

Revision of the immigration liaison officers network

Regulation (EC) 377/2004

This briefing is one in a series of 'implementation appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law which is likely to be amended or reviewed, as foreseen in the European Commission's annual work programme. 'Implementation appraisals' aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of EPRS, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

SUMMARY

Preventing irregular migration to the EU is a central component of the EU approach to migration. The posting of immigration liaison officers (ILOs) in third countries by Member States to facilitate contacts with the authorities there is part of a multi-layered framework that combines external and internal policies. Although ILOs are a bilateral instrument used by the Member States, the ambition to create a stronger European dimension to their work led to the adoption, in 2004, of a regulation establishing an EU network of ILOs. The increasing pressure on Member States' immigration systems in recent years has led to new EU policies that impact the work and priorities of ILOs. In particular, the return of irregular migrants is a field in which operational support has been increasingly expected from ILOs. This priority has been accompanied by the creation of new EU actors in the field of return and re-admission, such as Frontex Liaison Officers, European Return Liaison Officers and European Migration Liaison Officers. Parallel to these changes in the area of EU immigration policies, evaluation of the ILOs Network Regulation has showed very mixed results as regards its relevance, coherence, effectiveness, efficiency and EU added value. A European Commission proposal to address these issues was tabled on 16 May 2018.

1. Background

Preventing irregular migration to the EU is a central component of the EU approach to migration. The EU legal framework in this field includes a number of elements aimed at intercepting immigrants who do not have a regular status during their journey from their country of origin to EU territory. These include:

- cooperation with countries of origin and transit;
- checks at the EU borders;
- common procedures for the return of illegally staying third-country nationals (the [Return Directive](#)).

These are supplemented by specific policies and instruments dedicated to fighting migrant smuggling, including common rules for sanctioning facilitation of unauthorised entry, transit and residence¹ and targeting employers who take advantage of irregular migrants' precarious situation.²

As regards external policies, in addition to financial and technical assistance to third countries of origin and /or transit,³ further harmonisation and coordination at EU level was sought to ensure better cooperation with third countries regarding the return of irregular immigrants. This includes the adoption of common strategies,⁴ a [Global Approach](#) to Migration and Mobility (GAMM), the 2016 [partnership framework](#), and re-admission agreements with targeted third countries.⁵

The establishment of an EU network of immigration liaison officers (ILOs) posted in third countries is part of this multi-layered framework in the area of irregular immigration. The **posting abroad of Member States' representatives** (specialised in illegal migration and/or law enforcement) **by national competent authorities** has been a practice used by many Member States since the late 1980s and early 1990s to facilitate contacts with the authorities of key countries in order to prevent irregular migration.⁶ At the beginning of the 2000s, concerns over illegal migrant smuggling and trafficking through the Western Balkan region prompted discussions at Council level. It was proposed to establish an EU level network of liaison officers to ensure better operational coordination and cooperation between Member States.⁷ This led to the adoption of the [2004 Council regulation](#) on the creation of an immigration liaison officers' network (hereafter, the ILOs Regulation). The aim of the regulation is to pool the actions taken by the ILOs and enable officers in a particular region or third country to liaise with one another in order to exchange information and best practices. Although the ILOs posted in a third country are a bilateral instrument for the Member States, there was an ambition to 'provide for a stronger European dimension to their work, respecting the principle of subsidiarity'.⁸

Today, **500 ILOs are posted around the world** by Member States, with the UK, the Netherlands and France operating the largest networks.⁹ ILOs are deployed to third countries characterised by a particularly large or specific irregular immigration risks (either as source of irregular migration by nationals of that country, or as a transit country). They are also posted to locations where there are large numbers of visas issued and there is a need for support for checking the validity of the visa applications.¹⁰

