



Ministero dell'Interno

Department of Public Security

Central Directorate of Immigration and Border Police

Ch. P. P. P.

In response to your letter of 9 January 2023, as agreed with the Cabinet of the Minister and the Secretariat of the Department of Public Security, and in the spirit of cooperation that has always characterised the relations between our Institutions, I have the pleasure to transmit to you the report of this Central Directorate concerning the Thematic Report of the National Guarantor headed by you on the monitoring of forced repatriation operations, carried out between 1 July 2021 and 15 September 2022.

I believe that the recommendations contained in the Report offer important food for thought on the management of repatriation operations and provide an incentive to correct the critical issues that have emerged, also with a view to increasing the overall efficiency of the activities implemented, with the unfailing respect for the dignity and rights of the persons to be repatriated.

On the other hand, the participation of the Monitors delegated by you in 39 repatriation operations, which were carried out during the period under consideration, testifies to the special attention devoted to the issue and is accepted by the undersigned and by the staff in charge of the Repatriation Division, not only as an ordinary institutional activity carried out by the National Guarantor, but also as an element to protect the operators themselves, who are employed in repatriation operations from time to time.

Combining the mandate of this National Guarantor with the need to protect public order and safety entrusted to the State Police, in which the activity of repatriation is particularly important today, constitutes a continuous challenge and, at the same time, an opportunity to be pursued in order to make the Italian model a point of reference in the European and international context.

In this regard, as proof of the valuable results achieved in recent times thanks to the synergy created between our institutions, it is worth recalling the filming activity carried out on the occasion of the Georgia charter flight last 7 June and the intervention of the Monitors appointed by you in the recent Course addressed to Police escort in return operations, organised by this Directorate, which was much appreciated by the participants.

In view of the above and reiterating my hope that the collaboration between our Institutions will continue in a spirit of fairness and mutual respect for roles and persons, I would like to renew my sincere regards to you.

Rome, 5 July 2023



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SUBJECT: National Guarantor for the Rights of Persons Deprived of Liberty – Thematic report on the monitoring of forced returns of foreign nationals.

TO THE NATIONAL GUARANTOR
FOR THE RIGHTS OF PERSONS
DEPRIVED OF LIBERTY

ROME

With reference to the Thematic Report of the National Guarantor for the Rights of Persons Deprived of Liberty, concerning the monitoring activity of forced-return operations carried out in the period from 1 July 2021 to 15 September 2022, the following are the observations of this Central Directorate in relation to the individual observations made.

A. Cooperation

After having expressed its appreciation for the level of cooperation reached with this Central Directorate concerning the communications prior to the repatriation operations, the National Guarantor for the Rights of Persons Deprived of Liberty hereby expresses its remarks about the respect of its prerogatives and its role of monitor, which on some occasions it believes was not taken into due consideration even by the medical staff employed in the operations.

The episode to which reference is made was recorded in Düsseldorf on the occasion of the repatriation operation by charter to Georgia on 21 April 2022, which has already been the subject of extensive correspondence with the National Guarantor.

In this regard, it should be noted that in the abovementioned correspondence, it was stated that no useful elements had emerged to identify the author of the alleged event of specific relevance, and that significant contradictions had also been highlighted concerning the actual course of events. It is considered, in any case, that the checks on the conduct of the employees of the State Police, which may be relevant from a disciplinary point of view, pertain to an exclusive power of the Administration for which no power of external control is allowed, also in the light of the regulations in force on the subject of privacy, although the possibility of protecting any rights that may be considered to have been infringed in the appropriate circumstances remains.

Still, with regard to cooperation, the National Guarantor points out that the monitor is not always allowed to attend the consular hearings held at the Palermo airport on the occasion of the repatriation charters to Tunisia.

In this regard, while recalling that the presence of the monitor has been authorised on several occasions by the official of the Tunisian Consulate in Palermo in charge of the hearings, it should be noted that the same consular hearings are fully included among the administrative activities carried out in the time span preceding the operation, which is moreover subject to a bilateral Agreement between Italy and Tunisia. In the absence of an express provision in this regard in the aforementioned



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Agreement, in order for the participation of the monitor to be officially recognised, it would therefore be necessary to obtain the authorisation of the Tunisian authorities and of the Tunisian Consulate in Palermo, or to intervene with an amendment to the Minutes stipulated in Tunis on 5 April 2011 – an option that does not seem feasible in the short term.

