

## 16<sup>th</sup> Meeting Frontex Consultative Forum on Fundamental Rights

### Main points of discussion

Date:	17 May (13:30- 17:15)- Meeting with Frontex Deputy Executive Director and Chair of the Management Board
Venue:	Red Cross EU Office Rue de Treves 59-61 - Brussels
Contact person:	Secretariat <a href="mailto:frontex.europa.eu">frontex.europa.eu</a> Tel: +48 22 205 9550
CF Chair	[REDACTED] United Nations High Commissioner for Refugees (UNHCR) [REDACTED] Jesuit Refugee Service (JRS)
CF members	[REDACTED] Red Cross EU Office [REDACTED] Amnesty International [REDACTED] European Institutions Office (AI EIO) [REDACTED] Jesuit Refugee Service (JRS) [REDACTED] [REDACTED] European Union Agency for Fundamental Rights (FRA) [REDACTED] Churches' Commission for Migrants in Europe (CCME) [REDACTED] Platform for International Cooperation on Undocumented Migrants (PICUM) [REDACTED] Save the Children EU Office [REDACTED] International Commission of Jurists (ICJ) [REDACTED] European Council on Refugees and Exiles (ECRE) [REDACTED] [REDACTED] (IOM) [REDACTED] The Advice on Individual Rights in Europe (AIRE Centre) [REDACTED] [REDACTED] Council of Europe (CoE) [REDACTED] Amnesty International [REDACTED] EASO) <a href="#">Absent</a> [REDACTED] European Union Agency for Fundamental Rights (FRA) [REDACTED] International Commission of Jurists (ICJ) [REDACTED] EASO) [REDACTED] OSCE Office for Democratic Institutions and Human Rights (OSCE-ODIHR)
Management Board	Marko GASPERLIN, Chair Frontex Management Board
Frontex	Berndt KOERNER, Deputy Executive Director [REDACTED] Executive Advisor [REDACTED] Coordinating Officer [REDACTED] Liaison Officer Brussels  [REDACTED] Fundamental Rights Officer

## Meeting with DED and MB Chair

### Welcome remarks

- During the last MB meeting the CF Chairs presented the Annual Report 2017. MB Chair acknowledges the recommendations and ensures continued fruitful cooperation.
- MB Chairs explain that during the meeting there was a proposal to host a MB meeting in Hungary. The majority of MB agreed that, instead, the CF could be invited to visit Hungary. If this invitation comes, it will be up to the Forum to decide.
- CF appreciates feedback and notes the many risks foreseen in responding to a potential invite from Hungary (including the fact that the CF recommendation is already based on solid information and the mandate of the CF which is not that of monitoring MS practice) as a result of which the CF would decline the offer.

### DED operational update (see ppt)

#### Q&A

- CF recalls that Commission is encouraging returns but very high expectations in terms of number which is difficult to perform in practice.

DED: Agrees concerning the discrepancy between number of return decisions and effective returns and that statistics are to be brought in line with each other. EASO figures on return rates are to be cross-checked with Frontex and MS data as they do not match. Returns are under the responsibility of MS and Frontex offers support if requested.

- Some CF members noted the continuation of credible reports about push-backs from Greece to Turkey on Evros.

DED: Senior management is aware of the situation, had a call with Hellenic authorities but no concrete feedback received. FRO confirms that there are no SiRs, only an article from the press alerting on the situation. FRO sent a request for information to the Hellenic authorities and can confirm that there is no incident reported from the staff.

- CF asks if there is knowledge of prevention of departures in this particular case.

DED: No.

- CF raises concerns about the impact that MAS might have on prevention of departure in Libya. CF asks for more details about potential cooperation with Libyan coast guard and in the framework of Themis.

DED: As regards Libya, there are no direct contacts between the Agency and Libya.

, measures are taken up by EUNAVFORMED Sophia. As regards MAS detection of several vessels reported migrants to MRCC Rome. Coordinating officer: understands concerns regarding MAS but recalls that exchange of information in this framework would anyway be against Eurosur regulation.

- CF asks Coordinating officer to confirm that no one was taken to Libya in this framework.

Coordinating officer: Confirms. In addition, explains that concerns have been expressed about the place of disembarkation being elsewhere than hotspots.

- CF asks whether FX has a legal responsibility on this.

Coordinating officer: No. Recalls furthermore that now most of the disembarkations are done in hotspots. DED: in this context, important to recall that FX shall respect the EU Regulation 656/2014.

- Save the children has received alarm on the situation in Bosnia. In light of the changing routes in the Balkans, asks what the prospects for FX deployment are there.

DED: Confirms increased deployment to Greece. In Balkans, status agreements are under negotiations.

### Frontex engagement with TC, focus on Niger

DED explains that updating of working arrangements are in progress (to be finalized soon). Requests from several international organizations to enter into working arrangements with FX but needs to be assessed. The cooperation with Turkey at operational level is working well, however the renewed cooperation plan is pending approval by the Turkish Authorities.

Niger: LO is well

established and regularly provides reporting; good contacts also maintained with EU authorities there. EUCAP-Sahel Mali is also an important security actor in that region. Regarding deployment of LOs to MS, processes on MoUs as well as recruitment procedures underway.

TC engagement in general: an international strategy 2018-2020 was adopted and a governance structure within Frontex is being established to oversee implementation. Technical assistance projects with TC: IPA project phase II. AFIC: project running well; project of DG Near, called EU4Border Security in the Mediterranean region is yet in conceptualization phase.

- CF asks whether, prior to working arrangements, FX does an assessment of the human rights situation in these TC?