The fact that Member States' immigration systems have come under more pressure in recent years has led to a reinforcement of EU policies. In this context, the return of irregular migrants (i.e., third-country nationals who stay illegally on the territory of a Member State, including people whose claim for asylum was rejected) is a field in which operational support has been increasingly expected from ILOs. In 2015, following the European Council's call to increase the return rates of irregular migrants,¹¹ the Commission adopted a communication on an [EU Action Plan on return](#). The Commission underlined the need to enhance the effectiveness of the EU re-admission system, while

acknowledging the Member States' competences in implementing EU return policy. At EU level, this would be achieved, *inter alia*, by developing '**an integrated system of return management**'.¹² Such a system aims to improve the link between better EU-funded networks and programmes focusing on return and re-admission. These networks and programmes have multiplied in recent years and have raised the question of how they relate to the work of ILOs. They include the European Integrated Approach on Return towards Third Countries ([EURINT](#))¹³ and the European Return Liaison Officers Network (EURLO).¹⁴ In its action plan, the Commission also confirmed the deployment of European Migration Liaison Officers (EMLO)¹⁵ who would be deployed in EU delegations in key countries of origin or transit to facilitate cooperation with the authorities of those countries on the re-admission of their nationals present irregularly in the EU. All these networks would involve closer cooperation with the European Border and Coast Guard Agency (Frontex).

It is in this context that the Commission seeks to revise the ILOs Regulation with a view to adapting the ILO network to such a fragmented landscape of external border management.

2. Overview of the current legislation

The ILOs Regulation defines immigration liaison officer (ILO) as 'any representative of one of the Member States, posted abroad by the immigration service or other competent authorities in order to establish and maintain contacts with the authorities of the host country with a view to contributing to the prevention and combating of illegal immigration, facilitating the return of illegal immigrants and managing legal migration' (Article 1). ILOs are to collect information concerning illegal immigration for use either at operational level or at strategic level, or both (Article 2). This includes information on:

- the flows of illegal immigrants originating from or transiting through the host country;
- the routes followed by those flows of illegal immigrants in order to reach the territories of the Member States; their *modus operandi*;
- the existence and activities of criminal organisations involved in the smuggling of immigrants; incidents and events that may be or become the cause for new developments with respect to flows of illegal immigrants;
- methods used for counterfeiting or falsifying identity documents and travel documents;
- ways and means to assist the authorities in host countries; ways and means to facilitate the return and repatriation of illegal immigrants to their countries of origin.

Furthermore, ILOs are also entitled to **render assistance in establishing the identity of third country nationals and in facilitating their return** to their country of origin.

ILOs are usually posted to the **consular offices of Member States in third countries** or to the relevant authorities of other Member States, but could also be posted **to the competent authorities of the third countries** concerned, as well as to **international organisations**. ILOs can also be posted in **airports**, tasked with checking documents at the entrance of the aircraft or providing carriers with advice and training. In accordance with Article 5, Member States may bilaterally or multilaterally agree that ILOs who are posted to a third country or international organisation by a Member State **shall also look after the interests of one or more other Member State(s)**. Member States may also agree that their immigration liaison officers shall share certain tasks.

The ILOs Regulation sets out the obligation to establish forms of cooperation among ILOs, the objectives of such cooperation, the functions and appropriate qualifications of such liaison officers, as well as their responsibilities vis-à-vis the host country and the sending Member State. The regulation notably provides that Member States shall ensure that their immigration liaison officers posted to the same third countries or regions set up **local or regional cooperation networks** (Article 4).

In 2009, five years after the adoption of the regulation, practical experience showed that the ILO Network was underused.¹⁶ Furthermore, the [establishment](#) of a European Border and Coast Guard Agency (Frontex) in 2004 demanded further adjustments. As a result, the European Commission submitted [a proposal](#) to amend the regulation. The [final text](#) adopted in 2011:

- establishes a link and provides a legal basis for cooperation between Frontex and the ILO network: Frontex's tasks include the facilitations of operational cooperation between the Member States and third countries and the exchange of information and practical experience in relation to border controls;
- promotes the use of ICONet, a secure web-based information and coordination network for Member States' Migration Management Services: ICONet was established by [Decision 2005/267/EC](#) for the exchange of information on irregular migration, illegal entry and immigration and the return of illegal residents. It was therefore considered important to include the ILOs in this network to exchange information and practical experience;
- rationalises and extends the scope of the reporting system related to the activities of established ILO networks: the Council presidency is to draw up for Parliament, Council and the Commission a report on activities in specific countries and/or regions of particular interest to the Union.¹⁷