B. The staff employed in the operations

B.1 Training

With regard to the use of untrained and unskilled personnel for international escort services to persons to be repatriated in Tunisia by charter flights, it should be noted that the number of qualified operators, in view of transfers to other offices, resignations, retirements and temporary unavailability, is not always adequate to handle all the return operations by charter flights organized by this Central Directorate (usually two per week), also given the frequent overlapping with similar activities planned by the Police Headquarters with scheduled flights.

In order to compensate for this critical situation, two training courses have been scheduled for the current year for State Police operators to be employed in international escort services (the first from 8 to 19 May 2023 and the second approximately in November) following which around 200 operators will be trained and qualified.

However, although there is currently the possibility that unqualified officers may participate in Tunisia charters, their deployment rate may never exceed 50%. In addition, when assigning returnees to the escort, the escort leaders, on the instructions of the Head of Service, give priority to qualified personnel.

On the other hand, with regard to the realisation of training interventions also for officers escorting EU or third-country nationals at the border or at an Immigration removal centre, we believe that a specific training for all police officers employed in this type of services is not objectively feasible. Indeed, this request must necessarily be reconciled with the operational needs of the State Police Authorities and of the local offices in general, it being understood that any police officer, in order to be qualified for the service, shall receive adequate training to ensure the minimum standards of respect for the rights of persons, not only those expelled from the national territory and to be repatriated.

It should be noted, however, that the training courses organised by this Central Directorate are exclusively addressed to police officers to be employed as escort in international return flights, and they do not qualify staff who is employed on land operations, which inevitably have completely different peculiarities.

In any case, the inclusion of the *“Guidelines on escorting returnees in repatriation operations”* drawn up by this Central Directorate in the training material available to State Police Officers for compulsory professional refresher courses could be considered.

B.2 Professional figures and the returnees’ right to understand and to be understood

The issue of employing in return operations officers or participants with adequate language skills at all stages of the removal, as provided for in the Annex to the Council Decision 2004/573/EC on the organisation of joint flights and in Article 14 of Frontex Code of Conduct, is also a matter of special consideration for this Central Directorate.



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As it is well known, facilitating communication makes it possible to intercept and ensure in a timely manner the needs of the returnee, to avoid possible misunderstandings, thus facilitating the work of police officers and the success of removals.

For this reason, when organising training courses for international escorts, adequate knowledge of at least English, as assessed by means of a written exam and subsequent interview, is one of the compulsory requirements for accessing the course.

It is also the intention of this Central Directorate to launch projects aimed at recruiting cultural linguistic mediators, in order to pursue this primary need more and more effectively.

B.3 Recognition and use of identification “vests”

With regard to the reported non-use of “vests” by escort officers, with the indication of the role played (escort leader, escort, medic, etc.) in national repatriation operations (in particular on Tunisia charters), it should be noted that this issue is closely linked to the use on these flights of personnel not qualified for international escorts on charter flights, as mentioned above.

Indeed, the abovementioned material is only assigned to and in the possession of qualified operators, which is why, for reasons of uniformity, in order to facilitate the recognition of all escort officers during removals, for the time being, it is deemed preferable to let them all indistinctly wear the assigned vest.

In any case, the option of distributing an adequate number of “vests” to the Border Police Offices located in the national airports normally used for repatriation operations, in order to distribute them to police officers on the days of the removal, could be evaluated.

B.4 Standards of Conduct and Prohibited Conduct

A further crucial aspect is the observance of the rules contained in the Frontex Code of Conduct during repatriation operations. In fact, this Central Directorate is constantly oriented to offering specialised training in this domain to its staff to be qualified and adequately updating those already qualified.

In this regard, it should be noted that the “telexes” of the repatriation operations have been updated by including specific indications concerning, in particular, the prohibition to use electronic devices, electrical or other objects for leisure purposes, and the absolute prohibition, during the entire course of the service, to use smartphones or other electronic devices to take photographs or videos, specifying that such activities are violations of Frontex Code of Conduct, and are relevant from a disciplinary point of view.

