

**SPEECH BY THE OMBUDSMAN OF SPAIN, SOLEDAD BECERRIL,
AT THE TENTH NATIONAL SEMINAR OF THE
EUROPEAN NETWORK OF OMBUDSMEN
SESSION: MONITORING OF FORCED RETURN FLIGHT**

Varsovia, 28th April 2015

I. The Spanish Ombudsman, in its capacity as National Mechanism for the Prevention of Torture (MNP), has monitored between 2013 and 2015 several FRONTEX foreigners return operations in which Spain took part from inception until reaching the final destination country.

II. After that, I sent a letter to the European Ombudsman with several suggestions for improvement, following the observations made in the aforementioned monitored flights. The most relevant are the following:

1. **Preliminary medical examination.** FRONTEX establishes that foreigners that are to be returned to their countries must be “fit to travel”. Thus, in case of a known medical condition or where medical treatment is required, they must be examined by a doctor in advance. It is essential to know exactly whether the health status of all returnees allows them to travel safely.

2. **Access to medical records.** In order to respect personal privacy of citizens who are to be returned, the Code of Conduct should specify that only medical staff shall have access to their medical records.

3. **A Medical examination after a failed deportation proceeding.** Any person who has undergone a failed deportation proceeding should be examined by a doctor immediately afterwards, as established in paragraph 39 of the 13th General Report of the Committee of Prevention of Torture (CPT).

4. The presence of medical staff on all flights. In one of the deportation flights monitored, the medical staff had been designated by the Spanish National Police, since FRONTEX had not foreseen the need for them, contravening Article 11.1 of the Code of Conduct.

5. Availability on-board of a defibrillator and a refrigerator for drugs. Generally, the planes in which operations are conducted do not have a defibrillator or a fridge for the possible conservation of drugs. The Ombudsman thinks that FRONTEX should require the country organising the operation to provide this equipment.

6. Filming system. During all the deportation flights that were monitored, there was no filming system, as suggested by the optional in Article 10.1 of the Code of Conduct particularly, particularly when deportation is considered problematic.

7. Complaint mechanism. Returnees are not told that they can make a complaint in case they think that their fundamental rights have been violated. This is contrary to Article 5.2 of the Code of Conduct, the recommendation made by the European Ombudsman and the provisions of the Resolution of the Parliamentary Assembly of the Council of Europe.

8. The presence of an interpreter. In some of the flights there was no interpreter, although it is foreseen in Article 11.2 of the Code of Conduct.

9. Transportation of pregnant women and minors to the aircraft. The way pregnant women and minors are conducted to the aircraft and their location inside it should be determined, bearing in mind that they should not have contact with other foreigners not belonging to their own family.

10. Identification of escorts. Escorts and other participants in the return operation must be identified and fully distinguishable, so that each escort can be identified in the event of any complaint. The requirement that escorts be identified should appear in the Code of Conduct.

Six flights have been monitored over the last three years by the Spanish Ombudsman. The destinations were the following: Ecuador, Colombia, Serbia and Former Yugoslav Republic of Macedonia; Albania and Georgia, Nigeria and Dominican Republic.

Last week I personally supervised the boarding of a FRONTEX flight from Madrid to Pakistan, and I witnessed the correct procedures carried out by the Spanish Police. The Police officers involved were specially trained to carry out these operations.

Now, more than ever we Ombudsman need to pay special attention to all processes originated in UE which return migrants to their countries of origin.

We don't want to add more pain and suffering to the lives of people trying to escape war and hunger or just looking in a better future in themselves and their families.