Since 2004, the number of individual ILOs deployed to third countries has grown from 129 officers to an estimated **581 ILOs** in 2016, **posted in more than 88 third countries**.¹⁸ As mentioned above, ILOs are mostly posted in key countries of origin and transit, but also in countries where there are high numbers of visa applications. Third countries with more than 10 European ILOs are, in order of decreasing number of ILOs: China, Russia, Turkey, India, Nigeria, Thailand, Jordan, Pakistan, United Arab Emirates, Morocco, Egypt, Serbia, Albania, Ukraine.¹⁹

As underlined earlier, a revision of the regulation was envisaged in both the 2015 [EU Action Plan against migrant smuggling](#) and 2015 [EU Action Plan on return](#). The Commission published an [evaluation roadmap](#) in April 2016, which was followed by an external evaluation that was completed in summer 2017 (see below).

3. European Commission's evaluation

In 2016-17, with the view of assessing the impact of the ILOs Regulation, the Commission outsourced an [evaluation](#). As regards ILO activities, the evaluation notes that in practice ILOs carry out multiple tasks that can comprise one or several of the following tasks: assistance at the airport; support on re-admission and return of irregular immigrants; provision of advice to visa sections of the local consulates and embassies; assistance with criminal investigations (upstream disruption of organised criminal networks); help with resettlement; support with more strategic / policy issues.²⁰ It is underlined that **return-related tasks formed an increasing part of ILO activities**.

In terms of **relevance and coherence**, the evaluation notes that ILO Networks' operational expertise, and contacts in host countries, are relevant to cooperation needs at the European level. There are, however, perceived risks among ILOs as regards possible overlaps of their activities in

bilateral relations with the host country authorities, as regards the new EU migration liaison officers (EURLOs, EMLOs and Frontex Liaison Officers) mentioned above. As regards **effectiveness** (i.e., formation and formalisation of ILO Networks, exchange of information, cooperation), the evaluation concludes that the ILOs Regulation has not been fully implemented by either the Member States or the Commission. Three main shortcomings are noted:

- The most prominent gap is that Member State back offices did not comply with the obligation to systematically inform one another via the designated ICONet channel about current and intended ILO deployments.
- While the majority of Member States fulfilled their presidency reporting obligations as required in Article 6(1), at least two Member States did not submit a report at the end of the period. A further two Member States did not include an overview on the activities of ILOs.²¹
- The European Commission did not fully comply with its reporting obligations as stipulated in Article 6(3).

As concerns **efficiency**, the evaluation acknowledges limitations in quantifying the benefits in terms of potential cost savings that have materialised as a result of the regulation. These data limitations notwithstanding, the analysis reveals that although benefits cannot be sufficiently quantified, the costs incurred as a result of the regulation's requirements are marginal compared to the potential gains of ILO networking activities. Finally, the **EU added value** of the ILO Networks in preventing and countering irregular migration at local and national level is deemed to be difficult to measure, as it is impossible to distinguish between achievements that are realised due to network-level activities as opposed to individual-level actions. On the question of duplication, the evaluation reveals that ILOs have neither generated nor reduced duplication of work at the EU level, as far as their area of responsibility covers illegal immigration, the return of irregular migrants and the management of legal migration. While ILOs are uniquely placed to analyse the challenges posed by irregular migration, in practice, the strategic information and operational intelligence originating from ILOs rarely reaches the Commission (through ICONet) or EU Agencies (through their respective secure information channels).