Special refresher training sessions will be organised with the officers responsible for the repatriation services and the escort leaders usually employed in the removals in order to ensure that they comply with the above-mentioned provisions and, in general, with the rules prescribed by said Code of Conduct.

This topic will also be given particular emphasis in the aforementioned training courses



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planned by this Central Directorate for the year 2023 and in future refresher courses.

C. Information

With regard to the right of returnees to receive information on the operation, it should be noted that in the above-mentioned courses, as well as in the *Guidelines on escorting returnees in repatriation operations*, particular emphasis is given to the adequate prior information to returnees in relation to the modalities and phases of the return operation – an activity normally already implemented during each removal, both with charter and scheduled flights. The issue is also closely connected to that of adequate language skills.

Indeed, it is well known that it has a significant impact on the emotional well-being of the person concerned and is carried out by police officers precisely in order to avoid oppositional behaviour and any risk to the safety of returnees, to themselves and to other participants.

Moreover, for the same purpose, persons to be repatriated on scheduled flights, compatibly with their level of cooperation, are allowed, in the time prior to the starting of the operation, to use a telephone to contact their family members or other persons in their country of origin, both on the initiative of the escort and, naturally, at their request, though they not always express the desire to call.

Regarding charter flights, on the other hand, the operational and security requirements of the operation, especially when returnees are detained in the removal centres, are preventing phone calls to be carried out prior to the removal operation.

It should be noted, however, that the Directive of the Italian Minister of the Interior on “Criteria for the organisation of detention centres for removals provided for by Art. 14 of the Italian Legislative Decree No. 286 of 25 July 1998 and subsequent amendments”, adopted on 19 May 2022, provides in Art. 5 that foreigners in detention may use phone devices, also, of course, to inform family members or other people about their possible repatriation.

D. Health protection and healthcare

With reference to your request to know, before the repatriation operation, any useful element for the assessment of particular conditions of vulnerability, including information concerning the health status of repatriates with special health needs, it should be noted that, since this is an activity falling within the competence of the Central Directorate of Health, the opportunity to transmit such documentation must necessarily be examined by the same Central Directorate.

In any case, it should be noted that the needs for protecting vulnerable conditions are already preliminarily ensured through the transmission and subsequent analysis of health documentation by specialised personnel. As is well known, the deployment of medical and paramedical personnel on board charter flights, as well as on scheduled flights, is always ensured if the removal is affecting people with particular health vulnerable conditions.

It is worth noting, though, that according to current sector regulations, the requested information, insofar as it relates to sensitive data, is not normally available to third parties, even if they have roles of guarantee, without the prior consent of the person concerned.



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The assessment of the health conditions of the person to be repatriated, the related possible limitations on fitness to fly, the need for any pharmacological treatment to be ensured also in the country of origin, as well as the returnee's adequate health/social care are thoroughly monitored by this Central Directorate.

On the other hand, the obligation to ensure pharmacological coverage, at least until the conclusion of the removal, if necessary, for foreigners detained in the repatriation centre, is expressly provided for by Article 3, paragraph 8 of the abovementioned Directive on the organization of the Immigration removal centres.

On this point, by way of example, it should be noted that during the usual online briefing, prior to the Nigeria Charter of 18 March 2023, a State Police doctor dwelt on the particular health condition of a detainee expelled by the Judicial Authority as an alternative measure to detention. Specifically, the doctor sensitised the officials of the competent Police Headquarters to request the prison with the provision of a quantity of medicines suitable to ensure the correct dosage and administration also in the post-return phases or in the event that the person concerned, not recognised by the Nigerian authorities, had to return to Italy. This request was subsequently accepted by the medical staff at the prison.

It should be noted, however, that the evaluations so far made are under the responsibility of the abovementioned Central Directorate of Health, with regard to foreigners detained in the removal centres or who are not criminally detained, while for those who have been reached by a removal decision as an alternative measure to penal detention, it is necessary to convey the abovementioned observations to the Department of Penitentiary Administration, for their appropriate evaluations.

