

## Report (Summary in English)

February 23, 2017: the National Guarantor for the rights of persons detained or deprived of liberty monitored a Joint Return Operation for the repatriation of Nigerian nationals from Italy, Belgium and Germany, organized by the Italian Home Office with the collaboration of Frontex.

On February 10<sup>th</sup>, the National Guarantor received - via telegram - notice of the operation.

The operation regarded in total 43 Nigerian citizens coming from the Removal Centres (in Italian Centri per il Rimpatrio - CPR) in Turin (12) and Caltanissetta (21), from Germany (7) and Belgium (3).

The joint charter flight was organised by the Department of Public Security – Central Directorate on migration and border police – at the Home Office.

Charter flight route: Rome – Palermo, Palermo - Rome - Lagos – Rome

The airplane took off at 3:15 pm and reached Lagos at 9:00 pm, via Palermo. The return flight from Lagos left at 10:00 pm after the handover of returnees to the local authorities and landed at 4:15 am, on 24 February at Rome Fiumicino airport.

Two delegations from the Guarantor fully monitored the operation. At the Rome CPR, the first delegation monitored the security check of the Nigerian citizens coming from Turin. The second delegation monitored the transport via plane from Palermo to Turin of the Nigerian citizens coming from Caltanissetta and eventually monitored the Rome-Lagos flight. The Regional Guarantor of Piedmont, in agreement with the National Guarantor, monitored the operations before the departure via bus of the 12 Nigerian citizens at the CPR of Turin in the night of February 22<sup>nd</sup>. According to the informations acquired by the National Guarantor, the operations in Turin were carried out with no particular concern.

On the departure day, three Nigerian women - who were supposed to be repatriated - remained at the CPR because the Department of Public Security understood that their applications for international protection were still under examination. A further woman realized she had still the possibility to appeal and applied as well during the same morning.

The medical controls were particularly accurate, as a number of Nigerian citizens referred to have health problems.

### Cooperation with the Home Office

The level of cooperation with the Home Office and in particular with the State Police has been effective. The monitor had access to all the places involved in the operation.

The handover of the Nigerian citizens to the local authorities took place on the plane. As previously noted, the Guarantor must point out that such a practice is against provisions of the attachment to the decision n. 573/EU (5)(f). In particular, as previously noted, also by other independent monitoring mechanisms such as the CPT, the Guarantor believes that the handover should take place outside the airplane.

**First recommendation: it is necessary that the handover takes place outside the airplane, in offices and that information about the destination of the persons who have been handed over should be provided by the local authorities.**

### Contact with staff and received information

On February 22<sup>nd</sup>, the day before the departure, the Guarantor participated in the briefing with the escort leaders. In this occasion, the State Police handed over a first list of the Nigerian citizens to be repatriated. The first contact with the rest of the escort had been at the Rome Fiumicino airport.

### Staff employed in the operation

Persons applied to the operation: 90 officers from the State Police, a doctor and a nurse from the State Police for the operations in Palermo and the flight to Rome, and different doctors and nurses from the State Police for the operations in Rome and the flight to Lagos.

The Guarantor must notice that there were no interpreters among said staff. Each returnee has the right to understand what is going on as well as the procedure applied.

**Second recommendation: the Guarantor renews and solicits the recommendation that the persons who are going to be repatriated should always have the chance to be addressed in a language that they can understand.**

Personnel was not armed and wore no uniform, but informal clothes. They exposed a label with the writing “police” but did not expose the identification metal badge of the Italian State Police.

**Third recommendation: the Guarantor renews and solicits the recommendation that the personnel should be identifiable not only as part of an institution but also on a personal level, during the whole operation.**

Similarly, medical staff in Palermo did not expose any sign of identification of its function. It is instead crucial that persons to be repatriated have the possibility to immediately realize that medical aid is available during the whole operation.

**Fourth recommendation: the Guarantor urges the adoption of a recommendation that guarantees that the medical staff be recognizable for the entire duration of the operation, including pre-departure and pre-return phases.**

### Use of coercive measures

The equipment of the escort included Velcro straps, according to administrative indications, in order to immobilize persons’ wrists for security purposes.