Many of the shortcomings of the ILOs Regulation identified in this evaluation were underlined during the Commission's Expert Group reporting meetings on the ILO Network.²² Other challenges encountered by ILOs include difficulties faced in **cooperation and collecting information in some third countries**. One of the challenges mentioned by Member States' representatives is the fact that national authorities of third countries may have a different understanding of migration-related crimes.²³ In that regard, some Member States' representatives argue that the economies of many countries rely on remittances sent back by migrant workers, whether regular or irregular. Furthermore, more practical concerns are underlined such as dysfunctional administrations, poor rule of law, insufficient finance and qualified personnel, etc. Member States' representatives stress that effective measures are the ones focusing on the practical and operational aspects, through training and the provision of expertise. Opinions on the **level of cooperation between EU Member States' ILOs** posted in the same third country are furthermore rather mixed. Some representatives mention good cooperation between ILOs, whereas others underline a lack of exchange of information. Overall, the lack of exchange of best practices in ILOs' cooperation is emphasised. It is also noted that in some instances and in strategic locations (such as Turkey), cooperation between ILOs was made difficult by **diverging mandates, responsibilities and knowledge**.

4. European Commission's proposal

Following the above-mentioned evaluation, a revision of the regulation was announced in the Commission's Work Programme for 2018. The [proposal](#) was adopted by the Commission on 16 May 2018. A [roadmap](#) was published in March 2018.

The objective of the revision is to improve coordination and maximise utilisation of European assets deployed in non-EU countries, through a more effective exchange of information horizontally (between liaison officers deployed in same location) and vertically (between the liaison officers of Member States national authorities, the EU institutions and EU Agencies). The revision would provide the opportunity to establish a Steering Board composed of the Commission, Member State ILO back offices and the relevant EU agencies. The Steering Board would provide a platform to coordinate ILOs with specific assignments based on EU migration management related priorities. The obligation to produce bi-annual presidency reports on the activities of ILO Networks would be replaced by thematic targeted reports on subjects of interest across the EU, as agreed by the Steering Board. The Commission argues that the revision of the ILOs Regulation will have only 'limited impact related to administrative burdens while other broad economic, social or environmental impact seems either irrelevant or more indirect and longer term', thus justifying its decision not to conduct an impact assessment.

5. European Parliament positions / MEPs' questions

This section provides an overview of selected EP resolutions and written questions by MEPs to the Commission during the current legislature, related to the issue of ILO networks.

Resolutions of the European Parliament

The issues of ILO networks and irregular migration have been addressed in several EP resolutions, *inter alia*, referring to: preventing irregular migration, the impact of ILO networks, migrant smuggling, and return policies.

The [resolution](#) of 18 April 2018 on progress on the UN global compacts for safe, orderly and regular migration and refugees emphasised the need to address the **root causes of irregular migration** and suggested opening more legal pathways for migration as a way to discourage irregular migration. The [resolution](#) of 13 December 2017 on the annual report on human rights and democracy in the world also stressed the need to find long-term solutions, highlighted the importance of developing cooperation and partnerships with third countries, and called for the proper implementation of return policies.

The [resolution](#) of 5 April 2017 on the role of EU external action in addressing refugee and migrant movements underlined the importance of the partnership framework with third countries, which includes both short-term as well as long-term objectives for tackling irregular migration. The resolution also highlighted the need to offer incentives to third countries of transit and origin, and called on third countries to meet their obligations under re-admission agreements. Furthermore, **Parliament welcomed the deployment of European Migration Liaison Officers to priority countries** in order to strengthen the EU's cooperation with third countries, and encouraged an increase in staff dealing with Justice and Home Affairs issues in the EU delegations to promote increased coordination with the Member States. It also called for an assessment of the implementation of the EU's return policy.

The [resolution](#) of 25 October 2016 on human rights and migration in third countries emphasised the **need for an evaluation of the ILO networks and their impact**, as well as the need for promoting cooperation in criminal matters, including on the issue of migrant smuggling. The

[resolution](#) of 14 December 2016 on the annual report on human rights and democracy in the world emphasised the need to address the issue of **migrant smuggling** and called for measures to disrupt criminal networks, to gather and analyse data, and for promoting cooperation with third countries. Furthermore, Parliament considered that it would be necessary to adopt new EU re-admission agreements, in order to both increase the efficiency of readmission and to ensure the coherence of returns at a European level.

