1. EXECUTIVE SUMMARY ................................................................. 4
2. INTRODUCTION ............................................................................. 8
3. ROLE AND COMPOSITION .......................................................... 20
4. FUNDAMENTAL RIGHTS SAFEGUARDS ........................................ 26
   4.1 Internal safeguards ................................................................. 27
       4.1.1 Consultative Forum ......................................................... 30
       4.1.2 Fundamental Rights Officer .......................................... 31
       4.1.3 Fundamental Rights Monitors ....................................... 35
       4.1.4 Fundamental Rights Strategy ....................................... 38
       4.1.5 Supervisory mechanism on the use of force .................. 41
       4.1.6 Complaints mechanism and Serious Incident Reporting ... 44
       4.1.7 Due diligence ............................................................... 45
   4.2 External oversight ................................................................. 48
5. FUNDAMENTAL RIGHTS IN FRONTEX ACTIVITIES .................... 54
   5.1 Frontex support to EU countries .......................................... 55
   5.2 Child protection and safeguarding in the activities of the Agency ... 58
   5.3 Fundamental Rights implications of Frontex engagement with third countries ................................................................. 60
   5.4 Aerial surveillance ............................................................... 64
   5.5 Extended return mandate .................................................... 70
       5.5.1 Return monitoring & Pool of forced return monitors ......... 72
   5.6 Capacity building: Recommendation on Frontex training activities 74
6. ANNEXES .................................................................................... 80
   ANNEX I: Activities ................................................................. 81
   ANNEX II: Frontex consultations ............................................... 83
   ANNEX III: Requests for information by the Consultative Forum ...... 85
   ANNEX IV: Consultative Forum Work Programme 2020 ............... 93
       I. Introduction ........................................................................ 93
       II. Priorities and activities ..................................................... 94
EXECUTIVE SUMMARY
This report provides an overview of the Consultative Forum’s activities in 2020. It outlines the main observations and recommendations shared throughout the year with Frontex and its Management Board with a view to strengthening fundamental rights protection in the activities of the European Border and Coast Guard Agency FRONTEX (hereinafter referred as «the Agency» or «Frontex»).

The entry into force of Regulation 2019/1896\(^1\) in December 2019 prompted Frontex to dedicate the year 2020 to the implementation of its expanded mandate. Compliance with Regulation 2019/1896 requires the establishment of new fundamental rights safeguards, policies and procedures, and the reform of several existing ones. These include the recruitment of 40 Fundamental Rights Monitors, the adoption of a Fundamental Rights Strategy, the establishment of rules of independence for the Fundamental Rights Officer and his/her staff, the establishment of a due diligence procedure including to operationalize Article 46 of Regulation 2019/1896 on decisions to suspend, terminate or not launch activities; the establishment of a supervisory mechanism for the use of force; and the reform of the Serious Incident Reporting and individual complaints mechanisms.

Although the changes introduced by Regulation 2019/1896 offer strong tools to establish a comprehensive mechanism to monitor fundamental rights compliance, detect potential violations and follow up on them, significant delays in implementation resulted in substantial gaps in fundamental rights monitoring.

The allegations of Frontex’s involvement in several pushback incidents at the EU’s external borders in 2020 further highlighted the numerous gaps and risks which the Fundamental Rights Officer and the Consultative Forum had already pointed out in previous years. They underscored the urgent need for progress on the Consultative Forum’s longstanding advice to Frontex to treat fundamental rights as a matter of priority to promote lawful implementation of the Agency’s new responsibilities. The adoption of a rights-based approach in all the Agency’s policies and procedures is a legal requirement, not an option.

Action is needed to ensure compliance with Article 80(4) of Regulation 2019/1896, which provides that “In the performance of its tasks, in its relations with Member States and in its cooperation with third countries, the Agency shall take into account the reports of the consultative forum referred to in Article 108 and the reports of the fundamental rights officer.” It is important to underline that the Agency’s executive management regularly receives fundamental rights advice and constructive recommendations regarding its activities, policies and procedures, via its Fundamental Rights Officer, who has a monitoring mandate, and via the Consultative Forum. The Agency should step up its efforts to communicate to the Fundamental Rights Officer and to the Consultative Forum to what extent such advice is considered and should provide a justification if it is not.²

While the Consultative Forum welcomed the establishment of a Working Group³ by the Management Board to conduct a specific

---

² See questions 17 and 18 from the LIBE Committee on 1 December 2020, available at: www.statewatch.org/media/1709/eu-frontex-written-questions-answers-libe-hearing-1-12-20.pdf

inquiry on pushback allegations in the Aegean Sea, Frontex still needs to establish a sound procedure within the Agency to launch investigations and to handle allegations of fundamental rights violations, as required by Article 46 of Regulation 2019/1896. The implementation of such a procedure requires fundamental rights expertise from the outset. It should be designed under the leadership of the Fundamental Rights Officer, to whom the Regulation assigns an explicit mandate to carry out investigations. The Working Group and the recommendations it set out provide momentum for a substantial shift towards placing fundamental rights at the core of the Agency’s activities.

As much as an internal fundamental rights monitoring mechanism is required, external oversight bodies, such as the European Parliament, remain crucial to ensure a greater level of accountability and transparency.

INTRODUCTION
The year 2020 marked an extremely challenging time for the management of the EU’s external borders and the fundamental rights of migrants, asylum seekers and refugees. The COVID-19 pandemic exacerbated existing challenges at the EU external borders, but also led to new approaches and innovative solutions.

Overall, the outbreak of the COVID-19 pandemic had a significant effect on most aspects of migration management and asylum systems. Beginning in March 2020, States introduced a variety of measures to curb the spread of the virus, such as lockdowns, travel bans and border closures. While there was and remains a clear public health imperative, many of these measures caused hardships to travellers and disruptions in asylum application procedures, in Dublin procedures and in return and resettlement operations worldwide.4

As EASO reported,5 the pandemic also affected Member States’ asylum and reception systems, forcing national authorities to find new ways of working. With fewer new applications and the use of new methodologies to process asylum applications, the backlog of pending cases dropped significantly.6

The European Asylum Support Office plays a key role in the implementation of the Common European Asylum System (CEAS) by fostering practical cooperation on asylum and reception, and providing operational and technical support to Member States facing particular migratory pressure. Though EASO’s mandate relates to asylum, it has close interlinkages with the work of Frontex on borders. The following activities by EASO in 2020 serve as illustration.

Despite the challenges presented by the pandemic, EASO continued to provide operational support in four Member States of first arrival (Greece, Cyprus, Italy and Malta), delivering about 157,000 workdays of operational support. This included assistance with information provision, registration, reception, assistance with backlog reduction and processing (both at first and second instance) as well as support provided to the Dublin Unit and on country-of-origin information.

As part of its analysis work, EASO monitored developments related to asylum and COVID-19 through regular bulletins and updates, and published reports on asylum trends (special report\textsuperscript{7} and special report \textsuperscript{8}) as well as on emergency measures in asylum and reception (Issue 2 June 2020\textsuperscript{9}; Issue 15 July 2020\textsuperscript{10};

\begin{itemize}
\end{itemize}
and Issue 3 December 2020\(^1\)). Moreover, in an effort to support EU+ countries to adapt to new asylum processes, EASO issued practical recommendations on conducting personal interviews remotely\(^2\) as well as practical recommendations on conducting remote/online registration (lodging).\(^3\) EASO also adapted its training sessions and materials, ensuring continued provision of training as well as developing dedicated webinars to address new training needs related to the pandemic.

Finally, EASO also published a report on Border Procedures for Asylum Applications in EU+ countries.\(^4\)


The EU Pact on Migration and Asylum put forward a set of legislative and non-legislative instruments that aim to better regulate migration and asylum matters. It confirms Frontex’s role as the operational arm of EU return policy, with a dedicated Deputy Executive Director on Returns. The Pact also envisages strengthened Frontex operational support to Member States, including on Search and Rescue operations, but without providing any specific mandate to the Agency in this area, apart from recalling existing obligations under Regulation 2014/656 on the surveillance of sea borders. Frontex is also tasked with playing a crucial role in the upcoming strategy on the future of Schengen, especially through its annual vulnerability assessments.

In 2020, irregular arrivals to the EU reached the lowest number since 2013. According to Frontex’s preliminary figures, around 124,000 irregular arrivals were detected throughout the year, a 13% decrease compared to 2019. While the Eastern Mediterranean route, with the exception of Cyprus, experienced the biggest drop in arrivals (by over three-quarters), the Central Mediterranean was the most active migratory route into Europe, with a total

---


of 35,600 sea crossings. Border crossings also decreased in the Western Mediterranean, while the Canary Islands saw 22,600 arrivals, which amounts to eight times of the 2019 figure. Finally, arrivals through the Western Balkans increased by over three quarters, to almost 27,000. In this context, Frontex strengthened its support for the Cypriot and Spanish authorities in response to the increase in arrivals to Cyprus and the Canary Islands in the second half of the year.

New asylum applications decreased significantly. In 2020, about 458,000 applications were lodged in the EU+, around 30% less than in 2019. As the pandemic unfolded, the European Commission, UNHCR and EASO issued guidance and recommendations to safeguard asylum seekers’ access to territory and file applications, as well as adequate health standards in reception and detention facilities. While acknowledging the clear imperative to take firm actions to combat the pandemic, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe pointed out the absolute nature of the prohibition

---

19 Ibid.
22 United Nations High Commissioner for Refugees (UNHCR) Regional Bureau for Europe, Practical Recommendations and Good Practice to Address Protection Concerns in the Context of the COVID-19 Pandemic, 9 April 2020, [www.refworld.org/docid/5ede06a94.html](http://www.refworld.org/docid/5ede06a94.html)
of such treatment. In their statement, the CPT underlined that protective measures must never result in ill-treatment of persons deprived of their liberty, and issued a set of principles that should be applied.\textsuperscript{24}

**UNHCR**, the UN Refugee Agency, is a global organisation mandated to provide protection and solutions for refugees, forcibly displaced communities and stateless people. The UNHCR leads international action to protect people forced to flee their homes because of conflict and persecution. UNHCR works towards ensuring access to fair and efficient asylum procedures and to fundamental human rights. It also delivers life-saving assistance such as shelter, food and water; and develops solutions that ensure people have a safe place to call home where they can build a better future. The UNHCR also works to ensure that stateless people are granted a nationality.

