

## **Succinct Terms of Reference**

### **Ex-post evaluation of the European Return Fund for 2011-2013**

#### **Request for services no 2**

#### **with a view to the assignment of the contract HOME/2015/AMIF/FW/EVAL/0002**

## **1. SUMMARY**

This request for services is for a contract to provide assistance to the Commission (DG Migration and Home Affairs) in view of the ex-post evaluation report for the European Return Fund (RF) which it has to submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

The evaluation will examine the implementation of actions co-financed by the European Return Fund (RF) under the 2011-2013 annual programmes (shared management mode) and the Community actions under the Annual Work Programmes 2011-2013 (direct or joint management mode).

The evaluation will assess their relevance, effectiveness, efficiency, sustainability, coherence and complementarity, and EU added value.

## **2. PURPOSE, OBJECTIVE AND JUSTIFICATION FOR EVALUATION**

### **2.1. Legal basis for the evaluation**

The legal basis for the evaluation of the Return Fund actions for 2011-2013 is Articles 49 and 50 of Decision No 2007/575/EC<sup>1</sup> according to which the Commission shall submit by 31 December 2015 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an ex-post evaluation report.

According to Article 49(2) of Decision No 2007/575/EC, the RF "shall be evaluated by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the general objective referred to in article 2 in the context of the preparation for the reports set out in Article 50(3)".

Article 49(3) of the Decision stipulates that *"The Commission shall also consider the complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives."*

According to Article 50(3) of the same Decision, *"The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the*

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<sup>1</sup> Decision No 2007/575/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows', OJ L 144, 6.6.2007, p. 45.

*Committee of the Regions by 31 December 2012 for the period 2007 to 2010 and 31 December 2015 for the period 2011 to 2013 respectively, an ex-post evaluation report".*

Article 31 (5) and (6) of the Regulation (EU) No 516/2014<sup>2</sup> of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC confirms this obligation and stipulates that "*By 30 June 2015, Member States shall submit to the Commission evaluation reports on the results and impact of actions co-financed under Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC concerning the period 2011-2013*" and "*By 31 December 2015, the Commission shall submit to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions ex-post evaluation reports under Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC concerning the period 2011-2013*" respectively.

## **2.2. Objective of the evaluation**

This evaluation has the objective to examine the implementation of actions co-financed by the RF during 2011-2013 (annual programmes as well as Community Actions) and assess their relevance<sup>3</sup>, effectiveness<sup>4</sup>, efficiency<sup>5</sup>, sustainability<sup>6</sup>, coherence and complementarity<sup>7</sup>, and EU added value<sup>8</sup>.

## **2.3. Ownership and use of the evaluation**

The European Commission's Directorate-General for Migration and Home Affairs is the commissioning body of this evaluation, which will be used by the Directorate-General itself and by other Commission's departments.

Rights concerning the evaluation report and its reproduction and publication will remain the property of the European Commission. No documents based, in whole or in part, upon the work undertaken in the context of this contract may be published without the prior written approval of the European Commission.

The Commission will ensure that the evaluation results are disseminated. As part of the dissemination and on the basis of the evaluation report, the Commission will draft a report on the implementation of the RF in 2011-2013 and submit it to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The evaluation results will be also communicated to the relevant authorities of the Member States and to the general public.

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<sup>2</sup> Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC, OJ L 150, 20.5.2014, p. 168.

<sup>3</sup> Relevance: The extent to which intervention's objectives are pertinent to needs, problems and issues to be addressed.

<sup>4</sup> Effectiveness: The extent to which objectives set are achieved.

<sup>5</sup> Efficiency: The extent to which the desired effects are achieved at reasonable cost.

<sup>6</sup> Sustainability: The extent to which positive effects are likely to last after an intervention has terminated.

<sup>7</sup> Coherence and complementarity: The extent to which the intervention does not contradict other interventions with similar objectives, but on the contrary, they complement each other.

<sup>8</sup> EU added value: The extent to which EU funded interventions bring additional value compared to what could have been achieved with Member State resources.

The publication of the deliverables will be accompanied by a judgment on the quality, carried out by the DG Migration and Home Affairs on the basis of criteria specified in section 12.

### **3. DESCRIPTION OF THE FUND**

#### **3.1. Legal basis of the RF**

The RF was established for the period 2008 to 2013 by Council Decision No 2007/575/EC.

Strategic guidelines for the implementation of the RF were adopted by Commission Decision No 2007/837/EC<sup>9</sup>.

Rules for the implementation of the RF were adopted by Commission Decision No 2008/458/EC<sup>10</sup>.

#### **3.2. Objectives and priorities of the RF**

Article 2 of Decision No 2007/575/EC defines the general objective of the RF as follows:

- To support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management and by providing for joint actions to be implemented by Member States or national actions that pursue Community objectives under the principle of solidarity, taking account of Community legislation in this field and in full compliance with fundamental rights.