Several resolutions including, *inter alia*, the above-mentioned resolution above on human rights and migration in third countries stressed the need to assess and establish arrangements for monitoring policies on migration, as well as the importance of ensuring that respect for human rights permeates all policies related to migration.

Written questions

MEPs have addressed several questions to the Commission related to ILO networks and irregular migration. This section provides a selection of relevant questions by MEPs from the current parliamentary term. These questions can be clustered around key areas of concern that mostly echo the above-mentioned resolutions: the issues of preventing irregular migration, migrant smuggling, return policies, and funding.

Questions regarding **migrant smuggling** have regularly been addressed to the Commission. These include a question regarding the deployment of a Frontex Liaison Officer in Turkey and the launch of the European Migrant Smuggling Centre (EMSC) (the role of Frontex and EMSC are outlined hereafter in section 8).²⁴ In its [reply](#), the Commission reiterated that the aim of the EMSC within Europol is to become the European hub for tackling migrant smuggling and to coordinate activities by, *inter alia*, improving the cooperation with the Member States, EU agencies and international organisations. The EMSC was also mentioned as important for the Frontex Liaison Officer in Turkey and for facilitating cooperation between Frontex and Europol and the Member States.

As regards **return policies**, a question has been raised regarding their effectiveness.²⁵ In its [reply](#), the Commission reiterated that it has, since the adoption of the EU Agenda on Migration, raised the issue of insufficient return rates of irregular migrants and its negative effects on ensuring a coherent and sustainable immigration policy. The Commission also highlighted the importance of effective return rates for maintaining public trust in the EU asylum system. The Commission underlined that it has tried to address the weaknesses of the Member States' return systems by presenting, as mentioned in section 2, action plans on return as well as a recommendation on making returns more effective.²⁶ Furthermore, it stated that the EU has increased its cooperation with countries of origin of irregular migrants. A question has also been raised on the EU Action Plan on return and the compliance of third countries regarding re-admission agreements.²⁷ In its [reply](#), the Commission referred to the establishment of the Partnership Framework and the importance of cooperation with third countries regarding, *inter alia*, political commitment of the country, concluding re-admission agreements and cooperation regarding the root causes of irregular migration.

Another question addressed issues of **funding**, and whether or not funds intended for ensuring border controls and the return of irregular migrants should instead be transferred to policies aimed at ensuring legal pathways for migration and for the social inclusion of migrants in the receiving countries.²⁸ In its [reply](#), the Commission reiterated that the total amounts available under the Asylum, Migration and Integration Fund (AMIF) and under the Internal security Fund (ISF) are both fixed by their respective regulations and that the amounts have been agreed upon by Parliament and the Council. The Commission underlined that it is not possible to transfer the amount allocated under the ISF to the AMIF. It did highlight, however, that the ISF does contribute to supporting a common visa policy to facilitate legal pathways for migration and that Member States, under the

AMIF, are required to reserve some of the resources for asylum and the integration of third-country nationals.

6. European Economic and Social Committee

In its December 2015 [opinion](#) on the EU Action Plan against migrant smuggling (2015-2020), the **European Economic and Social Committee** (EESC) generally supported the plan, but strongly recommended a more balanced and comprehensive approach towards **victims of smuggling**, by detailing how the EU will protect and assist those who are smuggled. In its February 2017 [opinion](#) on the new Partnership Framework with third countries under the European Agenda on Migration, the EESC also supported the provision of a long-term response to migration addressing the root causes of migration and creating a dialogue with third countries. It recalled, however, that the EU Agenda should take into full consideration the **humanitarian dimension** of its scope. The opinion also underlines that a distinction should be made between lack of cooperation with third countries based on lack of political will and lack of cooperation based on lack of capacity and resources. Both need to be addressed via different means: **under no circumstances should assistance be conditional on re-admission and border controls**.