UNHCR’s annual Global Trends\textsuperscript{25} report shows that an unprecedented 82.4 million were displaced as of the end of 2020. This is a further four per cent increase on top of the already record-high 79.5 million at the end of 2019. The report also urges world leaders to step up their efforts to foster peace, stability and cooperation to halt and begin reversing nearly a decade-long trend of surging displacement. As regards the


EU, UNHCR’s 2021 EU Presidency Recommendations\(^{26}\) propose predictable and principled measures rooted in solidarity for a workable, rights-based and sustainable EU asylum system. They also stress the importance of revitalised political and financial support for countries and regions where most forcibly displaced people live, and the need to address the root causes of forced displacement and irregular migration. UNHCR has also set out recommendations for the adoption of Fair and Fast asylum procedures in the EU.\(^{27}\)

Following Turkey’s temporary halt of border control measures at its Western land borders in late February, Greece issued a decree suspending the right to apply for asylum for one month. UN Agencies, including UNHCR, IOM and the OHCHR Special Rapporteur on the Human Rights of Migrants, the Commissioner for Human Rights of the Council of Europe as well as 85 EU and international NGOs, expressed their serious concerns about this suspension, including

---


pointing out that neither international law\textsuperscript{28} nor EU refugee law provides any legal basis for the suspension of asylum procedures.\textsuperscript{29}

In March, following a request from the Greek government, Frontex launched two Rapid Border Interventions at the Greek land and sea borders, deploying additional assets and staff in the country. The Rapid Border Interventions were deployed despite the serious concerns expressed by the Fundamental Rights Officer that they could lead to serious violations of fundamental rights or international protection obligations. The Fundamental Rights Officer had thus urged the Agency to "reconsider the launch and continuation of RBI Evros 2020 as per Article 46 (4) and (5) of the Regulation 2019/1896."\textsuperscript{30}

The COVID-19 pandemic also greatly impacted Frontex’s work, especially in relation to forced return operations. According to the Agency’s figures,\textsuperscript{31} the number of return operations dropped from March, with a slow increase as of the beginning of June. Moreover, following Turkey’s suspension of readmissions from


Greece, such operations were put on hold from March onwards. As a result, the number of returnees in the first half of 2020 was 48% lower than in the same period of 2019. Since February 2020, Frontex has, however, supported voluntary returns performed by scheduled and chartered flights.33

Despite the major difficulties the pandemic presented to Frontex’s work over most of 2020, the Agency worked intensively to implement its new mandate under the 2019 Regulation, and in particular the recruitment and training of the first batch of the Standing Corps, who were deployed in January 2021. Progress on the implementation of the new regulation’s fundamental rights provisions was very limited in 2020. Despite the establishment of a framework for the future Fundamental Rights Monitors with specific monitoring tools and a training program being developed,34 the recruitment process was launched only at the end of the year and not all 40 Fundamental Rights Monitors could be recruited.35

The much-needed substantial reforms of the Serious Incident Reporting and individual complaints mechanisms were not initiated during the reporting period. Similarly, the supervisory mechanism for the use of force was not established before the deployment of the Standing Corps.

32 Ibid., p. 15.
In December 2020, the Court of Justice of the European Union (CJEU) issued a judgment declaring that the Hungarian legislation on asylum is in breach of EU law and fundamental rights obligations. This prompted the Agency to suspend, for the first time, its operations in accordance with Article 46 of Regulation 2019/1896 with the exception of its activities in the field of return. The Agency took this decision after consultation with the Fundamental Rights Officer. Prior to that consultation, the Consultative Forum, which had repeatedly expressed concerns about the fundamental rights situation in Hungary, issued a recommendation to the Fundamental Rights Officer advising the termination of Frontex operations in the country.

Violence and pushback allegations continued to be widely reported on the Western Balkan route, particularly at the Croatian border with Bosnia and Herzegovina, at the Hungarian-Serbian border and at the Greek sea and land borders with Turkey. Moreover, since October, Bellingcat, Der Spiegel, the EU Observer and other media raised a series of allegations of Frontex’s involvement in or witnessing of pushbacks in the Aegean Sea. The Agency initiated an internal inquiry, which concluded that the allegations could not be substantiated. Commissioner for Home Affairs Ylva Johansson took a firm stance on the need to look into these allegations and to

---


clarify them. She called for an extraordinary Frontex Management Board meeting, following which the Board established a Working Group to further inquire into the allegations. Ultimately the “Working Group on Fundamental Rights and Legal Operational Aspects of Operations in the Aegean Sea” (FRALO), composed of members of the Frontex Management Board (France, Germany, Greece, Hungary, Norway, Romania, Sweden, Switzerland and the European Commission) was set up, chaired by the German alternate Management Board member. FRALO’s mandate was to carry out an inquiry into 14 cases reported through Frontex internal reporting mechanisms and the media. The final results of this inquiry were published in March 2021. The Consultative Forum attended one FRALO and two extraordinary Frontex Management Board meetings and published a set of fundamental rights considerations in the context of search and rescue operations and interception at sea. While these events occurred in 2021 and are outside of the period of review for this Annual Report, they are important to note as they underscore the relevance of the recommendations the Consultative Forum made to the Agency and the Management Board throughout 2020 and indeed in prior years.

The European Ombudsman opened an own-initiative inquiry to assess the effectiveness and transparency of Frontex’s complaints mechanism in November.


3 ROLE AND COMPOSITION
The Frontex Consultative Forum was established in October 2012 and has been operational since January 2013. Pursuant to Article 108 of Regulation 2019/1896, the Consultative Forum provides independent advice to the Agency on the respect for, protection and promotion of fundamental rights in its activities.

Regulation 2019/1896 highlights particular areas\(^{43}\) where the Agency should seek the Consultative Forum’s views but also enables the Consultative Forum to work on any matter related to fundamental rights upon request by the Agency, the Management Board or the Fundamental Rights Officer, or on its own initiative.\(^{44}\) In previous years the Consultative Forum regularly conducted visits to operational areas,\(^{45}\) which was not possible in 2020 due to COVID-19 related travel restrictions and health measures.

The Consultative Forum is an independent fundamental rights advisory body to the Agency. Within the overarching fundamental rights safeguarding architecture, the Consultative Forum’s role is complementary to that of the Fundamental Rights Officer\(^ {46}\) and the other safeguarding mechanisms. The Consultative Forum does not have the mandate to monitor Frontex activities. It is the Fundamental Rights Officer, and in the future the Fundamental

---


\(^{44}\) Article 108 (1) and Article 108 (3) of Regulation (EU) 2019/1896.

\(^{45}\) Article 108 (5) of Regulation (EU) 2019/1896.

\(^{46}\) References to “the Fundamental Rights Officer” should be read with respect to Management Board Decision 13/2019 and Management Board Decision 26/2020, according to which the Associate Fundamental Rights Officer deputized for the Fundamental Rights Officer from 22nd February to 23rd September and the Advisor to the Fundamental Rights Office was nominated as Fundamental Rights Officer \textit{ad interim} on 24th September for a year unless a Fundamental Rights Officer is recruited earlier.
Rights Monitors, who have the competence "to constantly assess the fundamental rights compliance of Frontex operational activities."\(^\text{47}\)

The Agency launched an open call for applications to the newly established Consultative Forum for three years from 1 January 2020 until 31 December 2022. The Agency received eight applications from civil society organisations. A panel comprising the Frontex Executive Director, the Chairperson of the Management Board, the Director of the Operational Response Division, the Director of the Situational and Awareness Monitoring Division, the Fundamental Rights Officer \textit{ad interim}, the Co-Chair of the Consultative Forum and EASO (also on behalf of FRA) interviewed the applying organisations. Seven out of eight organisations were invited to join the Consultative Forum.\(^\text{48}\)

In 2020, the Consultative Forum was composed of 13 organisations, which contributed their expertise and resources on a voluntary basis. EASO, FRA and UNHCR are statutory members of the Consultative Forum as per Regulation 2019/1896. The Council of Europe, OSCE/ODHIR and IOM were invited by the Executive Director to become members of the Consultative Forum. Additionally, in January 2020, the UN High Commissioner for Human Rights (UN Human Rights) Regional Office for Europe expressed its interest in participating in the Consultative Forum and was invited to join the Consultative Forum.\(^\text{49}\)

\(^{47}\) Article 110 of Regulation (EU) 2019/1896.


Two European Union agencies:
• European Asylum Support Office (EASO); and
• European Union Agency for Fundamental Rights (FRA).

Five international organisations:
• Council of Europe (CoE);
• International Organisation for Migration (IOM);
• Organization for Security and Co-operation in Europe — Office for Democratic Institutions and Human Rights (OSCE/ODIHR);
• United Nations High Commissioner for Refugees (UNHCR);
• UN Human Rights Office (OHCHR).
Six civil society organisations:

- Amnesty International European Institutions Office (AI EIO);
- Churches’ Commission for Migrants in Europe (CCME);
- International Commission of Jurists (ICJ);
- Jesuit Refugee Service Europe (JRS);
- Red Cross EU Office;
- Save the Children.

UNHCR and FRA co-chaired the Consultative Forum in 2020 with the support of the Consultative Forum Secretariat (consisting of one Fundamental Rights Office staff member).

Please feel free to contact us: consultative.forum@frontex.europa.eu

The Platform for International Cooperation on Undocumented Migrants (PICUM) withdrew from the Consultative Forum after seven years of membership.50

Universal Periodic Review (UPR)51

The UPR is the UN Human Rights Council’s peer review mechanism of the States’ human rights record. In 2020, UN Human Rights (OHCHR) initiated a project to raise awareness of UPR recommendations relating to border management. Within this UPR project, UN Human Rights has enhanced the capacity of the Consultative Forum by hiring an expert-consultant for one year. The consultant is supervised by the Consultative Forum Co-Chairs and supports the Consultative Forum in all its tasks.

51 For more details on the UPR, see: https://uhri.ohchr.org/en/.
FUNDAMENTAL RIGHTS SAFEGUARDS

A refugee girl living in Kara Tepe camp is washing her hands at the tap stand installed by the Hellenic Red Cross (Lesvos), Greece.

© Georgia Trismpioti for IFRC / October 2020
The Agency has undergone important changes since the entry into force of Regulation 2019/1896. In 2020 priority was given to new mandate areas such as the establishment of the Standing Corps, purchasing technical equipment, training, beginning voluntary returns and recruiting additional staff. The Agency’s focus on the equally-strongly mandated reinforcements to fundamental rights was less consistent.

4.1 Internal safeguards

Regulation 2019/1896 significantly improves and expands fundamental rights safeguards. It requires the Agency to set up a comprehensive and effective fundamental rights monitoring mechanism consisting of various components allowing the Agency to detect risks of potential fundamental rights violations early on, to assure fundamental rights compliance in all its activities and to identify and address potential fundamental rights violations upon occurrence.

There has been a significant delay in establishing new fundamental rights safeguards, policies and procedures as well as reforming existing ones. During 2020 the Consultative Forum continued its long-standing call for reform of the Serious Incident Reporting mechanism, and a reform was recently launched. The individual complaints mechanism also requires reform and both mechanisms need to be strengthened, and accompanied by flanking awareness-raising measures. Barriers to their visibility and accessibility should be identified and removed. The establishment of new safeguards including the recruitment of the Fundamental Rights Officer at a higher grade, the recruitment of a deputy Fundamental Rights Officer and the hiring of senior staff were not completed in 2020 despite the heightened new
responsibilities. The recruitment of the 40 Fundamental Rights Monitors also remained pending at the end of 2020.

