

12th Meeting Frontex Consultative Forum on Fundamental Rights

MAIN POINTS OF DISCUSSION

Date:	2 February (13:30- 17:30)- Formal meeting		
Venue:	Room 603 Frontex Headquarters Plac Europejski 6, 00-844 Warsaw, Poland		
Contact person:	Secretariat	@frontex.europa.eu	
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CF Chairs	United Nations High Commissioner for Jesuit Refugee Service (JRS)		
CF members	Red Cross EU Office, Amnesty International European Institutions Office (AI EIO) United Nations High Commissioner for Refugees (UNHCR) Churches' Commission for Migrants in Europe (CCME) Platform for International Cooperation on Undocumented Migrants (PICUM) European Council on Refugees and Exiles (ECRE) (IOM) the Advice on Individual Rights in Europe (AIRE Centre) Council of Europe (CoE) (EASO) (EASO) OSCE Office for Democratic Institutions and Human Rights (OSCE-ODIHR) Absent: International Commission of Jurists (ICJ), aritas European Union Agency for Fundamental Rights (FRA) replaced by RA		
Management Board	Marko GASPERLIN, Chair Frontex Management Board		
Frontex Corporate Governance	Berndt KOERNER, Deputy Executive Director Management Coordinator		
Operations	Head of Joint Operations Unit Head of Risk Analysis Unit		

International and European Cooperation Unit	██████████	Senior Analyst, Risk Analysis Unit
	██████████	Senior External Relations Officer
Fundamental Rights Officer	██████████	Fundamental Rights Officer
	██████████	Associated Fundamental Rights Officer
	██████████	Assistant to the Consultative Forum
	██████████	Legal Assistant

02/02 FORMAL MEETING

Welcome notes and confirmation of the agenda

- Brief update on the (1) election of UNHCR and JRS as CF Chairs for 2017-2019 and (2) adoption of CF Working Methods.
- MB stressed on the high political expectations put on the Agency to manage irregular migration and emphasized the area of Returns as a political priority. MB acknowledged the challenges of an individual complaint mechanism but also its benefits in terms of transparency and accountability.

DED operational update *(Annex III)*

- Main route 1: Central Mediterranean:
 - In 2016 the number of irregular border crossings increased the level reached in 2015.
 - Libya remains the main departure point for crossings.
- Eastern Mediterranean:
 - The number of arrivals in 2016 was slightly higher than in 2015 and is expected to remain at the same level, or it may increase depending on the weather.
 - Shift of migratory pressure to Bulgaria and Greek-Turkish land border.
 - A tendency to pass the Greek islands by and go directly to Italy has been noticed.
 - Increased level of drug trafficking from Albania to Italy.
- Western Mediterranean and West Africa:
 - An increase of irregular border crossings may be expected in 2017.
 - The number of arrivals in the land borders is decreasing whereas the number of crossings at the sea border is increasing.
- Western Balkan:
 - Core point of attention in next weeks. Circular migration Albania-Greece.
- Eastern Land Route:
 - A significant amount of persons have been refused entry.
- Operational responses to the trends listed above:
 - Reinforced presence of maritime assets close to the Libyan coast.
 - European Commission has received a mandate to start negotiations on Model Status Agreement for Serbia, similar talks are expected to be held with FYROM afterwards. Operational cooperation is foreseen as well as capacity building activities.
 - Italy/hotspots
 - Implementation managed quite well, adequate procedures and medical assistance have been introduced. The major issue is the limited reception capacity. Till capacity is increased, Frontex focuses on mobile hotspots
 - Greece/hotspots
 - Challenges in implementation: lack of 24/7 operational functioning and transportation. Need to secure certain level of medical services. Frontex to share a package of measures mirroring those developed in Italy. More team members needed to ensure full coverage of operational needs.
 - McKinsey supporting implementation of procedures.
 - Return support activities
 - 232 Return Operations, about 10.698 returnees in 2016.
 - From April-Dec 2016, 39 Readmission Operations, about 972 returnees.
 - Negotiations on future CJROs are held with Armenia, Ukraine and FYROM. Talks with Bosnia and Herzegovina and Turkey in matters of cooperation are on the initial stage.
 - Implementation of EBCG Regulation

- Vulnerability Assessment Network consisted of Member States and Frontex was launched in December 2016 [REDACTED]
- [REDACTED] is operational, but monitors still need to be trained by PRU in cooperation with FRO and TRU.
- LOs in Member States: meeting with Member States took place on 31 January 2017 to discuss scope, legal framework and practical arrangements.