D.3 "Fit to travel"

With regard to the finding that the "fit to travel" form is issued by doctors of the National Health Service, it should be noted that the legislation in force does not provide that they can or must issue such documentation. On the contrary, as established in the abovementioned Directive laying down criteria for the organisation of the Immigration removal centres, it is up to the doctors of the NHS to issue a medical certificate of suitability for life in a restricted community, which is obviously not incompatible with a "fit to travel".

E. The use of physical force and coercive measures

The National Guarantor points out the lack of a regulatory provision identifying the means of physical coercion to be used in repatriation operations, within the framework of the limits established by Article 53 of the Italian Criminal Code and by European legislation.

In this regard, it is worth noting that the matter is governed by rules of international law enacted by the Tokyo Agreement of 14 September 1963. It should be noted that the abovementioned Agreement generically grants the aircraft captain the power to order its use in order to preserve the safety of the aircraft itself, of passengers or of things carried, as well as to maintain order and discipline on board.



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Moreover, as specified by the rules issued by the I.C.A.O. (International Civil Aviation Organisation), in the event that there are people to be repatriated on board the flight, the captain makes use, for the purposes specified above, of the officers escorting the returnee until arrival, specifying that, if necessary, the use of restraint devices is decided upon by the escort leader, after informing the captain. Also on this point, Council Decision 2004/573/EC of 29 April 2004 establishes that coercive measures may be adopted with respect for the individual rights of returnees, against those who refuse or oppose removal.

It is emphasised that the use of coercive means is regularly approved by the aircraft commanders, in compliance with the regulations in force, precisely because of the special security requirements connected with air navigation.

In any case, it should be pointed out that the use of Velcro straps is the subject of a case-by-case assessment, as carried out in agreement between the Service Managers and Team Leaders, through a careful consideration of the timing and characteristics of the operations, of the places where they are carried out and of the strenuous resistance to repatriation, which is not infrequently encountered by the persons concerned.

In fact, as is well known, in the context of charter flight operations, the need to protect the safety of all persons involved in the activity (returnees, escort operators, medical personnel, monitors) must be carefully assessed, in order to avert the danger that repatriates may commit acts of self-harm or cause harm to operators.

In addition to the above, it should be added that the particular characteristics of the places where operations are carried out, as in the case of the premises used at the Palermo air terminal, located near the tarmac, suggest that the straps should be applied, at least in the phases prior to boarding, in order to prevent escapes and potential accidents or disruptions to air traffic.

In any case, it should be noted that once on board the aircraft, the instruments of coercion in question are removed following an assessment of the level of cooperation of the single returnee, in compliance with the abovementioned rules, always taking into consideration the safety of the flight, a primary asset to be protected and to be considered with the regards to the rights of returnees.

Moreover, with reference to this issue, it should be noted that the new means of coercion called "Ghost body cuff" is still being modified, with the aim of making the instrument safer and more efficient, on the basis of proposals made by specialised personnel who are taking part in the testing phases. Once concluded, the device will be made available to the Central Directorate for Technical Services, Logistics and Asset Management for final testing, prior to its use.

F. The material conditions of waiting places

A further project in progress is the one concerning the premises at the Palermo air terminal, which are used for pre-departure activities, including the identification of foreigners.

In this regard, it should be noted that, since last February, the abovementioned premises have been undergoing maintenance and refurbishment works, which have already made it possible to restore the parts of the building that were in poor condition, both in the rooms located below street level and in those on the ground floor. In the rooms where security checks are carried out on the foreigners to be



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repatriated, benches have been placed for them to sit while waiting and eating their meals, and an administrative procedure has also been initiated for the purchase and installation of new window frames. It should also be noted that the local Border Police Office has taken steps to refurbish the furniture in the room where consular hearings are held and to replace the chemical toilets located outside the building.

In this context, it is also worth mentioning that Frontex, in agreement with this Central Directorate, has recently proposed to cooperate in the construction of a new facility, with the possibility of bearing the full costs and with the obligation of a multi-year use.

Alternatively, the possibility of renovating the current building, making it more suitable to operational needs and in line with the indications of this National Guarantor and Frontex Fundamental Right Officer, will be evaluated.