In 2020, the Agency initiated the revision of the Fundamental Rights Strategy, the establishment of the supervisory mechanism governing the use of force by the Standing Corps and the rules of independence of the Fundamental Rights Officer.52 The Consultative Forum provided substantial recommendations on these documents (see 4.1.2 on the rules of independence, 4.1.4 on the Fundamental Rights Strategy and 4.1.5 on the use of force) and welcomes that some of its recommendations were considered prior to final adoption in 2021, even though other significant advice remains unaddressed.

Tables 1 & 2 list all safeguards and indicate whether they were put in place in 2020 or still require action.

---

52 Annex V to Regulation (EU) 2019/1896: Rules on the use of force, including training and the supply, control and use of service weapons and non-lethal equipment, applicable to statutory staff deployed as members of the teams.
Table 1: Safeguards requiring reform & state of play in 2020

<table>
<thead>
<tr>
<th>Safeguards requiring reform</th>
<th>State of play in 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment of an independent Fundamental Rights Officer (FRO) with the necessary qualifications, expert knowledge and professional experience.</td>
<td>x</td>
</tr>
<tr>
<td>FRO’s mandate and responsibilities were considerably stepped up:</td>
<td></td>
</tr>
<tr>
<td>■ FRO contributes to the Fundamental Rights Strategy (FRS) and its action plan, “including by issuing recommendations for improving it”.53 In addition, the FRO shall endorse both the FRS and its action plan.54</td>
<td></td>
</tr>
<tr>
<td>■ FRO can send Fundamental Rights Monitors to conduct visits, including long-term visits, where operational activities take place55 in order to assess/monitor the Agency’s compliance with fundamental rights.56</td>
<td></td>
</tr>
<tr>
<td>■ FRO should be consulted and needs to provide opinions on pilot projects and technical assistance projects in third countries as well as working arrangements.57</td>
<td></td>
</tr>
<tr>
<td>■ FRO publishes annual reports &quot;on his or her activities and on the extent to which the activities of the Agency respect fundamental rights.&quot;58</td>
<td></td>
</tr>
<tr>
<td>■ FRO’s mandate is strengthened with an investigative dimension.</td>
<td></td>
</tr>
<tr>
<td>In 2020 the associate Fundamental Rights Officer acted as FRO until September 2020, after which an ad interim Fundamental Rights Officer was appointed.</td>
<td></td>
</tr>
<tr>
<td>The development and adoption of rules on the independence of the FRO and his or her staff.</td>
<td>✓59</td>
</tr>
<tr>
<td>The Management Board shall ensure that action is taken on the recommendations of the Fundamental Rights Officer.60</td>
<td>✓</td>
</tr>
<tr>
<td>Enhancement of the Frontex complaints mechanism, including its visibility and accessibility.61</td>
<td>×</td>
</tr>
<tr>
<td>Reform of the Serious Incident Reporting mechanism.62</td>
<td>✓63</td>
</tr>
</tbody>
</table>

x was not addressed by Frontex in 2020
✓ was addressed by Frontex in 2020

---

53 Article 109 (2) (a) of Regulation (EU) 2019/1896.
54 Article 80 (1) of Regulation (EU) 2019/1896.
55 Article 110 (2) (b) of Regulation (EU) 2019/1896.
56 Article 110 (1) and Article 110 (2) (a) of Regulation (EU) 2019/1896.
57 Article 109 (2) (e ) (f) of Regulation (EU) 2019/1896.
59 Management Board Decision 6/2021 of 20 January 2021 Adopting Special Rules to Guarantee the Independence of the Fundamental Rights Officer and his or her staff: https://frontex.europa.eu/assets/Key_Documents/MB_Decision/2021/MB_Decision_6_2021_adopting_special_rules_to_guarantee_the_independence_of_the_FRO_and_his_or_her_staff_.pdf
60 Article 109 (4) of Regulation (EU) 2019/1896.
61 Article 111 (10) of Regulation (EU) 2019/1896.
62 As per Article 38 (3) (h) of Regulation (EU) 2019/1896.
63 A decision on the Serious Incident Reporting Standard Operating Procedure was taken by the Executive Director in April 2021.
## Table 2: New safeguards & state of play in 2020

<table>
<thead>
<tr>
<th>Safeguards requiring reform</th>
<th>State of play in 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>The recruitment of an independent Deputy Fundamental Rights Officer, as a new position to strengthen the Fundamental Rights Office. This is a new position introduced by the Regulation.</td>
<td>×</td>
</tr>
<tr>
<td>The recruitment of at least 40 Fundamental Rights Monitors by December 2020.</td>
<td>×</td>
</tr>
<tr>
<td>Establishment of a supervisory mechanism to monitor the use of force.</td>
<td>✓</td>
</tr>
<tr>
<td>The Agency must inform the Consultative Forum on the follow up on its recommendations.</td>
<td>×</td>
</tr>
<tr>
<td>The establishment of a procedure for the application of Article 46 on the non-launching, suspending and terminating activities in case of serious or persisting violations of fundamental rights or international protection obligation.</td>
<td>×</td>
</tr>
<tr>
<td>The establishment of an ETIAS Fundamental Rights Guidance Board within the Agency as per Regulation 2018/1240.</td>
<td>×</td>
</tr>
<tr>
<td>Training for the Standing Corps including a simulation relevant to the activities to be carried out during the deployment involving the operationalisation of fundamental rights safeguards.</td>
<td>×</td>
</tr>
</tbody>
</table>

- × was not addressed by Frontex in 2020
- ✓ was addressed by Frontex in 2020

## 4.1.1 Consultative Forum

One of the new safeguards brought in by Regulation 2019/1896 is the obligation on the Agency to inform the Consultative Forum on the follow-up on its recommendations. The Consultative Forum welcomed the proposal put forward by the Agency to create a Steering group between the Agency and the Consulta-

---


65 Regulation (EU) 2019/1896, Annex V.

66 Article 108 (3) of Regulation 2019/1896.

67 The idea of a Steering group was mentioned for the first time by Frontex during the 23rd Consultative Forum meeting in October 2020 and then confirmed by the Agency in the 24th Consultative Forum meeting in February 2021.
tive Forum to allow for targeted discussions on thematic areas and reflect upon the modalities for the provision of follow-up to the Consultative Forum’s recommendations. However, so far, the Consultative Forum has only received a response in relation to the advice provided to the Fundamental Rights Strategy and did not receive any formal notice regarding the follow-up on any of its recommendations or other advice provided in 2020.

4.1.2 Fundamental Rights Officer

The Consultative Forum advised the Agency to prioritise the recruitment of the Associate Fundamental Rights Officer. The vacant post was first covered by the associate Fundamental Rights Officer and later by an *ad interim* appointment. The vacancy notice launched in December 2020 listed the required human rights qualifications to ensure that the Fundamental Rights Officer has the necessary tools to deliver on this important monitoring mandate, enhanced with an investigation dimension. In this regard, the Consultative Forum was invited to provide a member of the pre-selection panel for the recruitment, and appointed one of its co-chairs. The Consultative Forum flagged its concerns over the lack of continuity between the composition of the pre-selection panel and the final selection committee and that the latter excluded fundamental rights expertise. The Frontex Management Board appointed a Fundamental Rights Officer in March 2021 and consulted the Consultative Forum prior to the appointment.68

Compared with the role and mandate of the previous Regulation, the Fundamental Rights Officer is tasked with significantly

---

68 Article 109 (1) of Regulation 2019/1896 stipulates: “A fundamental rights officer shall be appointed by the management board on the basis of a list of three candidates, after consultation with the Consultative Forum. [..]”
enhanced managerial responsibilities. The Fundamental Rights Officer will manage a minimum of 40 Fundamental Rights Monitors, the deputy Fundamental Rights Officer and the office staff. The advertised grade (AD 10) is the same grade as the previous Fundamental Rights Officer and does not reflect the enhanced role in responsibility. The Consultative Forum also observed that the advertised level does not correspond to the Agency’s equivalent managerial positions, for which the grades are usually AD 11 or AD 12. The Consultative Forum brought this discrepancy to the attention of the Management Board and encouraged the Agency to conduct the recruitment at an equivalent grade to other Agency managers for the following reasons:
• The need for equal treatment of fundamental rights and operational staff;
• To match the grade of the position to the enhanced managerial and financial responsibilities;
• For the Fundamental Rights Officer’s interaction in the hierarchical setup of the Agency, it is imperative that the level be equivalent to that of their main counterparts.

The Frontex Management Board ultimately appointed the Fundamental Rights Officer as an AD 10 position. The recruitment procedure for the deputy is planned to be initiated following that recruitment.

The Fundamental Rights Office’s staffing also remains an area of concern. Proper functioning of the Office depends on adequate staffing, both in size and seniority. Despite the rapid growth of the Agency’s staff and the enhanced responsibilities for both the Agency and the Fundamental Rights Officer, the Fundamental Rights Office does not show corresponding growth in staffing.
The “Special rules to guarantee the independence of the Fundamental Rights Officer and his or her staff” are crucial for the implementation of the monitoring and investigation mandate. The current version of the rules covers important areas such as unhindered access to information and access to operations. It will be important that no barriers emerge in the implementation of these rules and of the Fundamental Rights Officer’s mandate, and that the Fundamental Rights Officer and the Fundamental Rights Monitors have access to all necessary areas, documents and communications, as well as key activities such as patrolling and surveillance, screening and debriefing. As most of the allegations of fundamental rights violations occur in the course of these activities, they would most benefit from constant independent monitoring. Such monitoring should also include the ability to carry out unannounced visits, which is currently not anchored in the “Special rules to guarantee the independence of the Fundamental Rights Officer and his or her staff”.

Shoes, a ball and a hat caught on a three layered barbed-wire fence at the Fylakio reception and identification centre near the Greek-Turkish border, Greece. © UNHCR/Achilleas Zavallis/February 2020
The Consultative Forum provided the following advice on the “Special rules to guarantee the independence of the Fundamental Rights Officer and his or her staff”:

- The rules should not reinterpret the tasks of the Fundamental Rights Officer, which are already clearly outlined in the Regulation;
- The rules should guarantee that the Fundamental Rights Officer and the Fundamental Rights Monitors can effectively monitor the Agency’s compliance with fundamental rights, including by conducting investigations and carrying out on-the-spot visits to any joint operation. This requires unimpeded access to operations, staff and information/documents;
- It is considered essential that the Agency commits to consultations with the Fundamental Rights Officer at an early stage of all procedures and takes steps to ensure that he or she is timely consulted and provided with adequate time to respond;
- The rules should clearly and exclusively authorise the Fundamental Rights Officer to handle Serious Incident Reports relating to fundamental rights.
4.1.3 Fundamental Rights Monitors

The establishment of the Fundamental Rights Monitors is one of the most important fundamental rights safeguards introduced by Regulation 2019/1896, as they will become the backbone of the overall fundamental rights monitoring mechanism. Regulation 2019/1896 clearly requires “constant monitoring of fundamental rights compliance of Frontex activities.” Once this is established and functional, the Agency will benefit from enhanced transparency of operational practices, early warning on potential risks, recommendations on how to mitigate such risks, constant awareness-raising through presence and the provision of briefings and training – to name just a few examples.

