

10th Meeting

Frontex Consultative Forum on Fundamental Rights

MAIN POINTS OF DISCUSSION

Date:	12 May (09:00 - 14:00) - Formal meeting
Venue:	CCME premises 174, Rue Joseph II B-1000 Brussels
Contact:	Secretariat @frontex.europa.eu Tel: +48 22 205 9550
CF Chairs	[REDACTED] Jesuit Refugee Service (JRS)
CF members	[REDACTED] Red Cross EU Office [REDACTED] Amnesty International European Institutions Office (AI EIO) [REDACTED] [REDACTED] European Union Agency for Fundamental Rights (FRA) [REDACTED] United Nations High Commissioner for Refugees (UNHCR) [REDACTED] Churches' Commission for Migrants in Europe (CCME) [REDACTED] European Asylum Support Office (EASO) [REDACTED] Platform for International Cooperation on Undocumented Migrants (PICUM) [REDACTED] [REDACTED] International Organization for Migration (IOM) [REDACTED] Caritas Europa (CE) [REDACTED] Council of Europe (CoE) [REDACTED] ed Cross EU Office <u>Absent:</u> [REDACTED] OSCE Office for Democratic Institutions and Human Rights (OSCE-ODIHR) replaced by [REDACTED] OSCE Office for Democratic Institutions and Human Rights (OSCE-ODIHR) [REDACTED] International Organization for Migration (IOM) [REDACTED] European Council on Refugees and Exiles (ECRE) replaced by [REDACTED] European Council on Refugees and Exiles (ECRE) [REDACTED] the Advice on Individual Rights in Europe (AIRE Centre) [REDACTED] United Nations High Commissioner for Refugees (UNHCR) [REDACTED] International Commission of Jurists (ICJ), replaced by [REDACTED] ICJ)

Management Board	Marko GASPERLIN, Chair of the Management of Board
Frontex	Berndt KÖRNER, Deputy Executive Director [REDACTED] Fundamental Rights Officer [REDACTED] Adviser to Fundamental Rights Officer and Consultative Forum Secretariat [REDACTED] FRO intern

FORMAL SESSION

1. Welcome and introduction

- Frontex Deputy Executive Director (DED) Berndt Körner welcomed the participants and conveyed greetings from Executive Director (ED) Fabrice Leggeri who could not attend the meeting due to other assignments.
- Frontex Management Board (MB) Chair Marko Gasperlin was also welcomed. He pointed out the need to commonly identify areas of interest and further encourage MB members to consider the CF as a source of expertise on fundamental rights proactively requesting its advice. Also, he asked the CF to consider the needs of the MB in the planning of CF activities.
- With regards to the EBCG Regulation, DED and MB emphasised the need to wait for a more concrete and further developed text before discussing CF involvement on its implementation.
- It was agreed that the CF Annual Report 2015 will be distributed at the 59th MB meeting in June.

2. EBCG Regulation

- *State of play:* the Council made up its negotiating position. Discussions are currently ongoing in the EP. EP is expected to vote on the 24th or 30th May. Trilogue will start afterwards. DED foresees the new Regulation to be ready either before or immediately after summer break.
 - There are certain issues which will be probably included in the final text, such as SAR, vulnerability assessment, and extended role of the MB and a complaint mechanism.
 - Internally, FX will set up an “implementation project” with a dedicated project manager and divided in different working groups.
- **CF requested** FX to consider CF involvement at a very early stage of the implementation. This would on the one hand, facilitate CF planning and, on the other hand, allow for a greater impact of CF advice.
- **CF remarked** the need to devote time/resources to include fundamental rights safeguards also in FX structure and internal procedures (planning, strategies etc.)

Action points

- FX to assess involvement of CF, possibly within the internal implementation project.
- In coordination with the MB Secretariat, copies of the CF Annual Report will be distributed to the MB members during the 59th MB meeting in June.

3. Update operational activities (see brief overview in Annex I)

- Overall arrival figures are much higher than last year.
- There is no alternative route to the Turkish-Greek border (yet).
- The Central Mediterranean route is rising, in particular persons leaving from Western Egypt and Eastern Libya. However, the composition of the groups does not match the composition of the groups that use the Eastern Mediterranean route.
- Frontex operations are focused on the Eastern and Central Mediterranean routes.

3.1 Frontex activities in Greece

a) Poseidon Rapid Intervention

- Poseidon Rapid Intervention has been extended until the end of May in order to synchronize the operation with measures possibly to be taken in Brussels. FX has presence at the EURTF in Piraeus as well as on the islands of Lesbos, Chios, Samos, Kos and Leros.
- Afterwards, Poseidon Rapid Intervention will be substituted by “classic” JO Poseidon Sea on 1 June.
- There is an increasing problems related to the security situation on the islands: riots in Samos, Chios and Leros. FX is pressing the Hellenic Police to take measures to have the situation under control. There is also a need to clarify structures and responsibilities within the centres. The implementation of the new security strategies is still pending.
- Look for/head towards a multifunctional profile of FX deployed officers which helps to reduce the required number of staff.

