

14th Meeting Frontex Consultative Forum on Fundamental Rights

Date:	12 October (13:15 - 17:30)		
Venue:	Room 603 Frontex Headquarters Plac Europejski 6, 00-844 Warsaw, Poland		
Contact person:	Secretariat Tel: +48 22 205 9550	@frontex.europa.eu	
CF Chair	[REDACTED] United Nations High Commissioner for Refugees (UNHCR) [REDACTED] Jesuit Refugee Service (JRS)		
CF members	[REDACTED] Amnesty International European Institutions Office (AI EIO) [REDACTED] European Union Agency for Fundamental Rights (FRA) [REDACTED] United Nations High Commissioner for Refugees (UNHCR) [REDACTED] Platform for International Cooperation on Undocumented Migrants (PICUM) [REDACTED] Save the Children EU Office [REDACTED] European Council on Refugees and Exiles (ECRE) [REDACTED] [REDACTED] (IOM) [REDACTED] [REDACTED] (IOM) [REDACTED] International Commission of Jurists (ICJ), [REDACTED] the Advice on Individual Rights in Europe (AIRE Centre) [REDACTED] (EASO) [REDACTED] (EASO) [REDACTED] OSCE-ODIHR Absent: [REDACTED] Red Cross EU Office, [REDACTED] Churches' Commission for Migrants in Europe (CCME) [REDACTED] Council of Europe (CoE)		
Management Board	Marko GASPERLIN, Chair Frontex Management Board		
Frontex	Berndt KOERNER, Deputy Executive Director [REDACTED] Executive Advisor [REDACTED] Director of Operations Division [REDACTED] Head of Joint Operations Unit [REDACTED] Senior External Relations Officer [REDACTED] LO to EUBAM Libya [REDACTED] LO to Western Balkans		

Fundamental Rights Officer	██████████	Fundamental Rights Officer
	██████████	Associated Fundamental Rights Officer
	██████████	Complaints Assistant
	██████████	FRO trainee
	██████████	Assistant to the Consultative Forum
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Thursday 12 October 2017 - CF meeting with Frontex Management Board Chair and Deputy Executive Director

Welcome notes and confirmation of the agenda

- Welcome to Save the Children. MB Chair explained that the selection of Save the Children was influenced by the suggestion of the CF to appoint an organisation with a focus on child protection.
- **MB Chair:** Statement on the implementation of the European Border and Coast Guard Regulation after a year since its adoption. MB Chair referred to increased mandate of the Agency, new pools, vulnerability assessment (1st rounds are to be completed and during next MB meeting on November the MB will decide on a possible revision of the methodology), priority for return.
- **DED:** new structure of the Agency adopted during MB meeting in June. Full implementation by the end of the year. MB will look at the state of implementation during MB meeting in February 2018 and review the appropriateness of the structure.
- CF Chairs are invited to present the Activity Overview for 2017 and the Program of Work 2018 during MB meeting on 22 November.

Update operational activities

- Agreement was reached on the Agency's new structure (structure chart available FOSS), however implementation will be a gradual process that should be finished by the end of 2017. The new structure was presented to the participants of the CF meeting. Management Board will review the Agency's organizational structure during the February 2018 MB meeting.
- Update on the ongoing operational activities (presentation by Frontex Director of Operations):
 - Core business is to plan, implement and evaluate operations.
 - **Sea border operations:**

JO Triton (Implementation until 31 January 2018, Participating MS/SAC: ; currently there are 4 hotspots and an additional 'reception centre' in Messina is to be established. Hotspots aim at identifying, registering and interviewing new arrivals, in order to know who is arriving, to launch adequate protection mechanisms for those in need of international protection and to fingerprint arriving migrants for identification as well as security purposes.

There were approximately border guards deployed at the time of the meeting.

The Agency established a maritime aerial surveillance project in April 2017 which complements (extended aerial surveillance - 3 planes- in the direction to Tunisia, Sardinia and Algeria) the operational area of Triton. This project enriches early detection and situational awareness. The project, which was initially foreseen for a limited period, is now extended due to its effectiveness.

 - **JO Poseidon** (Implementation until 31 January 2018, Participating MS/SAC:) - operation hosted by Greece, mainly on the national Greek waters, 5 hotspots. Border surveillance, internal security activities, detection of drug smuggling and other cases of criminal activities are part of the results from the JO.

There were approximately border guards deployed at the time of the meeting, including 280 Hellenic police officers that ensure safety and security at the hotspots and return experts.

 - **JO Focal Points (FP) Sea** (Implementation until 30 November 2017, Participating MS/SAC: ; Multipurpose, complementary small operation. Deployed officers in relevant sea ports (at the time of the meeting only Algeciras; to support border checks or coordinate operational activities in an area not covered by Jos).