European Union Agency for Fundamental Rights

Asylum, migration and borders is a priority area for the FRA. It encourages rights-compliant responses through practical expertise, including regular updates, focus papers and toolkits. The FRA outlines policy alternatives and best practices, in addition to providing legal opinions and analysis:

Border controls and fundamental rights at external land borders

This practical guidance addresses border-management staff in European Union (EU) Member States who work at the operational level. It aims to support them in implementing the fundamental rights safeguards of the Schengen Borders Code (Regulation (EU) No. 2016/399) and related EU law instruments when carrying out controls at external land borders.
Handbook on European law relating to asylum, borders and immigration – Edition 2020

The third edition of this handbook, jointly published with the Council of Europe and its European Court of Human Rights, updated up to July 2020, presents European Union legislation and the body of case law from the two European courts in an accessible way.

Establishment of the Frontex fundamental rights monitoring mechanism

The FRA and Frontex are working together to establish fundamental rights monitors. The FRA and the Frontex Fundamental Rights Office have carried out pilot monitoring missions to Frontex operations, and have developed a monitoring manual and a comprehensive training programme. The manual was finalised in 2021 and contains guidelines, checklists and further tools to analyse fundamental rights related gaps and to report them.

While the Agency prioritised the establishment of the Standing Corps, which has been functional from January 2021, the recruitment of the Fundamental Rights Monitors was considerably delayed and did not meet the deadline set in Regulation 2019/1896 (December 2020). The deployment of the Standing Corps prior to the establishment of a Fundamental Rights Monitoring mechanism through the Fundamental Rights Monitors expands the existing monitoring gap and increases the risk of fundamental rights violations.

Moreover, the Consultative Forum noticed the same staffing trend for the Fundamental Rights Monitors’ positions as identified in relation to the Fundamental Rights Officer position. While 10 positions are initially foreseen as AST 4 level, only five were initially envisaged at AD 7 level. The key counterparts of the Fundamental Rights Monitors will be the Coordinating Officers, whose grades range from AD 6 to AD 8. The Consultative Forum is of the opinion that the level of all 40 future Fundamental Rights Monitors should be equivalent to that of their key counterparts.

The Consultative Forum is aware of the ongoing cooperation between the Agency and the FRA to develop a set of monitoring tools for the future Fundamental Rights Monitors. A workshop held by FRA gave Consultative Forum members the opportunity to review and provide feedback on the tools. In addition to several Consultative Forum members, the European Network of National Human Rights Institutions (ENNHRI), National Human Rights Institutions (NHRI), and National Preventive Mechanisms (NPM) also attended this workshop. While the draft monitoring tools were jointly reviewed and suggestions for further improvements were compiled, the workshop also offered space to discuss more broadly issues related to the monitoring of borders within the complementarity of the various mandates.

The Consultative Forum is looking forward to the ultimate recruitment of all the Fundamental Rights Monitors at the appropriate level and will support the Fundamental Rights Officer during the course of the establishment of the monitoring mechanism and then in its implementation.

See question 6 of the LIBE Committee written questions to Frontex on 1 December 2020, available at: https://www.statewatch.org/media/1709/eu-frontex-written-questions-answers-libe-hearing-1-12-20.pdf.
4.1.4 Fundamental Rights Strategy\textsuperscript{72}

In 2020 the Consultative Forum provided detailed advice on the Fundamental Rights Strategy. The Strategy and its accompanying Action Plan play a central role in guaranteeing the protection of fundamental rights in the performance of the Agency’s tasks as provided for in Article 80 of Regulation 2019/1896. This is particularly the case because it will contain an effective mechanism for monitoring respect for fundamental rights in all the activities of the Agency. The Consultative Forum therefore attaches great importance to its quality and comprehensiveness, as well as its framing within the European and international legal framework for the protection of human rights.

The Fundamental Rights Strategy should:

- Clearly spell out in form of objectives and benchmarks what Frontex commits to do to ensure full compliance with fundamental rights obligations and how it promotes respect for fundamental rights throughout its activities;
- Acknowledge the Agency’s new obligation under Article 46(5) of Regulation (EU) 2019/1896 and adopt a transparent procedure for its application;
- Propose a roadmap to better engage with the Consultative Forum and connect its recommendations with the respective units for both awareness and implementation;
- Highlight the central role of the Fundamental Rights Officer and her/his new tasks;
- Provide guidance on the interplay of fundamental rights mechanisms under a coherent monitoring mechanism;

\textsuperscript{72} Pursuant to Article 80 (1) of Regulation (EU) 2019/1896, the Agency shall “draw up, implement and further develop a fundamental rights strategy and action plan, including an effective mechanism for monitoring respect for fundamental rights in all the activities of the Agency.”
• Recall the Agency’s obligation to ensure independent, impartial and transparent mechanisms to provide reparations and guarantees of non-repetition to victims of fundamental rights violations;
• Refrain from portraying human rights as an obstacle to effective border management through appropriate terminology;
• Reflect the Consultative Forum’s recommendations, including on third country cooperation;
• Outline the Agency’s commitment to adopt a comprehensive child protection and safeguarding policy;
• Commit to the Agency’s transparency and accountability.

Overall, the Consultative Forum noted that the updated draft had taken some of the suggestions into account and observed an effort to take full account of the new provisions of Regulation 2019/1896 in the new draft. The Consultative Forum is looking forward to work with the Agency on the action plan which will be established by the Agency for the operationalisation of the Fundamental Rights Strategy.
Organization for Security and Co-operation in Europe — Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

On the basis of OSCE commitments, ODIHR assists OSCE participating States in assessing, formulating and implementing migration policies and legislation that protect the fundamental rights of migrants and facilitate migrant integration into the societies in which they live. ODIHR also promotes the development and implementation of legal and regulatory frameworks that respect the right to freedom of movement and free choice of place of residence. In these areas, ODIHR identifies and facilitates the sharing of good practices, matching them to the needs identified in participating States, and promoting approaches which respond to gender- and diversity-based needs. More information on ODIHR’s work on migration and freedom of movement can be found at: Migration | ODIHR | OSCE and Freedom of movement | OSCE.


4.1.5 Supervisory mechanism on the use of force

As part of the overall fundamental rights monitoring mechanism, Regulation 2019/1896 establishes a supervisory mechanism to monitor the application of the provisions on the use of force by statutory staff, which must be drafted in consultation with the Fundamental Rights Officer. This mechanism acts as a safeguard so that use of force goes hand in hand with respecting and protecting fundamental rights as provided for in Annex V of the Regulation.

Office of the High Commissioner for Human Rights (UN Human Rights)

The Office of the High Commissioner for Human Rights (UN Human Rights) is the leading UN entity on human rights, with a mandate to protect and promote the full range of human rights set out in the Universal Declaration of Human Rights around the world.

Relevant publications from 2020:
- United Nations Human rights guidance on less-lethal weapons in law enforcement: this publication provides concise and user-friendly guidelines outlining international norms and standards on the use of less-lethal weapons in a scenario-based, weapon-specific manner.

75 Article 55 (5) (a) of Regulation (EU) 2019/1896.
• **Evaluating the impact of human rights training: guidance on developing indicators:**

This guidance aims to enhance the competencies of human rights educators and training managers in developing appropriate indicators for measuring the results of their programmes and projects. It provides a step-by-step process for developing effective indicators to measure human rights education and training results.

• **Human rights training: A manual on human rights training methodology:**

This manual describes useful guidance for the conceptualization, planning, implementation and evaluation of human rights training programmes for adult professionals.

Upon consultation, the Consultative Forum provided advice to the Agency on the supervisory mechanism on the use of force.

The supervisory mechanism should:

• Acknowledge that the use of force directly interferes with fundamental rights - in particular human dignity, the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the right to liberty and security and the presumption of innocence;

---


• Recall that use of force must be guided by the principles of legality, strict necessity, proportionality and non-discrimination, in line with relevant international, EU and national law;

• Include a reference to the role of the Fundamental Rights Officer’s monitoring and investigation mandate and a reference to the role of the Fundamental Rights Monitors;

• Reconsider the margin of discretion of the Coordinating Officers in such a way that only the Fundamental Rights Officer and her or his staff, including the Fundamental Rights Monitors, can verify or classify information with a fundamental rights dimension as they have the necessary expertise;

• Specify the conditions under which the mechanism will apply to operations in third countries;

• Ensure accountability and transparency by facilitating the ability to individually identify deployed staff through the wearing of visible identification numbers or the staff’s name.
4.1.6 Complaints mechanism and Serious Incident Reporting

Visible, accessible and functioning reporting mechanisms are an essential component to identify potential fundamental rights violations and ultimately to take corrective measures. Two mechanisms currently constitute an integral part of the overall fundamental rights monitoring within the Agency: a complaints mechanism through which individuals can lodge a complaint at any time, and a Serious Incident Reporting (SIR) system enabling Frontex staff, including deployed or seconded officers, to report potential fundamental rights violations. These mechanisms allow Frontex to identify, record, analyse, and prevent fundamental rights violations. The Consultative Forum has identified gaps and risks for both and brought them to the attention of the Agency over recent years. Specifically, on the complaints mechanism, and in line with its legal obligations, the Consultative Forum encouraged the Agency to proceed with the long-awaited revision of the draft rules of the complaints mechanism. Any such reform should considerably improve the visibility and accessibility of the complaints mechanism, including for children.

As highlighted in previous reports, the Consultative Forum remains concerned about the functioning of the SIR mechanism. Despite several announcements by the Agency on SIR reform, it was not initiated in 2020. During that year, numerous pushback allegations shed increased light on the structural dysfunction of the SIR mechanism and the gaps in monitoring and accountability for fundamental rights violations. A particular obstacle in 2020 was that the Fundamental Rights Officer was not by default assigned to handle all SIRs with a fundamental rights

80 Article 108 (3) of Regulation (EU) 2019/1896.
dimension and that the Fundamental Rights Officer was not involved in the initial categorisation of SIRs. The Consultative Forum continues to urge the Agency to create a sustainable and transparent system for reporting alleged fundamental rights violations, in line with its obligations, with the Fundamental Rights Officer leading this process.

In addition, the Consultative Forum invites the Fundamental Rights Officer to inform the public concerning the handling of SIRs in her/his Annual Report. Such Report should include information on any barriers she/he might have encountered to effectively comply with her/his mandate in this regard.