7. European Committee of the Regions

The **European Committee of the Regions (CoR)** published in March 2018 an [opinion](#) on the implementation of the EU Agenda on Migration, in which it underlined that while migratory movements are an integral part of human and notably European history, Europe's cities and regions are currently under pressure from the high number of migrants resulting from instability in countries outside the EU. As regards border management, the CoR welcomes the new powers given to Frontex (see hereafter section 8) and underlines that its scope for action could be further expanded, including in organising, coordinating and conducting return operations and promoting operational cooperation between the Member States and third countries.

8. EU agencies

Closer cooperation with **Frontex** was envisaged after the first revision of the ILOs Regulation in 2011 (see above). Frontex has established regional risk analysis networks (Western Balkans, Eastern European border and Turkey), which has also been replicated with third-country partners in Africa through Africa-Frontex Intelligence Community (AFIC). Furthermore, Frontex initiated a mapping tool to facilitate the geolocalisation of ILOs in third countries. In 2016, as part of the efforts towards an integrated management system for external borders, the powers and missions of Frontex were renewed and expanded with the creation of a [revision of the Frontex Regulation](#) and the establishment of European border guards. In the field of returns, Frontex now has a greater role in returning migrants to their country of origin and can execute decisions taken by national authorities. In 2016, Frontex launched its first deployment of a Frontex liaison Officer in a third country (in Turkey). In its latest [Progress Report on the European Agenda on Migration](#), the Commission notes that a growing number of return operations have been supported by Frontex. Since mid-October 2017, there have been 135 return operations supported by the Agency covering over 5 000 people.²⁹

On the other hand, the **EU Fundamental Rights Agency (FRA)** regularly recalls that EU Member States have to respect EU and international laws that clearly state that return of illegally staying third-country nationals must comply with human rights and the dignity of the persons concerned and prohibit returning people to places where they risk serious harm (i.e., the principle of 'non-refoulement'). These obligations also have to be upheld in any form of cooperation with non-EU countries. The FRA provided [practical tips](#) to prevent border management rights violations, along

with [guidance](#) on how to reduce the risk of refoulement in external border management when working in or together with third countries. The latter recommends that **when considering the deployment of liaison officers to third countries** or where operational cooperation with a third country is envisaged, which may involve the interception of migrants and/or their disembarkation in a third country, EU Member States should conduct **a careful assessment of the human rights situation** in that country. Such assessment would enable EU Member States to evaluate possible fundamental rights implications and calibrate its planned activities so as to avoid or reduce the risk of participation in a conduct which could violate human rights. Such assessment should be based on a full range of sources and include information on **access to asylum and on the treatment of persons in need of international protection**.

Europol's support on countering illegal immigration includes the [European Migrant Smuggling Centre](#) (EMSC) and EMPACT-related activities. The EMSC was established in 2016 and supports police and border authorities in coordinating cross-border anti-smuggling operations. The centre incorporates the Joint Operational Team (JOT) Mare, which is made up of specialists seconded from seven Member States. These Member States exchange information in order to disrupt smuggling networks operating from Turkey, as well as from Libya and other North African countries. The EMSC cooperates closely with Frontex. EMPACT-related activities furthermore enable cooperation platforms between Member States, EU institutions and agencies, as well as third countries.

9. Academic literature

EU migration policies and related actions in third countries have received a lot of academic attention. These policies have often been criticized for favouring a security-led approach instead of being orientated towards humanitarian principles.³⁰ In this context, extra-territorial action of EU Member States and EU actors in third countries to prevent irregular immigration has been widely commented upon.