- **JO Indalo**, hosted by Spain. It covers the Western Mediterranean with the aim of border surveillance but also fight against cross-border crime, drug smuggling and environmental crime. This operation has been adjusted to the needs derived from an increase of irregular migration in the route from Morocco to Spain through the Atlantic.
At the time of the meeting there were officers deployed. Lately it appeared that the migratory flows from Morocco to Spain by Atlantic increased though the route is rougher than Mediterranean. **The JO is going to be extended until 31st January 2018.**
- **JO Hera**, hosted by Spain. It covers the route from Senegal to Canaries Islands. The operation is based on the bilateral agreement between Spain and Senegal. Due to the agreement it is possible to operate in Senegal's territorial waters but without executive powers.
- **Land Border Joint Operations**
 - **JO FP Land** (Implementation until 31 January 2018, Participating MS/SAC: ; MSs together with Frontex identify BCPs to deploy different profiles as to strengthen capacities of BCP, e.g officers trained on detection of irregular border crossing. It is thus a platform to strengthen local border control capacities and to coordinate other activities, e.g. trainings, implementation of VEGA Children handbook.
Currently, focal points are established between the borders Norway-Russia, Finland-Russia, Poland-Belarus and Ukraine, as well as in the Western Balkans
 - **JO FOA Border Checks** (Implementation until 31 January 2018, Participating MS/SAC:). It complements JO FP Land.
 - **JO Coordination Points** (Implementation until 12 December 2017, Participating MS/SAC:). The operation focuses on EU candidate countries to support, transmit and share experience on how the SBC and fundamental rights apply in border activities. It is useful for the enhanced situational picture and sharing of experiences, i.e border guard network on working level
Currently the Agency activated Coordination Points between: FYROM / Serbia, Serbia / Bosnia, Montenegro / Bosnia, Montenegro / Albania and Kosovo / Albania.
 - **JO FOA Border Surveillance** (Implementation until 31 January 2018; Participating MS/SAC:), hosted by Greece, Bulgaria, Hungary and Croatia. The aim is to implement operational activities at the border sections of Bulgaria, Greece - Turkey as well as Hungary, Croatia - Serbia.
- **Air Border Joint Operations**
 - **JO Alexis** (Implementation of Phase 4 of this operation will take place between 31 October 2017 and 29 November 2017, participating MS/SAC:). The operation supports airport capacity to detect document fraud, anti- smuggling and anti-trafficking and is based on RAU and MSs recognised vulnerabilities.
There are 33 air border crossings involved in the operation with up to 10 officers deployed to each of participating airports. Activation of the operation depends on the risk analysis.
 - **JO Pegasus** (Implementation until 31 January 2018, Participating MS/SAC:). Specific deployments depend on risk assessment.
At the time of the meeting there were only one or two teams deployed to Paris, Frankfurt and Nice.
 - **JO FP Air - Regular Officers** (Implementation until 31 January 2018; Participating MS/SAC:). The aim is to exchange operational knowledge on working level.
 - **JO FP Air - Intermediate Managers; low level managers, shift leaders, middle managers in charge of operational issues at airports** (Implementation until 31 January 2018; Participating MS/SAC: 26). The main purpose is to enhance cooperation on managerial level, exchange of expertise, increase improve mutual understanding of working together at EU airports.
- DED's further comments on the operational update:
 - Whereas there is a substantial decrease in figures in comparison with last year, the Agency is facing the following problems:
 - Very limited role of the Agency in the implementation of the EU Turkey Statement.
 - Conditions at Hotspots: Frontex has repeatedly addressed this to the Greek authorities. RIC has been only able to improve some of the conditions; help was received through UNHCR.
 - Routes: experiencing medium size level at the islands and increase at the land border Turkey-Greece as well as bypassing directly from Turkey to Italy.
 - New route: Black sea route from Turkey to Romania (still low figures).
 - Central Med Route: decrease of 20% in comparison with last year. As regards SAR FX participates under the coordination of the Italian MRCC. The Central Med Route is widening up: increased disembarkations from Tunisia and Algeria

- Increased flows along the Western Mediterranean route
 - On 9 November 2017, DED visited the Rapid Intervention Exercise in Bulgaria. Concept: training sessions with the participation of mixed teams in order to achieve adequate level of readiness and professionalism in the rapid reaction pool.
 - Liaison officers in TCs: at the moment, there are 18 (non-binding) working arrangements, LOs deployed to Turkey, Western Balkans and Niger and a long term expert has been deployed to . Upcoming: deployment to Senegal. With regards to the deployment of LOs to MSs, MSs have been clustered and Frontex priority is to 1st establish clusters around the Mediterranean Sea. With regards to Status Agreements, there are, at the moment on-going negotiations with Serbia and FYROM. Negotiations are led by the Commission. Frontex takes part and provides comments in the area of its remit.