The Agency should remove any barriers to the reporting of fundamental rights related incidents and should encourage its staff to report while channelling fundamental rights-related SIRs immediately to the Fundamental Rights Officer for any further processing.

4.1.7 Due diligence

In 2020, the Fundamental Rights Officer consulted the Consultative Forum on her proposal for a due diligence procedure which was developed especially in view of advising the Executive Director, in line with Article 46 of Regulation 2019/1896, to not launch and/or to suspend or terminate operational activities. This draft policy proposes several indicators and corresponding risk mitigation measures to prevent, detect and address risks to fundamental rights in Frontex operations, pilot projects, technical assistance as well as cooperation with third countries.
In the Consultative Forum’s view, establishing a procedure to assess and manage the risks of fundamental rights violations arising before or during any Frontex activities is key to a well-functioning fundamental rights monitoring system and is also necessary to comply with Article 46 of Regulation 2019/1896.

The Agency announced that the Executive Management plans to develop a separate policy or procedure concerning due diligence by the Agency. The Consultative Forum looks forward to being consulted on the development of such a crucial safeguarding policy.

Council of Europe

In the 47-member Council of Europe, the European Convention on Human Rights establishes the principal human rights standards to be applied, including in the context of migration and asylum. Activities undertaken by the Council of Europe in the field of migration are all guided by these standards, as interpreted by the European Court of Human Rights (ECtHR).81

Work is further supplemented by the human rights standards and guidance developed by other Council of Europe instruments and bodies, each in their area of expertise. Of particular importance in the context of Frontex operations is the unique role and significant work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe. As an independent monitoring body, CPT represents real

added value, including in the field of immigration detention and forced returns. 82

The promotion and practical implementation of Council of Europe standards is ensured through targeted activities and tools taken up in the wider European and country-specific contexts. Activities carried out in the Council of Europe range from protecting refugee and migrant children, 83 through promoting the development of alternatives to immigration detention, to specialised training and capacity building for member states and Frontex.

The joint note of the Council of Europe and the European Union Agency for Fundamental Rights (FRA) on the fundamental rights of refugees, asylum applicants and migrants at the European borders, issued in March 2020, summarises some key safeguards of European law as they apply also at the EU’s external borders. 84

The Commissioner for Human Rights’ work on the promotion of compliance with human rights standards also covers protection of the rights of refugees, asylum seekers and migrants, including at borders. Through his/her mandate, the Commissioner identifies both structural shortcomings and emerging or urgent situations in this area in member states.

---

82 Regulation (EU) 2019/1896 Recital (82).
4.2 External oversight

While the establishment of all internal safeguards are welcomed, the Consultative Forum is of the opinion that external oversight such as that carried out by the European Parliament or the European Ombudsman remains crucial.

European Parliament (EP) oversight over the EU agencies takes several forms and may be exercised by means of budgetary discharge,\(^{85}\) through annual reports,\(^{86}\) by involvement in the appointment of the executive director\(^{87}\) and sometimes through participation in the Management Board.\(^{88}\) Frontex is accountable to the EP and to the Council as stated in Regulation 2019/1896.\(^{89}\) The Regulation further mentions areas of activities where Frontex reports directly to the European Parliament, such as "border management research, risk analysis, vulnerability assessment..."
results, additional financial or operational needs and situations requiring urgent action at the external borders.\textsuperscript{90} Frontex also reports annually to the European Parliament on the implementation of EU Regulation 656/2014 concerning Frontex coordinated surveillance operations at the EU’s external sea border.

Moreover, informal mechanisms of parliamentary scrutiny such as EP committee visits to the agencies, hearings, written questions or requests for information can encourage agencies to introduce higher standards of transparency as well as to provide clarity on their activities. Although these mechanisms are not legally binding, it needs to be underlined that the EU agencies depend on the EP for their budgets.\textsuperscript{91}

\textsuperscript{90} As stated on the Frontex website: https://frontex.europa.eu/we-build/eu-partners/european-parliament/.

\textsuperscript{91} In 2012, €10 million of the Agency’s budget 2013 was held in reserve by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) unless Frontex set out a clear procedure for the improvement of its search and rescue operations. Details as reported by Statewatch can be found here: www.statewatch.org/media/documents/analyses/200-frontex-search-rescue.pdf.
As reported by Frontex,\(^92\) the Executive Director attends hearings at the EP Committee on Civil Liberties, Justice and Home Affairs (LIBE) and works with several other committees. Indeed, in 2020 the LIBE Committee undertook a number of initiatives regarding the Agency. On 24 and 25 February LIBE MEPs visited Frontex headquarters. Subsequently, hearings were organised on 6 July and 1 December\(^93\) where the Frontex Executive Director was invited to testify on the pushback allegations. The European Parliament ultimately established a Scrutiny Working Group on Frontex in February 2021\(^94\) with the objective of monitoring all aspects of the functioning of the border agency, including its compliance with fundamental rights.

Another institution mandated to hold European Union agencies accountable is the European Ombudsman (EO). The EO has used its powers with respect to Frontex in the past\(^95\) and was active in 2020 through submission of the strategic inquiry concerning the functioning of the Frontex’s Complaints Mechanism for alleged breaches of fundamental rights.\(^96\)

---

\(^92\) Please see: [https://frontex.europa.eu/we-build/eu-partners/european-parliament/](https://frontex.europa.eu/we-build/eu-partners/european-parliament/).


Finally, the role of certain other bodies, such as National Preventive Mechanisms (NPMs) should not be underestimated in the oversight of compliance with fundamental rights provisions in the area of migration. NPMs, mandated to visit places where individuals are deprived of liberty, also provide advice with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment. Since NPMs have the ability to visit places where people might be deprived of their liberty (including areas of detention of asylum seekers and other migrants), cooperation with such institutions might be fruitful for the Fundamental Rights Officer and Fundamental Rights Monitors.

Similarly, the establishment of collaboration between Fundamental Rights Monitors and future institutions facilitating independent monitoring to ensure respect for human rights, such as the mechanism proposed by the European Commission’s New Pact on Migration and Asylum, might support the Agency’s compliance with fundamental rights provisions.

97 NPMs are established in accordance with: United Nations (UN), Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment, 18 December 2002.

98 In 2020 the UN Subcommittee on Prevention of Torture (SPT) underlined that NPMs need to be strengthened. SPT highlighted the importance of monitoring the conditions of people deprived of liberty in critical situations such as the current COVID-19 pandemic: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26031&LangID=E.

99 Article 4 of the Optional Protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment.

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952 and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and the legal profession.
In the field of migration, the ICJ offers several publications for practitioners on human rights and international law. In 2020 the ICJ published a key briefing paper on the impact of COVID-19 on the rights of migrants and refugees and organised several trainings for judges on the rights of migrants and refugees in Ireland, Greece and the Czech Republic as a part of an EU-funded project that aims to increase the capacity of judges across Europe to protect the rights of migrants. The ICJ continued its strategic litigation to ensure the rights of migrant children in Greece before the European Committee of Social Rights. Finally, in 2020 it published a key report titled Unrecognized and Unprotected: The Treatment of Refugees and Migrants in Lebanon in which it analyses how normative gaps undermine the right of refugees to an individual examination of their asylum claim, their right to liberty and security of person, and their right to an effective legal remedy against human rights violations.
5 FUNDAMENTAL RIGHTS IN FRONTEX ACTIVITIES

Black Sea Multipurpose Maritime Operation 2020 (Constanța), Romania
© Frontex/Stefan Andreescu/November 2020
5.1 Frontex support to EU countries

The Consultative Forum continued to be very concerned by reports of pushbacks and police violence and abuses in countries at the external border of the EU where Frontex has operational activities supporting national border surveillance and management. In Greece, where Frontex has the biggest contingent of officers deployed, two additional Rapid Border Interventions (RBI) were deployed in March 2020 after the arrival of tens of thousands of migrants at the Evros border further to Turkey’s declaration that it would no longer prevent refugees and migrants from crossing into the EU. The Consultative Forum requested information on these deployments, given that the suspension of the registration of asylum seekers by Greek authorities, in combination with unregistered returns, could impact Frontex’s engagement through RBIs and other operations, and could lead to complicity in fundamental rights violations. Several Consultative Forum member organisations and other organisations reported various human rights violations by Greek forces against asylum seekers and migrants attempting to cross, including excessive use of force, beatings, use of live ammunition, unlawful detention and systematic pushbacks into Turkey.\footnote{See: Amnesty International, Europe: Caught in a political game: Asylum-seekers and migrants on the Greece/Turkey border pay the price for Europe’s failures, 3 April 2020, https://www.amnesty.org/en/wp-content/uploads/2021/05/EURO120722020ENGLISH.pdf. Reports by Forensic Architecture and the New York Times provided details of the official and unofficial sites used for the arbitrary detention of people ahead of their return to Turkey: Forensic Architecture, Pushbacks across the Evros/Merîç river: situated testimony, 19 October 2020; Stevis-Gridneff M., Kingsley P., Willis H., Almukhtar S., Browne M., “We Are Like Animals”: Inside Greece’s Secret Site for Migrants, The New York Times, 10 March 2020. In May 2020 EU MEPs asked the Commission to investigate these pushbacks: Karamanidou L., Kasparek B., What is Frontex doing about illegal pushbacks in Evros?, https://respondmigration.com/blog/what-is-frontex-doing-about-illegal-pushbacks-in-evros. In November 2020 the CoE CPT published a report on Greece which confirmed the persistence of pushbacks in the Evros region, Council of Europe (CoE), Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, 19 November 2020, https://rm.coe.int/168oao6a86.}
Increased incidents of pushbacks at sea by the Hellenic Coast Guard were also reported by NGOs and media, who also alleged the involvement of Frontex. This led the European Commission to call for an extraordinary meeting of the Frontex Management Board on 10 November and to the establishment of a Frontex Management Board Working Group on Fundamental Rights and Legal Operational Aspects of Operations in the Aegean Sea (FRALO). The Consultative Forum was invited to contribute information to the Working Group, which published its findings in 2021, including the Consultative Forum’s opinion concerning fundamental rights considerations in the context of search and rescue operations and interception at sea.

The Consultative Forum was also greatly alarmed by continuing reports of pushbacks from Croatia to Bosnia and Herzegovina, most of which were accompanied by reports of violence and intimidation by Croatian police. The trend continued in 2020 despite the emergency measures across the region imposed.

---

102 See: Amnesty International and other NGOs, Greece: joint open letter to members of the Hellenic parliament calling for an investigation into border abuses, 6 October 2020, www.amnesty.org/en/documents/EUR25/3196/2020/en/; the November 2020 CoE CPT report on Greece (op. cit.) noted that the CPT’s delegation also received a number of consistent and credible allegations concerning acts by the Hellenic Coast Guard to prevent boats carrying migrants from reaching any Greek island.


due to the COVID-19 pandemic. The volume and prevalence of reports and the consistency of the allegations raise the possibility of a systematic and deliberate practice of authorities designed to secure external borders and deter irregular entries into the EU. The Consultative Forum has continued to question the implications of Frontex support to Croatian border authorities, particularly Frontex aerial surveillance activities which lead to the detection and interception of migrants.