Specific objectives of the RF, corresponding to the general objectives, were defined by Article 3 of Decision No 2007/575/EC:

- The introduction and improvement of the organisation and implementation of integrated return management by Member States;
- The enhancement of the cooperation between Member States within the framework of integrated return management and its implementation;
- The promotion of an effective and uniform application of common standards on return in line with policy developments in this field.

In addition to the general and specific objectives of the RF, Decision No 2007/837/EC defined the following four priorities for the RF:

- Support for the development of a strategic approach to return management by Member States;

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<sup>9</sup> Commission Decision 2007/837/EC of 30 November 2007, notified under Document number C (2007) 5822, implementing Decision 575/2007/EC of the European Parliament and of the Council as regards the adoption of the strategic guidelines for 2008 to 2013.

<sup>10</sup> Commission Decision 2008/458/EC laying down rules for the implementation of Decision No 575/2007/EC of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund.

- Support for the cooperation between Member States in return management;
- Support for specific innovative (inter)national tools for return management;
- Support for Community standards and best practices on return management.

### 3.3. Implementation modalities

The RF has been implemented via actions under annual programmes of the Member States (shared management mode) and Community actions (direct and joint management mode).

#### **RF annual programmes of the Member States**

The RF annual programmes (referred to in Article 21 of Decision No 2007/575/EC) were drafted on the basis of the RF 2008-2013 multi-annual programmes of 27 participating Member States<sup>11</sup>, and implemented by the authorities of these under the shared management mode.

In accordance with Article 4 of Decision No 2007/575/EC, the actions under the Return Fund annual programmes should have supported, among others:

- The establishment or improvement of an effective, stable and lasting operational cooperation of Member States' authorities with authorities of third countries;
- The facilitation of voluntary returns of third-country nationals, in particular through assisted voluntary return programmes;
- Developing modes of cooperation between different levels of national, regional, local, urban and other public authorities;
- The simplification and implementation of enforced returns of third-country nationals who do not or no longer fulfil the conditions for entry and stay.

The RF allocations for the annual programmes of the Member States were determined on the basis of a methodology defined in Article 14<sup>12</sup> of Decision No 2007/575/EC.

#### **RF Community actions**

The Return Fund Community actions were implemented under the direct or joint management mode, either via projects supported by grants awarded by the Commission or via contracts for services concluded following the calls for tenders published by the Commission.

Article 6 of Decision No 2007/575/EC lays down the Community actions eligible under the Return Fund (including emergency cases), which, among others, include:

- further Community cooperation in implementing Community law and good practices;
- support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships between bodies located in two or more Member States

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<sup>11</sup> All EU Member States except Denmark

<sup>12</sup> Article 14 *Annual distribution of resources for eligible actions in the Member States.*

designed to stimulate innovation, facilitate the exchange of experience and good practice and improve the quality of return policy;

- support transnational awareness-raising campaigns;
- support studies, dissemination and exchange of information on best practices and all other aspects of return policies, including on the use of state-of-the-art technology, in particular to encourage more comparative research relating to the impact of past and present return programmes;
- support pilot projects and studies exploring the possibility of new forms of Community cooperation and Community law in this area;
- support the development and application by Member States of common statistical tools, methods and indicators for measuring policy developments in the field of return, in particular with a view to the dissemination of statistics disaggregated according to voluntary and forced returns;
- support the development and regular updating, in cooperation with the Agency, of a common handbook on best practices in the field of return, including on escorts;
- provide Member States with support services in case of duly substantiated emergency situations requiring urgent action.

#### **4. SCOPE**

##### **4.1. Actions and period of time to be covered**

The evaluation will cover the following:

- Actions supported under the 2011, 2012 and 2013 annual programmes of the 27 participating Member States<sup>13</sup>.
- The Return Fund Community Actions supported under the 2010, 2011, 2012 and 2013 annual work programmes (including the emergency actions), i.e.
  - 6 under the 2010 annual work programme (all implemented after 1 January 2011);
  - 11 under the 2011 annual work programme;
  - 10 under the 2012 annual work programme;
  - 9 under the 2013 annual work programme.

The period covered by the evaluation will be:

- 1 January 2011 – 30 June 2015 for the national programmes of the Member States;
- 1 January 2011 – 31 March 2016<sup>14</sup> for the Community Actions.

Community Actions under the 2010 annual work programme will be covered by the evaluation as they were all implemented after 1 January 2011.

For analytical reasons, data from the year 2010 will be used as the baseline.

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<sup>13</sup> Austria, Belgium, Bulgaria, Cyprus, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

<sup>14</sup> Some of the projects will not be completed yet at this date.

#### 4.2. Other instruments to be considered

The evaluation will also have to consider (in particular in the context of the evaluation of the complementarity and coherence):

- National policies of the Member States in the field of return;
- Actions supported under the 2008-2010 RF programmes of the Member States;
- Actions supported by any other EU financial instrument<sup>15</sup> with a possible impact in the field of the return management.

#### 4.3. Geographical coverage

The evaluation will cover all EU Member States except Denmark (27 Member States).

