data are not transferred by Frontex to third countries and/or international organisations.

Access to the data is provided on a need-to-know basis to Frontex staff, EURLOs and FLOs.

The data of the third country nationals returning voluntarily and returnees will be kept in the system for 30 days after the conclusion of the operation. After this period, the personal data is deleted or anonymised to be used for statistical purposes. Certain anonymized data (such as country of return or departure, function of a person, i.e. escort, medic, etc.) about voluntary returns/departures and return operations is retained in FAR for statistical purposes. Exceptionally, and for financial verification purposes only, some data (e.g.: GDS, booking reference and ticket number) may be kept further until financial obligations are met in accordance with Art. 47 of Regulation (EU) 2019/715⁶.

In accordance with Article 17 of Regulation 2018/1725⁷ of 23 October 2018, third country nationals returning voluntarily within the framework of technical assistance to voluntary returns provided by the Agency, as well as returnees in Frontex organised and coordinated return operations have the right to access their personal data processed in FAR.

Third country nationals returning voluntarily and returnees may also exercise the right to rectification foreseen in Article 18 of Regulation 2018/1725. However, they will need to provide a piece of evidence of the same legal value that demonstrates the inaccuracy of the data stored in the system. Third country nationals returning voluntarily and returnees have the right to obtain restriction of processing within the limits of Article 20 of Regulation 2018/1725 and the right to object to the processing under Article 23 of that Regulation.

WARNING: The right to rectification cannot be used to question the return decisions, which are provided by a judicial or administrative authority of a Member State.

Third country nationals returning voluntarily and returnees have the right to lodge a complaint with the EDPS.

There is no automated decision-making processing upon the data of the third country nationals returning voluntarily and returnees.

The Director of ECRET of Frontex is the Controller of the processing of the data. Requests of data subjects should be directed to FAR.personaldata@frontex.europa.eu

Any question with regard to the processing of personal data may be forwarded also to the Frontex Data Protection Officer (DPO) at dataprotectionoffice@frontex.europa.eu

⁶ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

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Any request to either the Controller or the DPO which is not related to data protection and the exercise of the rights granted under Regulation 2018/1725 will not be responded to.