**Jesuit Refugee Service**

The Jesuit Refugee Service is an international, non-governmental organisation with the mission of accompanying, serving and advocating for and with refugees. JRS does this by providing psychosocial and pastoral support in detention centres, legal counselling, education for children and adults, and many social and cultural activities, as well as by advocating for structural changes in policies and legislations at both national and European level.

In Europe JRS is present in 22 countries, of which 16 are EU Member States. JRS Europe is the regional office and coordinates transnational projects, research and advocacy activities.

JRS Europe focuses on issues including safe and legal access to Europe and on administrative detention, both upon arrival and for the purpose of enforcing returns. In this sense, the fundamental rights situation at the EU external borders and in return activities are areas of concern.

---

5.2 Child protection and safeguarding in the activities of the Agency

In 2020, the Consultative Forum and the Agency discussed the progress made on the implementation of the Consultative Forum recommendation on child protection, including on integration of child safeguarding in the Agency’s operations with a focus on land and sea borders. The Consultative Forum welcomed the publication of the Frontex course manual on the protection of children at borders and the planned development of an interactive tool to address the identification of children in need of protection. The Consultative Forum offered to further assist on capacity building, including the submission of examples on how to operationalize child rights and child safeguarding at the borders, deriving from the members’ fieldwork.

The Consultative Forum welcomed the translation of the VEGA handbook *Children at airports* into Arabic. It regrets that VEGA operational activities were discontinued in 2020.
The Consultative Forum remains committed to supporting the Agency in mainstreaming the rights of the child in its activities and will advise the Agency on how this should be reflected in the Action Plan of the Fundamental Rights Strategy.

**Save the Children**

Save the Children (SC) is a worldwide independent organisation on the ground in 120 countries to reach children through programs on health, education, protection and disaster relief. In Europe, SC works to promote a positive impact of EU and national policies on children’s lives. To respond to the needs of vulnerable refugee and migrant children, SC runs programmes in many European countries, including close to border areas, focusing on emergency assistance, child protection, information and psychosocial support, training and education. SC also runs day centres for unaccompanied children and hotlines, and supports activities on guardianship.

Main reports published in 2020:

*Protection Beyond Reach,*\(^{107}\) assessing how children have been affected since the beginning of the so-called “refugee crisis” in 2015 from five perspectives: protection at EU borders, immigration detention, access to asylum and residency, family reunification and guardianship.

---

Struggling to Survive,\textsuperscript{108} on the experiences of unaccompanied and separated migrant children during their migration journey along the Balkans route.

Girls on the Move,\textsuperscript{109} on the experiences of migrant girls in four contexts (Southern Africa; Venezuela and Colombia; Central America and Mexico; the Balkans) to address knowledge gaps in current literature and programme approaches.

5.3 Fundamental Rights implications of Frontex engagement with third countries

In 2019, the Consultative Forum issued to the Agency and its Management Board a Recommendation on the fundamental rights implications of the Agency’s engagement with third countries.

The Recommendation calls on the Agency to:

- Carry out an effective fundamental rights impact assessment prior to engaging with a third country;
- Ensure that future Working Arrangements contain a designated fundamental rights clause;
- Ensure that the updated Fundamental Rights Strategy of the Agency adequately reflects the enhanced engagement of Frontex with third countries;
- Enhance the role of the Fundamental Rights Officer and her monitoring capacity;


\textsuperscript{109} Save the Children, Girls on the move: Global research series, 6 October 2020. https://resourcecentre.savethechildren.net/library/girls-move-research-series#-text-Girls%20on%20the%20Move%20is%20current%20literature%20and%20programme%20approaches
• Ensure respect for fundamental rights and international protection obligations in the sharing of personal data with third countries;
• Ensure that in all external relations a fundamental rights training component is included;
• Ensure that the Codes of Conduct apply to all participants in all Frontex activities;
• Define the tasks and powers of third-country observers and liaison officers;
• Ensure that a return monitor can effectively prevent fundamental rights violations;
• Enhance the complaints mechanism in relation to cooperation with third countries;
• Apply a restrictive definition of "operational personal data";
• Improve reporting on cooperation with third countries;
• Create a dedicated page on external relations on Frontex’s website;
• Increase transparency on the fundamental rights complaints mechanism.

The full recommendation is annexed to the Consultative Forum’s Seventh Annual Report. The Consultative Forum is planning to initiate an exchange with the Agency and its Management Board concerning follow-up on its recommendation in 2021.

In 2020, Frontex renewed its International Cooperation Strategy for 2021-2023. The Consultative Forum called for a meeting with the International Cooperation Unit, at which fundamental rights in international cooperation were discussed.
Based on a discussion paper shared by Frontex, the Consultative Forum advised that the Strategy consider several recommendations:

• Take stock of the implementation of the 2018-2020 Strategy, highlighting the achievements, key challenges and lessons learnt including on fundamental rights;

• Make Frontex’s accountability regime more precise by clarifying the different sub-regimes (member states staff, Frontex staff, third country staff) and explaining how Frontex will safeguard compliance both internally and with external actors;

• Refer to the EU Charter of Fundamental Rights and detail how the Agency intends to support access to international protection and safeguard the principle of non-refoulement;

• Include as a strategic objective support for the highest standards of accountability concerning respect for international law and human rights;

• Refer to data protection standards and regulatory frameworks when considering information exchange with partners;

• Include a reference to ensuring access to international protection and respect for the principle of non-refoulement as part of the objectives to increase cooperation on return and facilitate the mobility of “bona fide travellers”;

• Include effective mechanisms for the identification of vulnerable persons, (including individuals in need of international protection, unaccompanied minors, victims of trafficking, migrants with specific health or mental health needs);

• Elaborate indicators to assess partner countries’ border management standards including respect for fundamental
rights and international law. Ensure that these indicators are regularly monitored;
• In view of existing protection needs in some of the priority countries, guarantee that the corresponding Frontex activities provide for adequate protective response.

Red Cross EU Office

The Red Cross EU Office is a membership office representing the 27 National Red Cross Societies in the EU, the British Red Cross, the Norwegian Red Cross, the Icelandic Red Cross and the International Federation of Red Cross and Red Crescent Societies (IFRC). It helps coordinate relations between its members and EU decision-makers and stakeholders, sharing their extensive experience and expertise in supporting vulnerable people and communities within and outside the EU.

Working with and for vulnerable migrants is one of the long-standing traditions of the Red Cross Red Crescent; providing assistance that is strictly humanitarian and focused on migrants’ needs, vulnerabilities, and potential – irrespective of their legal status. National Red Cross and Red Crescent Societies work to support migrants throughout their journeys and once they are settled. They deliver essential services to all migrants, including humanitarian assistance, medical and psychosocial support, family reunification, asylum reception centres, and activities to address other longer-term needs. Red Cross EU Office members believe that EU migration, asylum, and border policies should prioritise protecting migrants’ fundamental rights.
In the 2020, the Red Cross EU Office adopted a new position on "Reducing the use of immigration detention in the EU." Despite the long-lasting negative impacts of detention on people's mental health and well-being, immigration detention is being used more and more. As reducing irregular entry and stay remains a top priority for the EU and Member States, increasing numbers of vulnerable migrants are being detained – especially at borders and to enforce the Common European Asylum System. European Red Cross Societies are deeply concerned by this trend and have developed a set of policy recommendations to protect the liberty of migrants. Drawing on their operational experience in immigration detention, these recommendations aim to discourage the use of detention as a migration-management strategy, and to promote the development and implementation of alternatives to detention in the EU.

5.4 Aerial surveillance

Frontex’s border surveillance activities, in terms of both capabilities and assets, have expanded exponentially in recent years. Central to the Agency’s border surveillance activities is the Multipurpose Aerial Surveillance (MAS) service that Frontex provides to Member States in its various operations. Launched in June 2017, MAS is a service delivered via the Framework Contract for Aerial Surveillance (FASS) using fixed-wing aircraft to enhance situational awareness at the EU’s external borders and pre-frontier areas by delivering real-time surveillance to Frontex and to Member States. The operational areas of MAS have
covered almost all external maritime and land borders of the EU: the Western Balkans, the Aegean Sea, the Central Mediterranean and from the Atlantic Ocean to the Black and Baltic Seas.

Video surveillance is streamed live by deployed aircraft (helicopters, planes and drones) provided by contractors, and analysed in real time by the European Monitoring Team (EMT) at Frontex, which usually consists of a law enforcement expert, a fisheries expert, a search and rescue operation expert and a Frontex team leader. Technicians representing the contractors are also present in the room. The EMT directs the aerial assets and processes the collected data before passing it on to the Member States and other EU Agencies for various activities (maritime search and rescue, fisheries inspection and control, maritime law enforcement etc).

Human rights organisations such as OHCHR, AI and Human Rights Watch have expressed serious concerns on the use of such aerial surveillance and the lack of transparency and accountability concerning the fundamental rights obligations of the Member
States mandating the Agency to provide these services. The Agency has been providing MAS services at EU external border sections where allegations of violent pushbacks have been continuous and documented throughout many years, such as at the Croatian-Bosnian border, the Aegean Sea and the central Mediterranean. Recent research also points to the associated fundamental rights risks. The Consultative Forum will step up its work related to aerial surveillance in 2021.

Concern has been also expressed by some CF members over the role MAS has been playing in recent years in facilitating maritime interceptions by Libyan authorities in the central Mediterranean, even as SAR capacities have been drastically reduced. When MAS activities spot a boat that the European Monitoring Team


deems to be in distress, in the SAR region of any State, they must notify the relevant Maritime Rescue Coordination Centre (MRCC) which under international law is responsible for coordinating SAR activities. On this basis, in recent years Frontex aerial assets have been deployed over the SAR region declared by Libya, and have routinely communicated to rescue coordination centres in the area, including the Libyan authorities, the position of boats spotted at sea carrying refugees and migrants. Such communication often triggered interceptions by Libyan authorities leading to disembarkation in Libya, a country which international organisations and leading human rights non-governmental organisations deem not to be a place of safety, in light of systematic human rights violations against refugees and migrants returned there.\textsuperscript{115}


Amnesty International

Amnesty International is a global movement campaigning for a world where human rights are enjoyed by all. Amnesty International’s European Institutions Office (EIO) coordinates and promotes advocacy and campaigning directed at decision-makers in the European Union (EU) and Council of Europe (CoE). It seeks to ensure that the EU integrates human rights into its internal and external policies and that member states take tangible action to promote and protect human rights nationally and regionally.