However, the use of such straps was generalized, regardless of the specific situation.

In particular, the Nigerian citizens coming from Caltanissetta were immobilized at their arrival at the airport of Palermo and the straps were removed only after the departure from Rome, after more than four hours, while the Nigerian citizens coming from Belgium and Germany were left free of movement.

In this regard, the Guarantor notes that the use of force and of coercive means must always be proportionate and reasonable, according to article 8(4) of the Return Directive 115/2008. According to Decision CE 573/2004, constraint can be applied on returnees who refuse or oppose the removal.

However, the Guarantor was not informed about possible attempts or acts of active or passive resistance during the operation.

**Fifth recommendation: the Guarantor should be given information about the criteria chosen in the use of coercive measures, also regarding the fact that other countries participating in the operation applied different practices in the use of coercive means and that such a different treatment can be perceived as frustrating.**

#### The phases of the operation

a) Security control at the Palermo Airport

The security control for the Nigerian citizens coming from the Caltanissetta Removal Centre included body search, clothes and luggage checks. Each Nigerian citizen was searched by two agents. Searches were carried out in a scrupulous way, yet nobody was forced to get completely naked. Thus, the dignity of the persons has been respected. However, in certain cases two persons have been searched together. This custom, as previously noted, should be avoided in order to respect the privacy of each foreign national.

**Sixth recommendation: the Department of Public Security should consider the possibility of adopting less invasive control techniques, for example by checking the possible presence of metal objects through electrical devices, thus without forcing the foreign national to get undressed.**

During the security controls, the National Guarantor understood from some workers at the Removal Centre that returnees were informed about the return operation just one hour before the departure. As previously noted, such short notice does not comply with the right of each person to prepare in due time for such a destabilising event. They can also put at risk the whole operation because they can easily counter the operation undergoing.

**Seventh recommendation: each foreign national who is subject to a forced return should be given notice of the operation at least one day before the operation will take place and that the company that runs the detention center should arrange actions of material and psychological support.**

After the security control, returnees were constrained with Velcro straps and accompanied to the airplane at Rome Fiumicino. (duration of the flight: 11:00 am-00:15 pm).

b) Arrival at Rome Fiumicino airport and boarding

Due to a delay of the flights from Belgium and Germany, returnees, the escort and the monitor waited in the INAD room until 3.00 pm. During this stay, even if they did not adopt any hostile or uncooperative behavior, the returnees were left with the Velcro straps, except when using the airplane toilets.

Boarding started at 3:15 pm without accidents. Nigerian citizens coming from Belgium and Germany could board untied while those coming from Italy had the Velcro straps until the airplane took off (3:30 pm).

c) Cruising time

During the cruising time, there were no accidents or moments of tension. However, the Nigerian citizens could not have the necessary privacy while using the toilet: in some occasions, the escort officers not only put their foot on bottom to keep the toilet door open for security reasons, but also kept the toilet door half open.

**Eight recommendation: necessary privacy in the toilets for returnees should be always granted.**

d) Arrival in Lagos and handover of the Nigerian citizens to the local authorities

Arrival in Lagos was at 9:00 pm. There were no problems during the handover of the Nigerian citizens to the local authorities. The handover took place in the airplane therefore, the first recommendation applies to this case as well.

At 10:30 pm the airplane took off and landed at Rome Fiumicino at 4:15 of the 24<sup>th</sup> February 2017.

Final remarks:

- No Frontex representative participated in the operation.
- No information was delivered regarding the possibility of lodging a complaint, according to the implementation plan and as provided for by article 72(2) of the EU Regulation 2016/1624 of 14 September 2016.

**Ninth recommendation: the complaint mechanism proved ineffective. Therefore the Department of Public Security should look for giving the returnee the proper information regarding such an important right during each return operation.**

The National Guarantor thanks the Department of Public Security for the cooperation during the monitoring of this operation, as well as the escort leader and the members of the escort staff.

The National Guarantor asks the relevant authorities to give formal response to the recommendations and requests clarifications included in this report within twenty days. After twenty days, the report will be available on the website of the National Guarantor together with the responses that will be received within that date.

Rome, 18 July 2017