Some academics have, for instance, argued that in 'off-shoring' migration policies, **procedural rights afforded to asylum-seekers could be seriously undermined**. These concerns are echoed by the FRA (see above section 8). ILOs are often referred to as playing a practical role in preventing asylum-seekers from reaching Europe and it has been underlined that the combined use of visa requirements, carrier sanctions³¹ and ILOs seriously affected the ability of refugees to seek international protection.³² The ILOs Regulation does not include a reference to the Member States' obligations under international refugee law. As remote and delegated control can be exercised long before migrants physically set foot on EU soil, this poses particular concerns for individuals fleeing their home countries (such as refugees), since few of the mechanisms (such as access to lawyers) that secure the individual access to asylum-related rights are found in the middle of the Mediterranean or when control is carried out in third countries.³³ This appears to be particularly problematic **when ILOs are posted in countries that are known to violate international human rights law** – in such cases, Member States risk exposing individuals to the authorities they are trying to escape, thus violating the principle of non-refoulement under international law.³⁴ In this context, it is underlined that the relationship of ILOs with countries in which they are posted is often unclear: their involvement can vary from an 'advisory' role to a more direct role in training and secondment to the border and asylum authorities of the host countries. This **unclear role of ILOs** assigned by their host countries carries the risk, some argue, of 'legal black holes' in their responsibilities towards refugees.³⁵ This argument is supplemented by some concerns over an increasing 'privatisation of immigration controls' involving private actors (such as private carriers) in checks at borders.³⁶

Furthermore, another dimension of EU migration policies that has been critically examined by scholars is the **increasing focus on return**, in which ILOs – in addition to their role in preventing irregular immigration at the earliest point of the migrant's journey – play an important part in

facilitating communication and cooperation with countries to which irregular immigrants are returned. Increasing attention is particularly given to coercive measures (such as forced deportation, which include detention), which often compromise fundamental rights and human dignity.³⁷ Re-admission agreements and the ways in which the European Commission and the Member States have framed the effectiveness of EU return policies on the basis of return rates have been called into question.³⁸ In this context, the roles, not only of ILOs but also of Frontex in joint operations, have been challenged. The **lack of accountability for executive action outside EU territory**, such as return operations, has attracted particular criticism.³⁹ Others have nuanced these views, underlining that the agency has moved towards a more genuine commitment towards fundamental rights implementation and that humanitarian concerns are increasingly emphasized in FRONTEX's rhetoric. However, it remains to be seen how this would apply in practice and on the ground.⁴⁰

¹ These rules are embedded in the 'Facilitators Package'. [Evaluation](#) on the application of this existing legal framework was published in March 2017.

² See: The Employer Sanctions Directive ([Directive 2009/52/EC](#))

³ This includes assistance in developing anti-smuggling strategies, legislation and capacity building.

⁴ See: 2007 [communication](#): 'Towards a Common Immigration Policy'; 2008 [Communication](#): 'A Common Immigration Policy for Europe'; the 2008 European [Pact](#) on Immigration and Asylum; 2015 [Agenda on Migration](#)

⁵ EU Re-admission Agreements (EURAs) are concluded between the EU and non-EU countries to facilitate the return of people residing irregularly in a country to their country of origin or to a country of transit. To date, the EU has concluded [re-admission agreements](#) with 17 countries.

⁶ ECORYS/ICMPD [final report](#) on the evaluation of the ILOs Regulation, August 2017

⁷ Council of the EU, [Adoption of Council conclusions](#) concerning the creation of a network of national immigration liaison officers to help control illegal migration flows through the Western Balkan region, 10 May 2001, 8684/01.

⁸ ECORYS/ICMPD final report, op.cit.

⁹ F.Baxewanos, 'Relinking power and responsibility in extraterritorial immigration control: the case of immigration liaison officers', in T.Gammeltoft-Hansen and J. Vedsted-Hansen (eds.), *Human Rights and the Dark Side of Globalisation*, Routledge, 2016

¹⁰ ECORYS/ICMPD final report, op.cit.

¹¹ The rate of return varies greatly between EU Member States. It also varies significantly depending on the nationality of the migrant. Some third countries respect the obligation under international law to take back their own nationals, others do not, or do so inconsistently and reluctantly. According to the Commission, in 2014, less than 40% of the irregular migrants that were ordered to leave the EU actually departed.

¹² Other initiatives include the production of a 'Return [Handbook](#)' that provides clarifications, tools and examples of how to better implement the Return Directive; measures to facilitate voluntary return and enforcing return; new resources for Frontex; further re-admission agreements with third countries.