### 5. CONTEXT OF THE EVALUATION

In accordance with Article 50(3)(b) of Decision No 575/2007/EC, a mid-term evaluation of the RF was carried out in 2010-2011<sup>16</sup> and an ex-post evaluation of the RF 2007-2010 actions was carried out in 2012-2014<sup>17</sup>.

In accordance with Article 52(2)(b) of Decision No 2007/575/EC, the Member States shall submit to the Commission evaluation reports on actions supported under their RF 2011-2013 annual programmes. As the eligibility period for the RF 2013 annual programmes expired on 30 June 2015, it was agreed that the Commission will accept evaluation reports submitted by the Member States until 30 November 2015.

This evaluation will be used as basis for the preparation of the ex-post evaluation report for the period 2011 to 2013.

### 6. EVALUATION QUESTIONS

Replying to the evaluation questions is the core of the evaluation work and the replies will constitute the main part of the final report.

The answer to each evaluation question must be exclusively based on evidence and rigorous analysis. Different types of evaluation methods (quantitative and qualitative) and data sources must be combined to formulate the answers. The answers shall define key terms of the question, identify indicators and judgment criteria used for answering the question and fully disclose the reasoning followed in the analysis.

The evaluation questions are grouped under the following six following evaluation themes – effectiveness, efficiency, sustainability, relevance, coherence (including complementarity) and EU added value.

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<sup>15</sup> For example, Frontex joint return operations.

<sup>16</sup> <http://ec.europa.eu/transparency/regdoc/rep/1/2011/EN/1-2011-858-EN-F2-1.Pdf>

<sup>17</sup> <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

## **Theme 1 Effectiveness**

- 1. To what extent did the Return Fund 2011-2013 actions contributed to the achievement of the objectives defined in the Articles 2 and 3 of Decision No 2007/575/EC and to the priorities defined by the Strategic guidelines (Decision No 2007/837/EC)?<sup>18</sup>*
- 2. To what extent did the actions under the Return Fund 2011-2013 contribute to the development of an integrated return management and in particular to the balance between forced and voluntary return<sup>19</sup> and to the setting up of a return procedure based on the assessment of the situation of the potential returnees?*
- 3. To what extent did the actions under the Return Fund 2011-2013 contribute to the co-operation between Member States in return management?*
- 4. To what extent did the actions under the Return Fund 2011-2013 contribute to the co-operation between Member States and Third Countries in return management?*
- 5. To what extent did the actions under the Return fund 2011-2013 contribute to specific innovative (inter)national tools for return management?*
- 6. To what extent did the actions under the Return Fund 2011-2013 contribute to the implementation of the EU standards and best practices in return management?*
- 7. To what extent did the actions under the Return Fund 2011-2013 contribute to the co-operation between different levels (national, regional, local and urban) in return management?*

## **Theme 2 Efficiency**

- 8. To what extent were the effects of the Return Fund 2011-2013 actions achieved at a reasonable cost in terms of financial and human resources deployed?*

## **Theme 3 Sustainability**

- 9. To what extent have the positive effects of the Return Fund 2011-2013 actions lasted after the interventions were terminated?*

## **Theme 4 Relevance**

- 10. To what extent did the Return Fund objectives correspond to needs in the field of return management?*

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<sup>18</sup> Some questions are based on the objectives of the legal basis, others are based on the priorities in the Strategic guidelines. For this reason the questions may partially overlap.

<sup>19</sup> i.e. Voluntary return being the preferred option, has the Fund contributed to increasing the proportion of voluntary return operations?

11. *To what extent did the objectives of the actions under the Return Fund 2011-2013 correspond to the needs in the field of return management?*

### **Theme 5 Coherence and Complementarity**

12. *To what extent were the Return Fund 2011-2013 actions coherent with and complementary to other actions related to return management, financed from other EU financial instruments or from national resources of the Member States, including the activities of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) providing EU Member States with the necessary support in organising joint return operations?*

### **Theme 6 EU Added Value**

13. *What is the additional value resulting from the Return Fund 2011-2013 actions compared to what the Member States would be able to carry out through investments necessary for the implementation of the EU policies in the field of return management without the support of the Return Fund 2011-2013 actions?*

## **7. RISKS**

The programming of the RF annual programmes was not based on a set of mandatory common output, result and impact indicators. The annual programmes included targets for indicators which were defined on a national basis. In some cases, the indicators were primarily defined for the output level which makes it more difficult to evaluate the results and impacts as some data was not collected and/or is difficult to be obtained post factum. In order to facilitate the evaluation, the Commission requested the Member States to report against a set of common indicators established ex-post and included in a template for the national RF 2011-2013 ex-post evaluation reports. However, there is a considerable risk that some Member States will not provide all requested data in case it is not available.

The contractor is expected to propose evaluation methods which would satisfactorily address these gaps and risks. In particular, the contractor is expected to propose a methodology which would allow, despite the mentioned gaps, to analyse and to conclude on the results and impacts, as well as to satisfactorily respond to the 13 evaluation questions.

Moreover, there are considerable time constraints and very tight deadlines that will need to be respected in the most absolute terms.