

Ethical issues specific to border guarding

This second part of the study catalogues the ethical rules, or precepts, that regulate the conduct of border guards in the Schengen area and on Frontex cooperations. These have been drawn from the following documents:

- National Codes of Conduct
- Schengen Borders Code
- Schengen Handbook
- Updated Schengen Catalogue
- EU Council Decision supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of the operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders.

1. Openness to Travellers

All travellers have a right to be informed, in a language they can reasonably be expected to understand and in a manner that is polite and respectful, of both the nature of any control they are subject to and their rights in relation to that control.

2. Data Processing

All recording, processing, storage, sharing and accessing of data should be undertaken by authorised individuals and with respect to the privacy laws of the relevant state.

3. Record Keeping

Border guard units must record all service information and other important information, not only to prevent illegal immigration and protect the internal security, public policy, public health and international relations of member states, but also to ensure that people's rights are respected, that border guards are accountable, and that corruption is detected and prevented.

4. Conduct of Questioning

Border guards should pose questions in a way that respects the dignity of all travellers, especially vulnerable groups, and should not interrogate the traveller as a potential criminal or illegal immigrant.

5. Refusal of Entry Including Illegal Immigration and Asylum

Entry may only be refused by a substantiated decision stating the precise reasons and grounds in law for the refusal. Border guards should provide individuals refused entry with authoritative evidence of that decision and with information about their rights to appeal and how to exercise them.

6. Detention

People should be detained as a last resort, only for as long as is absolutely necessary, and in conditions appropriate to their particular circumstances.

7. Use of Force

Border guards must use force only when necessary. The use of force should be proportionate to the aims of the task.

8. Surveillance

Surveillance of travellers should be proportionate and planned according to risk analysis.

9. Asylum Seekers and Refugees

Border guards should respect and protect the right of individuals to seek asylum and should apply the principle of non-refoulement, protecting people against their return to places where their lives or freedoms could be threatened.

10. Victims of Trafficking and Exploitation

Border guards should attempt, in the course of their duties, to identify persons who have been the victims of trafficking or exploitation and to ensure that their rights are protected. The victims of trafficking should be treated with special care.

11. Children

Border guards should both treat children first and foremost as children, rather than merely as, for example, illegal immigrants or asylum seekers. They should act as far as possible in the best interests of the child.

12. Missing Persons

An adult person identified as reported missing must be asked for prior consent before informing the party who reported him/her as missing.

13. Receiving or Handling Money

While on duty border guards should handle money only when it is an object for seizure or use in criminal proceedings. Verification of sufficient means of subsistence should not require border guards to handle money.