With regards to the implementation of CF recommendation on the enhancement of child protection in Frontex, DED mentioned the following initiatives that are currently taking place:

- Development of training material on going.
- Child protection mainstreaming in the FRS
- Child protection video FX-FRA included in pre-deployment briefings
- Final stages of Vega children Handbooks Land and Sea

The CF showed concerns about the current access to information, in with regards to CF effective access to information, DED agreed to follow up on this issue and refer the current MB decision on the transmission to information.

Q&A

1. With regards to JO Triton, what are the changes proposed/discussed to the Operational Plan?

Two meetings with Italy and other MSs took place at Frontex HQ. Discussions will further continue in dedicated working groups as follows:

- Understand requests from Italy
- Identify which issues can be tackled by Frontex and which ones are outside the mandate
- The Operational Plan of JO Triton 2018 should aim at improving procedures, i.e interception, disembarkation at ports, identification and registration as well as on how to better link all those processes with returns.
- By the end of October, Frontex will have concrete suggestions to be included in the Operational Plan.
- JO Triton 2018 is expected to start in February 2018.

The maritime aerial surveillance project is complementary to JO Triton. The CoC for NGOs is outside Frontex' mandate.

2. Are the Focal Points and other complementary surveillance areas covered by Operational Plans?

Focal points are covered by Operational Plans, including clear and specific border control objectives and activities. The maritime aerial surveillance area is regulated by an implementing document, also including objectives and activities. It does not coordinate the operational response but enriches situational awareness, in accordance with Eurosur regulation. In case of detection, information is immediately passed to competent bodies, i.e. ICC, MRCC or the situation room of the fisheries control agency. There is no field deployment with executive power coordinated by Frontex.

3. Is EASO involved in the drafting/revision of Operational Plans? And the FRO?

At the moment, it is not foreseen for other Agencies to be involved in the drafting/revision of Operational Plans. However, there is an on-going discussion on enhancing cooperation between Frontex and EASO, in particular when it comes to working together in operational areas. Operational Plans are intended to be shared with the relevant Agencies prior to the JO implementation.

FRO has a specific role in revising all Operational Plans before adoption.

4. Are there mechanisms in place in case Frontex observes violations of authorities? Can SiRs be submitted to Frontex by external parties?

Frontex has a Serious Incident Report mechanism in place, e.g. for violations of fundamental rights or CoC. In this regards, deployed officers are obliged to communicate immediately to coordinating structures any violation allegedly committed by participating officers. Frontex appoints a Coordinator for the SIRs, and in case of FR violations, the coordinator is the FRO. Frontex also receives information about incidents from CF members, e.g JRS.

When it comes to incidents occurring at the hotspots, in particular in Greece, the Agency has several opportunities to address concerns:

- Talks to representatives of the RICs.
- Weekly partners meetings
- Regular EURTF meetings
- Steering committee meeting on the development of hotspots implementation in Greece

Ultimately, Frontex may consider (and has done so in the past) to directly address the Greek authorities outlining the respective concerns, even if it is not strictly within Frontex' mandate, i.e exchange of views and exchange of letters.

CF Program of Work for 2018

CF Chairs briefly introduced the content of the CF Program of Work for 2018 and welcomed input from DED and MB Chair. The final Program of Work for 2018 will be presented to the Management Board on 22 November.

- Implementation of the Regulation;
- Revision of complaint mechanism rules;
- Fundamental Rights Accountability;
- Fundamental Rights Strategy;
- Gender;
- CF field visits;
- VEGA Children: rolling out in new airports;
- Continuous work on training development in cooperation with TRU;
- Evaluation of the work of the CF. in this regard, MB and DED support the idea and encourage the CF to draft very clear ToRs.

FRO report

a) State of play of the fundamental rights strategy

Moving from the old structure to a new structure based on the Integrated Border Management (IBM) concept:

Preamble

Objectives

Legal framework

General principles

Main activities of the EBCG

Border control

Search and rescue operations

Analysis of the risks

Cooperation between MS

Inter-Agency cooperation

Cooperation with TC

Technical and operational measures

Return of persons

Use of state-of-the-art technology

Quality control mechanism

Solidarity mechanism

Three horizontal topics covering: Fundamental Rights, Education and Training, Research and Innovation

Monitoring

Implementation

The new draft will include positive and negation obligations for Frontex, references to actions and omissions as well as mainstreaming of gender equality and child protection, among others.

Frontex points out that the outline of the reviewed structure, which follows the IBM concept is very much linked to the upcoming IBM strategy, is to be in line with the future Commission's IBM Strategy.

