

## Letter concerning own-initiative inquiry OI/9/2014/MHZ sent by the European Ombudsman to the members of the European Network of Ombudsmen

Correspondence - 20/10/2014

**Case** OI/9/2014/MHZ - **Opened on** 20/10/2014 - **Decision on** 04/05/2015 - **Institution concerned** European Border and Coast Guard Agency ( No maladministration found ) |

Strasbourg, 20/10/2014

Own-initiative inquiry OI/9/2014/MHZ concerning the means through which Frontex ensures respect for fundamental rights in joint return operations (JROs)

Dear Colleague,

I am writing to inform you that I have decided to examine and evaluate, through an own-initiative inquiry, how Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the EU) ensures that joint return operations (JROs) respect the fundamental rights of the persons who are subject to forced returns.

Please find attached the letter to Frontex explaining the own-initiative inquiry.

The scope of the inquiry includes Frontex's cooperation with the national monitoring bodies. I understand that, as well as monitoring return operations carried out by individual Member States, the national monitoring bodies also participate in monitoring the JROs coordinated and organised by Frontex [1] . These bodies report to their national authorities and their assessment is made on the basis of national rules and practice.

One of the objectives of the own-initiative inquiry is to promote effective cooperation (i) between monitoring bodies and Frontex and (ii) among the monitoring bodies themselves. I understand that JROs have taken place in which national monitors from several Member States have accompanied "their" returnee(s). I would greatly value your view as to whether greater cooperation among monitoring bodies would be feasible and desirable. In particular, could better results be achieved by avoiding duplication of monitoring bodies on flights, while also ensuring that every flight actually includes a monitoring body?

More generally, given the important monitoring role played by a number of national ombudsmen



offices, I would like to invite input from ombudsmen in the European Network of Ombudsmen as to their possible inquiries in relation to the monitoring of return operations. To my mind, parallel inquiries could address many of the fundamental rights issues arising from return operations, whether single or joint, and thus help to reduce the human suffering potentially encountered by those who are forcibly returned.

I would appreciate it if you could inform me of your views in relation to (i) the potential for further cooperation among monitoring bodies and (ii) whether you consider it feasible to launch an inquiry in this area, in your own country, and any relevant information that you can provide in this regard.

With your permission, I would like to forward your reply to Frontex. In the interests of transparency, I would also like to make it available to the public on my website. If you consider it useful to include any information in your reply that should not be made public (for example, because it concerns identifiable individuals), please provide such information separately.

Should your services require any further information or clarifications concerning this own-initiative inquiry, please do not hesitate to contact Mrs Marta Hirsch-Ziembinska (+33 388 17 27 46), Head of Complaints and Inquiries Unit.

Yours sincerely,

Emily O'Reilly

Enclosure: copy of the letter to Frontex dated...

[1] Such cooperation is foreseen by Article 9(1b) of the Frontex Regulation (Regulation 1168/2011 of 25 October 2011 amending Council Regulation (EC)2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ 2011 L 304) in conjunction with Article 8(6) of the Return Directive (Directive 2008/115/EC of 16 December 2008, on common standards and procedures in Member States for returning illegally staying third country nationals OJ 2008 L 348).