Readmissions (as part of Poseidon Rapid Intervention Operational Plan)

- **Modified ED-decision with more flexible interpretation of the wording “joint return operations”** (FX Regulation) makes it now possible for FX to carry out operations under particular circumstances also from one country only. CF raised questions with regards to whether it is possible for the ED to interpret the FX Regulation. MB points out that the amendment was developed by the LAU and there was political consensus among MSs in regards to this new interpretation, as it allows for greater flexibility.
- DED confirms that there are **no operational differences** between readmission and return operations.
- *Personnel*: after council conclusions, FX was requested to deploy 1500 officers from one day to another in order to start running readmissions. A similar message was sent to EASO and Europol. At the moment, FX received pledges for 790 officers and deployed 496. As a rule, readmissions are, due to security reasons, organized with one escort per returnee. Deviations are possible according to security assessment.
- FX has also deployed a field press officer in the area.
- *Assets*: FX made the decision to use for readmissions, due to security, small and closed ferries with a reasonably fast speed (easier to handle and shorter duration of trips).
- *Operation*:
Operational Plan: it contains a written approval from Greek authorities to commit to certain issues, such as monitoring or the fact that every returnee should have been issued with a return decision/individual assessment.
Implementation: until now there have been two requests for readmission. Based on agreement between all entities involved, there are five points of departure in EL and four points of arrival in TK. As the number of asylum applications had a great impact on the FX operations, FX is currently reducing the number of deployed officers (adapting to the actual needs). Ferries are procured on a stand-by basis.
 The political expectation currently outweighs what is practically achievable due to the operational circumstances/capabilities.
 FX ensures that FX operations comply with fundamental rights standards in close cooperation with FRO and considering FRA recommendations.
 FX does not follow up on what happens to those returned to Turkey.

b) Idomeni

Frontex activities in Idomeni are limited to support registration processes. There are 8 FX deployed officers. FX is concerned about the lack of infrastructure and its limited mandate to registration. In this regard, FX has formally asked for a change of mandate and acceptance of a more broad support, but this was rejected by the Greek authorities.

c) Challenges

- Deteriorating security situation on the islands, in the port of Piraeus, in the area of Athens' former airport *Ellinikon* and in Idomeni.
- Questions whether to build new infrastructure or go into the reception centres despite of the security concerns.

- DED acknowledges that in order to fulfil the readmission as well as asylum component of the EU-Turkey agreement additional accommodation would be needed.

3.2 JO Triton

- The number of deployed experts have been increased. There is a need to improve the distribution of assets and border guards.

3.3 Hotspots

- The official opening of EURTF Catania gives FX the possibility to work in a more up to date environment and closer coordination with EU Agencies. There are still challenges with regards to hotspots since some of them are not fully opened yet and disembarkation does not take place where hotspots are located.
- The hotspot centres are coordinated by a specially appointed EU coordinator with office in Athens. There are weekly steering meetings with EASO, FX, Europol as well as the French, German and UK delegation and sometimes FRA. Frontex and EASO are always present at the local level and also via videoconference with the central authorities. These meetings are also attended by the Hellenic police, coast guards and authorities from the Ministry interior.
Persons are not able to leave reception centres during the first 25 days. This creates a critical situation in terms of security and hinders the smooth management of the centres. The security situation is fully in hands of the Hellenic Police. Greek authorities have only requested financial assistance to FX.
- Greek authorities decided, on the one hand, to reallocate persons from islands to the mainland and, on the other hand, to change the nature of the centres to closed centres. FX did not have any influence in that decision.

3.4 Return activities

- FX involvement in return is increasing. By the end of May, the overall number of return operations are expected to reach the number of returns during the whole 2015.
 - As Frontex Return Sector Unit indicated plans to work on voluntary returns, there is, from an operational perspective, the need to discuss the role of FX in assisting voluntary returns.
 - DED sees FX role in return more connected with the organisation and financing of return operations, training escorts and thus guaranteeing the common standards, contact with the countries of origin (e.g. facilitating identification-procedures) and the possibility of facilitating the process of obtaining travel documents.
 - With regards to the national return procedure/decision, MB has no power to interfere. It is in the realm of MSs responsibility.
- CF points out the difficulty to distinguish between voluntary and forced return and, at the same time, the need to clearly separate both of them in terms of implementing the return operation. CF insists on the importance of not only pre-departure assistance but also, and most importantly, post-arrival assistance to ensure sustainability and reintegration.

