

From: [REDACTED]
To: [REDACTED]
Sent at: 03/06/09 11:06:08
Subject: FW: JRO Data protection: 2009-0281 prior check

From: [REDACTED]
Sent: 03 June 2009 10:28
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: JRO Data protection: 2009-0281 prior check

Dear [REDACTED],

Please find attached the letter with Frontex replies to the questions addressed to us, concerning the prior check 2009-0281 "Joint Return Operations".

On behalf of [REDACTED], please accept our apologies for the delay.

Best regards,

[REDACTED]

[REDACTED]

Legal Officer

Frontex
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From: [REDACTED]
Sent: 24 April 2009 16:22
To: [REDACTED]
Subject: 2009-0281 prior check

Dear [REDACTED],

I would like to ask you some questions concerning the prior check 2009-0281 "Joint Return Operations":

- 1) Could you please specify what medical data is received by FRONTEX from the MS/SAC?
- 2) Could you please specify how the data subject is informed about the details mentioned in Article 11 and/or 12 of Regulation 45/2001?
- 3) Could you please specify what are the procedures established to grant the data subject's rights?
- 4) Is the storage media paper or digital?

5) Do you transfer personal data to the MS/SAC or do you only receive data from them?

Please consider that the process will be suspended until the receipt of the answers.

Best regards,

[REDACTED]
Legal adviser

European Data Protection Supervisor
Contrôleur Européen de la Protection des Données

[REDACTED]

Tel: [REDACTED]

Fax: 02/283.19.50

Website: www.edps.europa.eu

Mail address: Rue Wiertz 60 - MO 63

B-1047 Brussels

Office: [REDACTED]



Warsaw, 3 June 2009
Our ref.: ~~6051~~.../03.06.2009

Mr Peter Hustinx
European Data Protection Supervisor
Rue Wiertz 60-B
1047 Brussels
BELGIUM

Prior check No 2009-0281 "Joint Return Operations" – Frontex DPO replies to additional questions made by the European Data Protection Supervisor

1) Could you please specify what medical data is received by FRONTEX from the MS/SAC?

The participating MS/SAC provide general information about each individual returnee whether he/she is healthy or not.

If the returnee is not healthy, the participating MS/SAC should provide the organising MS/SAC, not Frontex, with more detailed medical information that are to be used by the medical staff. Regarding joint return operations by air, it is according to the Council Decision of 29 April 2004 on the organisation 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 (2004/573/EC), Annex - Common Guidelines on Security Provisions for Joint Removals by Air, No. 1.1.2.

This is the current situation, when the joint return operation is led by one of the MS/SAC. This state arranges medical staff during the operation that should get familiar with the health state of the returnees as much as possible prior to the operation in order to provide appropriate health care. Nowadays, Frontex does not receive any detailed medical information about returnees. However, this situation might change in the future for the MS/SAC would like Frontex to organise the JRO completely.

2) Could you please specify how the data subject is informed about the details mentioned in Article 11 and/or 12 of Regulation 45/2001?

Frontex does not inform the data subjects about such details. It should be clear that in no circumstances does Frontex obtain data from the data subject, but from the relevant authorities of the MS/SAC.

Due to the nature of the procedures, and once the matter in case refers to law enforcement (subjects are returned to their countries of origin in consequence of a lawful process, on the



basis of individual removal, we do think that the exemptions provided by Article 20 of Regulation 45/2001 should apply.

3) Could you please specify what are the procedures established to grant the data subject's rights?

Once again exemptions of Article 20 which restrict the rights referred in Article 11 and 12 should apply. Data subjects in return operations are returnees who have been subject to individual decisions on removals. These decisions are taken in Member States, following their penal or administrative procedures. Frontex only coordinates and co-organizes these operations and collects the necessary data to do so.

4) Is the storage media paper or digital?

The storage media is digital. The data might be exceptionally received on paper (e.g. by fax). Then transformed into the digital version (scanned) and the papers would be destroyed.

5) Do you transfer personal data to the MS/SAC or do you only receive data from them?

Currently the participating MS/SAC are requested not to send the personal data to Frontex, just to the organising MS/SAC. However, since Frontex is a coordinator and a co-organiser of the JRO, there is an operational need for Frontex to receive such data. The data is received from the individual participating MS/SAC, but not disseminated to them mutually.

Sincerely yours,