Timeframe: FRS's timeframe is to be adapted to the development of the IBM Strategy. With regards to the IBM Strategy, Frontex can only officially start after the draft is shared by the Commission.

b) FRO reports (full report available in FOSS)

- The report covers the period from 1 March 2017 to 31 August 2017.
- In the reporting period, FRO received 7 SIRs.
- In September 2017, FRO visited the Polish - Belarussian border crossing point in Terespol. The visit was triggered by the alleged restrictions on the access to asylum procedure. Further observations will be provided.
- In March 2017, FRO visited the Hungarian - Serbian border crossing point. The visit was triggered by the allegations of unlawful detection of persons in the transit zones, collective expulsions and possible violations of the rights of children.
- Concerning operational activities of the Agency, FRO continuously revise operational plans. Currently, the focus is put on obtaining referral questionnaires. FRO team works on the creation of the fundamental rights indicators to be used in the evaluation process. Fundamental rights indicators shall be complementary to the impact assessment covering the whole operational cycle.
- FRO continuously contributes to the nomination process of forced-return monitors deployed from the pool. As foreseen in the EBCG Regulation, FRO prepares observations on forced-return monitoring reports submitted after each forced-return operation. Currently, FRO is in the process of drafting the report covering 1st semester of 2017. FRO further contributes the FReM II project organized by the ICMPD.
- In the reporting period FRO contributed to the Training for Maritime Border Surveillance, Training for Fundamental Rights Trainers, CCC - ML, Child Protection, Forced Return Monitors Training (last one took place in July).
- Since the establishment of the Frontex individual complaints mechanism FRO received 15 complaints, out of which 4 were decided admissible and are further processed. Majority of inadmissible complaints relates to the complaint does not relate to Frontex activities. The complaints case management system was finalised. In May 2017 Complaints Assistant joined the FRO team.
- FRO participated in 2 consultations with OHCHR dedicated to torture or inhuman and degrading treatment or punishment, with main objective to discuss possible tools for early identification of the victims of torture or inhuman and degrading treatment or punishment at borders.

Q&A:

1. Situation in Hungary and CF recommendation

The low number of SIRs received in Hungary might be due to the reduced number of the deployed officers. DED reminds the CF that there are SoPs in place for reporting and that, after CF recommendation, Frontex has reduced the number of deployed officers, being at the moment just 6. The Consultative Forum, however, reminds Frontex of the systemic failures in the Hungarian system that has prompted the Commission to start an infringement procedure. Therefore, the Consultative Forum considers its recommendation to be still valid and invited the Executive Director to re-evaluate the situation.

Frontex cooperation with third country cooperation: Serbia, Turkey, Niger

Frontex is deploying officers in TCs in order of priority, i.e North Africa, West Africa; LO to Dakar, LO to Senegal - probably beginning of 2018, LO to Tunis, after positive opinion of the Commission and approval by MB.

LO to Western Balkans

Deployed to Belgrade on September 2017. She received fundamental rights training as part of her pre-deployment training. She has visited several BCPs in the region and reported high level of inclusion of Fundamental Rights issues

during Frontex trainings and seminars throughout the region. She has also visited reception centres in Serbia and FYROM where fundamental rights are taken seriously and where numerous NGOs and IOs are active in providing the adequate conditions for the migrants, refugees, children sheltered in centers. Also about 500 migrant children attend school in Serbia. UNHCR sources reported sporadic collective returns conducted from neighbouring EU MS; FLO herself has not received any report or witnessed any. TC officers have shown interest for Frontex manual on fundamental rights for border guards to be translated into local languages. UNHCR has offered support in editing and translating the manual.

Q&A

1. How do you report incidents?

LO reports and provides relevant information received from the partners directly to HQ. At the HQ, a SIR will be initiated if deemed necessary and follow up actions are undertaken. At the moment Frontex is working on a standardised reporting template for all LOs in order to ensure horizontal compatibility.

CF welcomes this and encourages Frontex to also work on a follow up mechanism.

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Frontex cooperation with Turkey is most advanced in the area of Risk Analysis and Joint Operations. Based on the Memorandum of Understanding, both, Frontex and Turkish authorities have defined activities till the end of 2019 (cooperation plan). Cooperation to promote Frontex standards, insight into how Frontex works. It is mostly focused on activities where Frontex can immediately contribute to, i.e. training, risk analysis, information sharing,.

Q&A

1. Is there cooperation with FRO in the development of cooperation plans?

FRO is involved in early stages and in the implementation phase if related to fundamental rights aspects.

2. What are the safeguards in place when TC officers observe JO?

Whenever Frontex requests observers for any mission, Frontex tries to identify the adequate participants who have the proper profile and training required for the specific type of tasks.

Action Points

- Frontex to inform the CF about next steps/timeframe of the consultation on the revision of the Fundamental Rights Strategy and IBM Strategy.
- DED to discuss with ED and Cabinet about CF effective access to information, following up on CF Chairs meeting with the Head of Cabinet on 10 October 2017.
- ED/DED to re-evaluate the situation in Hungary and inform the CF about the results.
- CF to draft work programme and present it at the MB meeting on 22 November 2017.