Reports/statements in 2020 highlighting human rights violations against refugees and migrants at EU borders and in the framework of border surveillance activities:

- **Greece**: Caught in a political game: Asylum-seekers and migrants on the Greece/Turkey border pay the price for Europe’s failures.\(^{116}\)
- **Malta**: Waves of impunity. Malta’s human rights violations and Europe’s responsibilities in the central Mediterranean.\(^ {117}\)
- **Italy–Libya**: “Between life and death”: Refugees and migrants trapped in Libya’s cycle of abuse.\(^ {118}\)
- **Croatia**: Shocking evidence of police torture of migrants.\(^ {119}\)

---


Upon request of the Consultative Forum, a meeting with the Agency’s MAS team took place in September 2020. The purpose of this meeting was to better understand the technical aspects of MAS and the role and activities of Frontex in situations of detected SAR cases. The Agency also presented in brief the procedure for handling Serious Incident Reports, including their triggers and how they are classified.

The Consultative Forum continues to call for increased due diligence measures to be incorporated in the different standard operating procedures and operational plans for border surveillance activities and to enhance safeguard mechanisms so that the information provided to Member States and third countries is handled in a fundamental rights-compliant manner, in line with the principle of *non-refoulement*, and does not contribute in any manner whatsoever to human rights violations.

---

**Churches’ Commission for Migrants**

The Churches’ Commission for Migrants in Europe (CCME), founded in 1964, is an umbrella organisation of churches and church-related organisations working on migration and integration, asylum and refugees, and against racism and discrimination. Members are Anglican, Protestant and Orthodox churches and related organisations, currently in 19 European countries.

CCME provides a networking and exchange forum for its members, informs them about policy developments at the European level and articulates their position towards European institutions. One focus in both networking and advocacy is the issue of safe passage, both into and through
Europe. In this context, the fundamental rights situation at the external borders of the EU, as well as in areas such as search and rescue, is of particular concern to CCME. CCME is part of United4Rescue, an association supporting various organisations’ search and rescue missions.

5.5 Extended return mandate

Regulation 2019/1896 increased Frontex’s responsibilities in the area of return, including technical assistance to Member States in the area of voluntary returns, technical and operational assistance to Member States’ post-arrival and post-return activities and the establishment of an integrated return management platform.\(^{120}\) The Consultative Forum noted that the Standing Corps also includes profiles of Forced Return Escorts and Support Officers and of Return Specialists. Frontex stepped up its engagement on voluntary returns, and the Consultative Forum remains interested in how voluntary returns\(^ {121}\) are defined and implemented by the Agency. The Consultative Forum offered additional expertise in this regard, including by advising the Agency on the formulation of disclaimers for voluntary returns and departures. Currently such a disclaimer is also applied in the context of forced return operations, where Member States indicate the existence of an enforceable return decision ahead of the operation being conducted, as well as the right to international protection. Such disclaimers are welcome but are not sufficient as a stand-alone safeguard against refoulement. Any

---

\(^{120}\) Article 48 (1) (a) (iv) and Article 48 (1) (d) of Regulation (EU) 2019/1896.

\(^{121}\) In 2020 the Agency supported a total of 631 voluntary returns, according to statistics shared by the European Centre for Returns.
decision to voluntarily return has to be taken genuinely by the individual while ensuring the right to apply for asylum.

**International Organization for Migration**

Established in 1951, the International Organization for Migration (IOM) is the leading intergovernmental organization in the field of migration and is committed to the principle that humane and orderly migration benefits migrants and society. IOM is part of the United Nations system, as a related organization.

IOM supports migrants across the world, developing effective responses to the shifting dynamics of migration and, as such, is a key source of advice on migration policy and practice. The organization works in emergency situations, developing the resilience of all people on the move, and particularly those in situations of vulnerability, as well as building capacity within governments to manage all forms and impacts of mobility.

Since 2009, IOM has cooperated with Frontex on border management. The two organizations are currently finalizing a Working Arrangement that will expand areas of cooperation to rights-based return, readmission and reintegration. In 2021, IOM appointed a Chief of Mission in Poland who also fulfills the role of IOM Liaison Officer to Frontex.

The Consultative Forum also inquired on the Agency’s plans in the context of reintegration activities and noted that this area of work is under development.
The Consultative Forum welcomed Frontex’s initiative to define a policy on safeguarding children’s rights in return procedures, although the policy remains pending, to be further developed and put into place in 2021. The Consultative Forum welcomes Frontex’s principle of not returning unaccompanied children.

### 5.5.1 Return monitoring & pool of forced return monitors

The International Centre for Migration Policy Development (ICMPD) run project Forced Return Monitoring III (FREM III) continues to contribute to a functioning EU Return System in line with the EU Return Directive (2008/115/EC), with two specific objectives: to further establish the pool of forced-return monitors in line with the Regulation 2019/1896, and to further strengthen the national forced-return monitoring systems in the Member States. By the end of 2021, Frontex will fully take over some of the activities carried out by the FREM project.

At the end of 2020 the Frontex pool of forced return monitors comprised 84 monitors from 23 Member States. Pool members were present in 107 Frontex coordinated return operations, and 40 operations were monitored by national monitors. While monitors from some countries regularly monitored Frontex coordinated operations, those from other countries were less involved or did not monitor any operations. The Consultative Forum notes a trend observed in previous years, in which collecting return operations were monitored the most, followed by joint return operations, which were also monitored to a large extent; the level of monitoring was lowest in the category of national return operations financed by Frontex. In 2020 at least one monitor was present

---

122 These are national return operations financed by Frontex and should not be confused with purely national return operations taking place with no involvement or financing of Frontex.
on board of 62% of Frontex coordinated forced return operations by charter flights (100% of collecting return operations were monitored, 92% of joint return operations and 46% of national return operations were monitored). The trend that national return operations are the least monitored continues. In 66% of Frontex coordinated forced return operations, the monitoring was facilitated by the Frontex pool of forced return monitors.

Already in 2019 a group of National Preventive Mechanisms (NPMs) established the “Nafplion Group”, considering the Frontex pool insufficiently independent. The Nafplion Group aims to remedy this and to carry out independent external monitoring.\textsuperscript{123}

FRA has issued its opinion that the governance of the pool of forced return monitors should be independent.\textsuperscript{124}

\textsuperscript{123} Human Rights Ombudsman Republic of Slovenia, The report of the Human Rights Ombudsman of the Republic of Slovenia on implementing the tasks of the national preventive mechanism under the optional protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment for 2019, June 2019, www.ohchr.org/Documents/HRBodies/OPCAT/NPM/NPM-Slovenia-2019.pdf.

The Consultative Forum will continue to observe how return monitoring is further implemented by Frontex, how the governance of the pool of forced return monitors is conducted, how Frontex-led monitoring (through its pool of monitors) will interplay with national monitoring mechanisms and what role the Nafplion Group will play in the future of monitoring forced returns.

5.6 Capacity building: Recommendation on Frontex training activities

In line with its Work Programme for 2020 and following up the independent assessment of Frontex training products commissioned in 2019, the Consultative Forum issued a set of recommendations on the Agency’s training activities (see Annex IV). These recommendations were submitted to the Frontex Executive Management, accompanied by an assessment report stemming from the assessment, in February 2020, well before training of the first Standing Corps members began in July 2020.

The recommendations took account of the state of affairs and expectations of the Agency. They capitalise on the good practices identified in the Agency’s work and make suggestions for how to involve the Consultative Forum and Fundamental Rights Officer in the most meaningful and effective ways to integrate a sound fundamental rights dimension into the Agency’s training mandate. The Consultative Forum has also identified steps that Frontex should initiate as a matter of priority to ensure compliance with the provisions in Regulation 2019/1896 concerning fundamental rights mainstreaming in the area of training.

125 The assessment was commissioned with a view to better understand the developments within the Agency in the area of training as well as the extent and further needs for fundamental rights mainstreaming in Frontex training courses and products.
The recommendations cover three thematic areas and include:

A. Engagement of the Consultative Forum and the Fundamental Rights Officer
   1. Promoting transparency, efficiency and predictability: Frontex should increase the transparency, efficiency and predictability of its processes for the development of new training courses and materials affecting fundamental rights.
   2. Engaging meaningfully the Consultative Forum: Frontex should engage the Consultative Forum in a meaningful way from the outset, taking into account its advice in the training needs assessment and planning, its quality assurance system and when incorporating core fundamental rights messages into all courses.

B. Fundamental rights expertise for the development and delivery of training
   1. Involving the necessary degree of fundamental rights expertise: Frontex should ensure that at least one person with the necessary degree of theoretical and practical expertise on fundamental rights is present in all activities related to the development and delivery of training.
   2. Basing training materials on diversified sources: Frontex should define detailed criteria and/or terms of reference for the engagement of Member States experts, as well as external fundamental rights experts for the development, review and delivery of training courses and materials.
      • Providing different perspectives: Frontex should ensure that training products and experts involved in the development and delivery of training apply different perspectives on how to address fundamental rights risks and challenges, including from civil society,
national human rights institutions, and international bodies with expertise on fundamental rights protection, migration or asylum, as well as migrants and refugees themselves.

3. Updating the list of fundamental rights risks: The Fundamental Rights Officer’s list of potential fundamental rights violations should be updated and included in Frontex training courses.

C. Immediate interventions to enhance the quality of training that is currently being developed

1. Recruiting external fundamental rights expertise to review current developments: External fundamental rights expertise should be engaged from the external expert database to focus on the training of Category 1 staff, the pre-deployment induction course, the Frontex profile course, the course design and the course to train the trainers.

The full Recommendation is annexed to this report (Annex IV).

To support the development of the basic training concept for the Standing Corps, and considering the limited resources of the Fundamental Rights Officer to be dedicated to training activities, the Consultative Forum recommended commissioning the services of an external expert. At the beginning of 2020 the Fundamental Rights Officer considered hiring an external expert as additional support for the revision of selected materials concerning training for the Standing Corps and its mainstreaming of fundamental rights.
At a meeting between the training expert, the Consultative Forum, the Fundamental Rights Officer and training unit, the expert shared the following conclusions that should inform the work of the Frontex Training Unit:

- Focus on making any fundamental-rights related concepts as practical as possible;
- Mainstream fundamental rights within the training concept instead of only having separate sessions on fundamental rights;
- Build upon the resources already available (from other EU Agencies, international organisations or civil society organisations) instead of using these resources as complementary material;
- Work on producing suitable training materials concerning the accountability and responsibility of the Standing Corps;
- Review the pre-deployment induction trainings to make them practical.
The Consultative Forum appreciates the cooperation with the Fundamental Rights Officer, Frontex’s Training Unit and the expert on the review of the training materials. At the same time, the Consultative Forum underlines that the overall approach to engaging with the Consultative Forum remained ad hoc and limited. This is due to the lack of a mechanism for timely and meaningful involvement of the Consultative Forum in the training development processes, as highlighted by the Consultative Forum, including in the aforementioned recommendation.