Q&A

- Role of EP in WAs
 - EP was informed. Frontex have not received any answer in this regard. Consultation with the COM is more detailed as it was before the EBCG Regulation.
- Frontex assisting voluntary returns
 - So far, Frontex has received single requests from specific countries. 3 flights in the last three months.
- Medical issues
 - There is a report coming up, including references to medical services provided to migrants and refugees as well as to Frontex staff.
- Mobile v stationary hotspots
 - Mobile hotspots have proven to be a valuable tool. They however do not solve the issue of capacity. In order to have the procedures implemented orderly, from both sides, stationary solutions are preferred. Although changes have been promised for months, there are still no improvements.
- Pre-return network
 - It has been already established. For the time being, there are not concrete results as it is at a very early stage.
- CF recommendation on Frontex activities at the Hungarian-Serbian border
 - CF Acknowledged reception of ED's response in the evening of 1 February, after the internal meeting. Time is needed to properly assess response but initial reading has left several questions/clarifications that would be appreciated from Frontex.
 - CF questions the effectiveness of Frontex reporting as the high number, and seriousness, of incidents reported by external sources contradicts with the few incidents (3) reported to Frontex via its Serious Incident Report (SiR) system. Also a concern if the letter suggests that limited number of SiR is in any way proof that the situation is not as well documented by a wide variety of sources.
 - In addition, the letter refers to Frontex "activities" instead of Frontex "operational area", which contradicts conclusions from discussion held with LAU on Frontex accountability.
 - CF points out the importance to distinguish between "safe third country" and "safe country of origin" as the two concepts are confused in the letter. Also a concern is that the wording of the letter seems to justify push backs when a country is considered safe.
 - DED acknowledged the delay in Frontex reply. Discussions about Frontex activities in the Hungarian-Serbian border are still under discussion internally and with the MB. DED offered to provide an update and clarification on the letter as soon as possible.
- Frontex and NGOs boats: Frontex stand with regards to anti-smuggling activities
 - CF is concerned about the wording of RAU reports mentioning the role of NGOs boats in search and rescue operations and the detrimental effect for NGOs of such allegations in terms of cooperation between the different actors involved in the Central Med.

ACTION POINTS

- DED to provide information related to the pre-return network;
- DED to provide Information related to the role of Frontex in voluntary returns, including the number of operations conducted and number of returnees;
- DED to share an update and further information to clarify CF questions/concerns related to the FX reply to CF recommendation on Frontex activities on Hungarian-Serbian border in writing.

FRO report (Annex IV)

- Compilation of the outcomes of 2015 report:
 - 2 cases has not been closed yet, as no follow up appeared.
 - Potential witnesses are not sufficiently protected.
- There are two reports of 2016, first one including the period of time between 1 August 2016 and 31 October 2016 is available, the second one is still a draft and will be shared with MB in March.

Q&A

- Which authority or body in Bulgaria is responsible for the examination of the cases?
 - There is a centralized system existing, but there is no official complaint mechanism, and no investigation.
- Why there is still no follow up on above-mentioned cases and why are they still unsolved?
 - Pushback allegations
- Chios incident:
 - Deep concerns about the implications.
- FRO staff:
 - FRO capacity needs to be extended and new positions should be available as soon as possible.
 - There are positions waiting to be published since 2016.
 - Deployment of Swedish police officers to FRO was suggested to be taken into consideration.
- Continuation of the discussion on the FR objective in evaluation of Operational Plans.

Presentation of the Frontex vulnerability assessment (Annex V)

Vulnerability Assessment (VA) Methodology is based on a questionnaire on Member States capacity. An Annual Baseline Assessment will be drafted by Frontex, to which Member States will have the possibility to comment. In addition, simulation exercises as well as emerging threat assessments are foreseen for certain MSs/depending on needs/capacity. [REDACTED]

Member States VAs will be undertaken in 201 [REDACTED]

Q&A

- Reception capacity of MSs in VAs
 - It has been agreed that the current system and methodology should focus on border controls, and not to look/collect data on vulnerabilities related to asylum or returns, [REDACTED]
- Fundamental rights related indicators:
 - [REDACTED] he focus in on the technical means of MSs to perform border checks, border surveillance and risk analysis. [REDACTED]
 - [REDACTED]
- Does the threat assessment include reference to the fundamental rights situation in third countries (TC)?
 - VAs would contain a reference to the geopolitical situation in the TC and the number of irregular border crossings by nationality. There is however no a general assessment on the fundamental rights situation in that TC.
- Who, in the Member State, is providing the information for the baseline assessment?
 - Collection of Data relies on MSs. There is not yet an external system looking at the quality of the data.

- [REDACTED]
- How the outcome of the assessment will look like?
 - [REDACTED] There will not be a traffic lights system used for this report, but all the indicators will be introduced in a scale of 6 colors with additional explanation.
- Could the indicators be changed in the future and by whom?
 - [REDACTED]