In order to discuss the feasibility and details of the abovementioned projects, a preliminary meeting will be convened at the airport by the end of September, to be attended by officials from this Central Directorate, Frontex, the Zone and the Frontier Police Office of Palermo, with the possibility of extending the invitation to the local Fire Department, the Airport Management Company and E.N.A.C. for the matters falling within their respective competences.

Similar initiatives could be taken with regard to the adaptation of the Bari airport premises used for security checks.

G. Security checks

The abovementioned supranational legislation on civil aviation also imposes rigorous preventive checks on passengers and baggage, which must be carried out with particular care, all the more so in virtue of the peculiar nature of repatriation charter flights, in order to ensure the safety of all passengers on the flight, including on-board personnel.

In this regard, reference is once again made to Council Decision 2004/573/EC of 29 April 2004, whose Annex I, in defining the rules concerning security checks, carefully applied by escort officers also in domestic charter flights, clarifies that all returnees shall undergo a meticulous security search before they board the aircraft, also providing that any object that can be a threat to the safety of individuals and the security of the flight shall be seized and placed in the luggage hold.

The same Annex also specifies that the returnee's luggage shall not be placed in the passengers' cabin, and that all luggage placed in the hold shall undergo a security check and be labelled with the owner's name, establishing that any object considered as dangerous shall be removed from the luggage.

H. Access to basic needs

It is superfluous to repeat that this Central Directorate, as well as the Local Offices and all the personnel employed in the escort services, is fully aware of the need to protect the returnees' basic requirements, including their right to an appropriate meal being provided, in accordance with their religious beliefs.



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For this reason, the obligation to provide packed meals to returnees is expressly provided for in the “telexes” issued by this Central Directorate on the occasion of repatriation operations.

It should be noted that the event that occurred on the occasion of the Egypt charter of 7 September 2021 remained an isolated case, caused by a mere communication flaw.

I. The protection of property

It should be noted that during the forthcoming meetings with the Heads of Services and Escort Leaders, as mentioned above, as well as in the training and refresher courses planned, special attention is paid to the issue of the security checks on the returnees’ personal belongings, also in view of the recommendation provided by the National Guarantor.

L. The Frontex Complaint Mechanism

With regard to the use of the Complaint Mechanism governed by Article 111 of the EU Regulation 2019/1986 of the Parliament and of the Council of 13 November 2019, it is noted that the Service Responsibles will be provided with specific updates on the Complaint Mechanism, which was the subject of a special informal meeting held with representatives of Frontex.

This documentation, which is published in different languages, is already provided to those responsible for each repatriation operation and is in the possession of the representatives of this Central Directorate employed in the abovementioned services. In addition, on the premises of the aircraft hubs where repatriation operations take place, special signs have been posted to give visibility to the complaint mechanism, in accordance with the request of Frontex Fundamental Rights Officer.

M. Further issues

Access to international protection

In accordance with the provisions of Art. 6, par. 4 of Italian Legislative Decree No. 142/2015, foreigners detained in the Immigration removal centres receive by the enterprise managing the centre any information on the possibility to apply for international protection. Applicants for international protection are also given the information leaflet provided for by Art. 10, par. 1 of the Italian Legislative Decree No. 25/2008. These tasks are carried out by the staff of the enterprise at who accepts the foreign national at arrival, in accordance with the provisions of art. 2 of the abovementioned Directive on the Regulation of the Immigration removal centre.

Serious Events Registration

With reference to the recording of critical events occurring during repatriation operations, it should be noted that they are systematically reported by the escort leaders in an appropriate service report sent to this Central Directorate.



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In addition, debriefings are regularly held by the staff of this Central Directorate with representatives of Frontex and, in the case of joint charter flights, with employees of police forces from other Member States, in order to analyse any critical issues that have emerged and to optimise the preparatory stages of future operations, with the aim of preventing any problems that can arise.

To Frontex, the adoption of a specific protocol may be proposed in order to share is with the Member States, which may also include the setting up of a special database for recording critical events.

Finally, with regard to the critical issues highlighted in relation to handover activities in the destination countries, we look forward to hearing the proposals that the National Guarantor will provide on this aspect, it being understood that the activities in question fall within the sphere of competence of Third countries, since they are carried out outside national borders and jurisdiction.