DED: no formal assessment of the human rights situation is done by Fx, but when elaborating of the details of the working arrangements; advice by EU services always sought and Fx Risk Analysis entity also provides its assessment.

### **Revision of the FRS and IBM Strategy: state of play and potential engagement with CF**

DED: FRS will be interlinked with the IBM strategy

IBM Strategy: conclusion of the environmental analysis, compilation of information available and materials. A workshop with MS and later with other international actors is envisaged. Draft to be ready in summer. Beginning of autumn to be communicated and then bring forward to the MB. Intention is to adopt both strategies in the last MB in 2018.

FRS: DED explains that a full round of Units contributions has been received and it is hoped that the two processes (IBM and FRS) will run in parallel. Internal deadline is end of the year. Once a solid compilation is available, consultation with the CF will be undertaken.

CF expresses concerns as the IBM process is technical and new to most of CF members. Asks to have a concrete timeline, and background at an early stage to be able to be well prepared.

DED also notes that Frontex will hold a follow up meeting of returns with EASO and the MS to which UNHCR will be invited.

### **MFF**

MB Chair explains that it was proposed to discuss the consequences of the MFF proposal on the development of Frontex as topic for the MB meeting but the Commission found it premature. Information about the COM proposal will be provided to MB in June. The proposed deadline for the adoption of the new (extended) mandate of the Agency is May 2019. MB explains that they have reached the upper level of available resources in MS. The aspects on human and financial resources under the new MFF will need to be further assessed as to see whether the model being applied can be effective for the future. Frontex has not been involved in the consultations before the COM came with MFF. The vision/budget does not match with the current regulation.

#### **Actions Points**

- CF to be consulted in both, FRS and IBM. The sooner CF can have an idea of how this consultations would look like, the better for meaningful contribution from CF.
- DED to meet consultants on the impact to fundamental rights of Frontex engagement with TCs

## **FRO report**

Presentation of the FRO report and following conclusion for Senior management:

- On CM rules FRO urges Senior management as notification to the EDPS is required.
- FRO proposes to strengthen liaison on child-related question and gender mainstreaming and more generally on vulnerable groups.
- FRO looks forward to receive comments to the FRS to further continue working on the Action Plan.

CF comments of the two reports:

- FR-related objectives in Operational Plans: objectives with indicators incorporated into the Operational Plans would foster a common understanding.
- Expresses concerns about FRO not being granted access to Eurosur anymore. Need to work out some rules on regulating the access.
- On SIRS, would recommend that, if MS do not follow-up, ED is personally informed to take over the follow-up.

#### Q&A

- **CF expresses concern regarding the absence of SIRs directly reported by officers on fundamental rights issues for over a year. This is a particular concern given their presence in areas where FR violations are occurring at borders (ref to wide range of public reports including from UNHCR).**
- **FRO access to Eurosur**

MB and DED: the issue was discussed during MB meeting and they agree a solution will be found for FRO to have effective access.

- Are SIRs triggered by monitors? What is the about the follow-up with the complainant?

FRO: monitors don't have access to FSC information. FRO adds that there is a need to design a system by which serious incident can be reported during return operations (reporting mechanism). Concerns about the situation in MS which hinders the process: mapping of complaints authorities difficult because some MS don't have clarity about the system (easy and direct contact only for Ombudspersons). In all cases, FRO notifies the initial reception of the complaint and inform the complainant about admissibility. In case of admissibility, the FRO keeps frequent contact with the complainant to inform the complainant about the progress. A flow chart is to be designed in this regard.

- Once finalised, such list could be made public as this would increase accountability.

FRO will explore this the proposal.

- How returnees are informed about the CM?

FRO: information about the CM is included in the package of the implementation package of the return operation. Nevertheless, Senior management needs to clarify who is the person in charge of such information in the flight. Disagree with the fear expressed by European Centre for Returns that more information about the CM is likely to drastically increase the number of complaints (if well explained that CM is about the conduct of staff). Necessary for Senior Management to engage in this topic as is required by the Regulation.

DED: searching for manageable and technically feasible way to pass information; a solution implemented in Austria has been made available; issue is being worked on.

FRO: informed that concerning the CM, application for an IT solution is being designed (avoid use of paper documents and the issue of transmission)

DED: No opposition to such mobile application but need to continue internal discussions. Information about the status quo can be provided to the CF in writing.

- Concerns on the situation with Croatia. Returnees are forced to pay for the costs of removal. If they don't, they are banned to re-enter Croatia for 5 years. Proposes to send report to be sent to ED and to FRO.
- State of play of the child protection strategy.

FRO: foresees specific point on child protection in the Action Plan, pending on Senior Management communication about the FRS.

#### **Action points**

- FRO to share Annual Report on complaints with CF
- CF suggests to have this list of national authorities to which complaints have been sent public/ website.
- Frontex is evaluating the SIR mechanism - reflection on how to ensure reports on FR violations are made to be considered by Frontex in consultation with FRO.

## **Other business**

It is noted that the current mandate of the CF ceases by the end of this year. However, the CF evaluation is yet to be conducted and its results will be important for the civil society organisations in the CF to consider a new application for membership. MB Chair suggests that Frontex checks whether there are any legal obstacles against an extension of the current mandate for another half year, and, if this is not the case, he will make a corresponding proposal to the MB.

**Action points**

- Extension of CF terms of office for 6 months, i.e. 30 June 2019 if legally possible
- Letter to MB requesting extension of mandate for 6 months in consultation with Legal Affairs and Procurement Unit.