3.5 Western Balkans

- FX capabilities are limited due to the current mandate. The Frontex areas of concern are the Bulgarian-Serbian border as well as the Serbian-Hungarian border. With the new mandate, FX will be able to cooperate in the area in a much better and more efficient way.
- Implementation of IPA II project: fact finding missions have started to update the program and tailor activities.

3.6 Cooperation with TCs

- Since 1st April, FX has a LO in Ankara. The benefits of the deployment are quite visible. FX is getting more reliable and clear feedback on movements, activities on the Turkish side.
- FX has also already identified the Western Balkans, and Western and Northern Africa as possible areas for a future deployment of LO (more in depth study on the areas ongoing; concrete decision yet to be taken).
- Working Arrangement with Kosovo to be signed on 25th May.
- Cooperation allows for the transfer of FX fundamental rights standards to the work of TCs authorities;

3.7 Cooperation with NATO

- NATO deployment in the Aegean Sea is outside FX operational area and it is limited to surveillance and reconnaissance. NATO cooperates with Turkish authorities.
- Two weeks ago, FX deployed a LO in NATO's flagship in order to facilitate exchange of information. For the time being, there is no interference or influence in FX operations.
- EUNAVFOR MED operation Sophia: there is no active cooperation in regards division of work, just exchange of information.

3.8 Cooperation with EASO

- FX is considering the possibility to host an EASO LO to Frontex.
- **CF suggests** FX to support EASO in pre-deployment briefings considering FX vast experience on this.

3.9 CF concerns and identified risks

a) CF concerns:

- **Legality** of EU-Turkish agreement and whether it is in compliance with international law.
- Ensure that **FX CoC for JROs** and other safeguards applied in JROs are fully applied to readmissions. Therefore, readmissions shall be treated as returns.
- The increasing interest in upgrading the level of Frontex JROs v. decreasing traditional assisted voluntary return programmes.
- Situation of returnees. Suggestion: to develop a monitoring system to be able to know what happens to people return to Turkey.
- FX being involved in returns of persons who might have not been issued with a **return decision**. Suggestion: ensure that every person who is returned to Turkey from Greece has been issued with a return decision from a formal point of views, therefore without entering into the merits.
- **Conditions** at the "reception" centres: de facto detention centres and lack of capacity. The coordination of the centres directly impact FX work.
- Need to increase training and capacity building activities, especially in Greece. Suggestion: short term trainings on spot.
- Need to boost incident's reporting system from the hotspots.
- FX role in **screening/pre-identification activities**: lack of safeguards to prevent wrong nationality assessments. Persons should be given the possibility of de facto being able to overturn a decision. FX nationality assessments are key in the later national procedures.

b) Identified risks:

- FX to develop a *Greek specific operational model* lowering FX own standards and that for some reasons are not applied in Greece.
- If readmissions are not treated as returns there is a risk to elude the application of already developed good standards for JROs.
- The operational needs/focus might hinder the training and capacity building component in Frontex activities.

- FX is not only an Agency that should respect FR but also promoteing FR. This should be particularly enhanced in Greece.

Action points

- FX to provide extract from Operational Plan which includes safeguards in readmission procedures before CF visit to Greece;
- FX to provide data on the number of returned in JROs and readmissions;
- DED to discuss with LO turkey how to get information about the persons readmitted in Turkey;
- Memorandum of understanding between Frontex and Turkey (2012) available at Frontex [website](#). CF to assess whether to request cooperation plan with Turkey 2013-2016.

4. FRO report (see report in Annex II)

- **Follow up incident reported on February (CNN video):** Greek authorities denied the allegations. FRO did not received information about further investigations. DED points out that there has been a major change of people within the Hellenic Police and Hellenic Coast Guard and that there is a visible and pro-active approach to clean up.
- **Incident regarding the vigilante group in Bulgaria:** CF requested MB to forward a clear message that vigilante reports are not allowed to take over law enforcement work.
- **Incident reporting:** FRO considers the Serious Incident Reports (SiRs) as the current basis for the FX fundamental rights monitoring mechanism. The system is however not finalised and needs to be revised and enhanced. FRO is currently mapping all SiRs to facilitate the follow up. The follow up takes often more informal than formal meetings but still requires formal reporting.
CF considers that FX presence on the ground can serve as a vector of fundamental rights compliance. Considering the importance of SiRs, CF requested FX to:
 - Enhance incident reports trying to trigger that more information/details are included;
 - Encourage staff and GOs to report;
 - Assess how the information included in the reports is used to prevent violations.

Action points

- MB to bring the issue of reporting, investigations and follow up to the MB meeting. FRO to support;
- DED, in its pending letter to Bulgaria, to include a reference to the vigilante group incident;
- CF encourages ED/DED and/or MB to include references to CF points/concern in correspondence with MSs.

**All abovementioned Annexes are available in FOSS and at request to the CF Secretariat.*