¹³ EURINT aims at developing and sharing best practices on return and at developing a common strategy for operational cooperation with third countries.

¹⁴ The EURLO project started in 2015. EURLO aims at stimulating country of origin-focused operational cooperation, notably through Return Liaison Officers in key countries. In 2016 the project involved 16 Member States and EURLOs were already deployed in DR Congo, Ethiopia, Morocco and Pakistan. 'Flying EURLOs' are also foreseen in the project to cover regions not covered by residential capacity.

¹⁵ In April 2015, a project on EMLOs was initiated by the Council to strengthen the EU delegations in certain countries and help to the gathering and analysis of intelligence. Their deployment focused on key countries of origin and transit. EMLOs are to be deployed by the EEAS.

¹⁶ As explained in the context section of the [proposal](#).

¹⁷ As regards territorial provisions, Norway, Iceland, Switzerland and Liechtenstein are associated with the implementation of the Regulation, in accordance with the bilateral agreement concluded with the EU on the Schengen acquis. The UK and Ireland participate in the adoption and the implementation of the text, while Denmark does not take part.

¹⁸ ECORYS/ICMPD [final report](#), op.cit.

¹⁹ Based on the ECORYS/ICMPD final report, see in particular table 4.3, p.39.

²⁰ Ibid.

²¹ Article 6 of the Regulation stipulates that a report shall be drawn up by the end of each semester by the Presidency on activities of ILO networks. However, these reports are EU Restricted documents, and as such are not accessible to the general public. The evaluation does not specify which Member States have failed to fulfill their obligation.

²² [Expert Group](#) on the ILO Network reporting (E02583). This Expert Group was set up in 2011 and met irregularly since. At the time of writing, minutes of three of the expert group's meeting are publicly available (from March and September 2015, and one from May 2016).

²³ In that regard, some Member States representatives argue that many countries' economies have a reliance on remittances sent back by migrant workers whether they are in regular or irregular situations.

²⁴ Question for written answer, [E-001636-16](#), 25 February 2016, (Miriam Dalli, S&D, Malta).

²⁵ Question for written answer, [E-004153-17](#), 22 June 2017 (Mario Borghezio, ENF, Italy).

²⁶ Two Action Plans were presented by the Commission in 2015 and in 2017, as well as a recommendation on making returns more effective.

²⁷ Question for written answer, [E-004210-16](#), 25 May 2016 (Rachida Dati, EPP, France).

²⁸ Question for written answer, [E-012459-15](#), 3 September 2015, (Inês Cristina Zuber, GUE/NGL, Portugal; João Ferreira, GUE/NGL, Portugal; Miguel Viegas, GUE/NGL, Portugal).

²⁹ The main countries involved have been in the Western Balkans, as well as Tunisia, Georgia and Pakistan. The largest number of operations have involved Germany, Italy, France, Belgium and Austria. The report does not indicate if these operations concerned voluntary or forced returns. Frontex is responsible for the coordination of both return operations at a technical and operational level, as well as voluntary departures.

³⁰ E.Guild and S. Carrera, 'EU borders and their controls: preventing unwanted movement of people in Europe?', CEPS Essay, No 6, November 2013.

³¹ The adoption of carrier sanctions at EU level now impose financial penalties for private carriers that transport undocumented individuals.

³² M. den Heijer, *Europe and extraterritorial asylum*, Hart Publishing, 2012.

³³ T.Gammeltoft-Hansen, 'Outsourcing Asylum: The Advent of Protection Lite', in L.Bialasiewicz (ed.), *Europe in the World: EU Geopolitics and the Making of European Space*, Ashgate, 2011.

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Table: Regulation 377/2004 on the immigration liaison officers' network

EP committees responsible at the time of adoption of the EU legislation:

Committee on Civil Liberties, Justice and Home Affairs (LIBE)

Date of adoption of original legislation in plenary: 6 November 2003

Planned date for review: 16 May 2018

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