The Consultative Forum looks forward to engaging further in the area of training, while reiterating the capital importance of the following aspects:

a) Thorough fundamental rights mainstreaming for the Agency’s training products and tools;

b) The establishment of a Training Quality Assurance System, with a particular emphasis on fundamental rights components in the development and implementation of training activities;

c) Setting up a mechanism for efficient and early consultation and involvement of the Consultative Forum in the Agency’s training development process.
On public access to documents: In line with the principle of good administration, the Consultative Forum has no objection to releasing its documents. Frontex is ultimately in charge of releasing documents to applicants, in line with Regulation (EC) 1049/2001.
**ANNEX I: Activities**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>18–19/01</td>
<td>Consultative Forum meeting, Warsaw</td>
</tr>
<tr>
<td>24/02</td>
<td>The Consultative Forum co-chairs participated in the LIBE MEP visit to Frontex</td>
</tr>
<tr>
<td></td>
<td>(slot dedicated to implementation of the enhanced fundamental rights dimension in the</td>
</tr>
<tr>
<td></td>
<td>EBCG Regulation, including fundamental rights training and data protection), Warsaw</td>
</tr>
<tr>
<td>28/02</td>
<td>The Consultative Forum issued a recommendation on Frontex training activities</td>
</tr>
<tr>
<td>25-26/03</td>
<td>Presentation of the Consultative Forum Programme of Work 2020 to the Frontex Management</td>
</tr>
<tr>
<td></td>
<td>Board</td>
</tr>
<tr>
<td>21/05</td>
<td>The Consultative Forum submitted its comments on the “Opinion of the Fundamental Rights</td>
</tr>
<tr>
<td></td>
<td>Officer on Frontex technical and operational assistance to Member States in the area of</td>
</tr>
<tr>
<td></td>
<td>return concerning unaccompanied children”</td>
</tr>
<tr>
<td>26-27/05</td>
<td>Consultative Forum meeting</td>
</tr>
<tr>
<td>8/06</td>
<td>The Consultative Forum submitted its comments on the first draft of the Fundamental Rights</td>
</tr>
<tr>
<td></td>
<td>Strategy</td>
</tr>
<tr>
<td>10/06</td>
<td>Consultative Forum focus group meeting with ECRET</td>
</tr>
<tr>
<td>17/06</td>
<td>The Consultative Forum presented its Seventh Annual Report / 2019 to the Frontex</td>
</tr>
<tr>
<td></td>
<td>Management Board</td>
</tr>
<tr>
<td>24/06</td>
<td>Consultative Forum meeting with Fundamental Rights Officer</td>
</tr>
<tr>
<td>9/06</td>
<td>Consultative Forum meeting with Frontex on child protection</td>
</tr>
<tr>
<td>22/07</td>
<td>Consultative Forum meeting with the Fundamental Rights Officer</td>
</tr>
<tr>
<td>3/09</td>
<td>Workshop led by the Fundamental Rights Agency on verification of the draft monitoring</td>
</tr>
<tr>
<td></td>
<td>tools for future Frontex Fundamental Rights Monitors</td>
</tr>
<tr>
<td>9/09</td>
<td>Consultative Forum meeting with the Frontex MAS team</td>
</tr>
<tr>
<td>11/09</td>
<td>The Consultative Forum co-chairs presented the Forum’s Annual Report 2019 to the</td>
</tr>
<tr>
<td></td>
<td>European Council’s Frontiers Working Party</td>
</tr>
<tr>
<td>14/09</td>
<td>Consultative Forum meeting with the Fundamental Rights Officer</td>
</tr>
<tr>
<td>28/09</td>
<td>The Consultative Forum submitted its comments on the draft Fundamental Rights Due</td>
</tr>
<tr>
<td></td>
<td>Diligence Procedure proposed by the Fundamental Rights Officer</td>
</tr>
<tr>
<td>29/09</td>
<td>Consultation meeting with the Consultative Forum on the renewal of the Frontex</td>
</tr>
<tr>
<td></td>
<td>International Cooperation Strategy</td>
</tr>
<tr>
<td>01/10</td>
<td>Launch of the Consultative Forum’s Annual Report 2019</td>
</tr>
<tr>
<td>7/10</td>
<td>Meeting with the Fundamental Rights Officer on Frontex training</td>
</tr>
</tbody>
</table>
07/10 The Consultative Forum submitted its comments on the discussion paper regarding the Frontex International Cooperation Strategy 2021-23

15-16/10 Consultative Forum meeting

22/10 Due diligence procedure meeting with the Fundamental Rights Officer

04/11 The Consultative Forum submitted its recommendations on the implementation of Regulation 2019/1896


09/11 The Consultative Forum submitted its comments on the second draft Fundamental Rights Strategy

09/11 The Consultative Forum submitted its comments on the draft Management Board decision adopting “Rules on the independence of the Fundamental Rights Officer and his or her staff”

25-26/11 Presentation of the Consultative Forum Programme of Work 2021 to the Frontex Management Board

07/12 The Consultative Forum submitted its comments on the Management Board decision “establishing a supervisory mechanism to monitor the application of the provisions on use of force by statutory staff, including rules on reporting and specific measures, such as those of a disciplinary nature, with regard to the use of force during deployments”

Due to the COVID-19 pandemic, all meetings held from March 2020 onwards took place via videoconference.
### ANNEX II: Requests for information by the Consultative Forum

<table>
<thead>
<tr>
<th>Information requested</th>
<th>Request Date</th>
<th>Response Date</th>
<th>Content of the response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role of interpreters and cultural mediators (if applicable) in Frontex operations/activities, including: mode of recruitment and rules of deployment; existence of profiles for interpreters/cultural mediators; details of the operational guidance and training as well as existence of quality control on their work; number of SIRs or complaints submitted regarding their activities; changes in the procedure around the deployment of interpreters in regard to the implementation of Regulation 2019/1896</td>
<td>5/02</td>
<td>6/03</td>
<td>Information provided</td>
</tr>
<tr>
<td>Information related to Frontex's decision to launch two rapid border interventions at the external sea and land borders between Greece and Turkey (dated 2/03/2020 and 3/03/2020 respectively)</td>
<td>4/03</td>
<td>15/04</td>
<td>Information provided</td>
</tr>
<tr>
<td>1. Operational Plan for Rapid Interventions Evros</td>
<td>30/03</td>
<td>4/04</td>
<td>Information partially provided</td>
</tr>
<tr>
<td>2. Operational Plan for Rapid Interventions Aegean Sea</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Operational Plan for Joint Operation Poseidon Sea</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information on the involvement of Frontex in the context of EUNAVFOR MED IRINI operation, including: mode of information sharing and analysis, scope of training activities; the Agency’s plan to address/implement the Consultative Forum’s recommendations related to Frontex cooperation with third countries; mode of implementation of Article 46 (5) and (6) of Regulation 2019/1896</td>
<td>24/04</td>
<td>15/05</td>
<td>Information provided</td>
</tr>
<tr>
<td>The Agency’s plans regarding the launch of the Due Diligence Procedure developed by the Fundamental Rights Officer</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Agency’s plans to consult the Fundamental Rights Officer in light of Article 109 of Regulation 2019/1896 on involvement in the operation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Agency’s plans regarding its monitoring mandate in the context of the information on the involvement of Frontex in the context of EUNAVFOR MED IRINI operation, including: mode of information sharing and analysis, scope of training activities; the Agency’s plan to operation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information on the state of affairs regarding the reform of the Complaints Mechanism</td>
<td>2/10</td>
<td>15/10</td>
<td>Information provided</td>
</tr>
</tbody>
</table>

---

127 When requesting information, the Consultative Forum should receive a response within 15 working days from the registration of the request.
<table>
<thead>
<tr>
<th>Information requested</th>
<th>Request Date</th>
<th>Response Date</th>
<th>Content of the response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information on the state of affairs regarding the reform of the Serious Incident Reporting mechanism</td>
<td>2/10</td>
<td>15/10</td>
<td>Information provided</td>
</tr>
<tr>
<td>Information on the specific incidents (as well as any SIRs or complaints submitted in relation to them) referred to in the public statement of 23/10/2020 noting that the Executive Director has been in contact with the Greek authorities about “some incidents at sea in recent months”, which led to the launch of an internal inquiry by the Greek Authorities Information on details of the internal inquiry launched by the Agency in relation to pushback allegations in a Frontex operational area as reported in the media</td>
<td>27/10</td>
<td>01/12</td>
<td>Information provided</td>
</tr>
<tr>
<td>Full list of SIRs related to incidents in the Aegean Sea from the start of the year Information about the procedure for the categorisation of SIRs Information whether initial SIRs are logged before dismissal or categorisation and who decides at which stage on their admissibility Information on the number of events detected by MAS assets in the area since the beginning of MAS activities in Greece Information on any SIRs launched in relation to MAS activities</td>
<td>28/10</td>
<td>24/11</td>
<td>Information provided</td>
</tr>
</tbody>
</table>
ANNEX III: Consultative Forum Recommendation on training activities of the European Border and Coast Guard Agency

According to Article 3 (2) of the European Border and Coast Guard Regulation (EU) 2019/1896 (hereafter the Regulation) fundamental rights education and training must be overarching components in the implementation of European integrated border management.

The Regulation also provides Frontex with the tasks of:

- assisting Member States and third countries in the training of national border guards, other relevant staff and experts on return, including through the establishment of common training standards and programmes, including on fundamental rights (Article 10 (1) w);
- developing and managing Frontex own human and technical capabilities, including the recruitment and training of the members of its staff (Article 10 (1) l); and
- providing border guards, return specialists, return escorts and other relevant staff who are members of the Standing Corps as well as forced-return monitors and Fundamental Rights Monitors with specialized training relevant to their tasks and powers. To this end, Article 62 (1) of the Regulation explicitly mandates the Agency to develop specific training tools that take account of relevant research outcomes and best practices, in cooperation with EU Agencies including FRA and EASO in areas relevant to their work.

Article 62 (2) of the Regulation obliges Frontex to ensure that all staff to be deployed in the field "have received adequate training in relevant Union and international law, including on fundamental rights, access to international protection, guidelines for the
purpose of identifying persons seeking protection and directing them towards the appropriate procedures, guidelines for addressing the special needs of children, including unaccompanied minors, victims of trafficking in human beings, persons in need of urgent medical assistance and other particularly vulnerable persons, and, where it is intended that they participate in sea operations, search and rescue, prior to their initial deployment in operational activities.”

Article 62 (6) of the Regulation also states that Frontex’ common core curricula should promote the highest standards and best practices in the implementation of Union border management and return law. In this regard, the Regulation explicitly envisages that the Agency draws up its common core curricula after consulting the Consultative Forum as well as its Fundamental Rights Officer. Member States are in turn made responsible to integrate the common core curricula into the training they provide to their national border guards and staff involved in return-related tasks.

Given the relevance of training, under Article 62 (10) of the Regulation, the Agency is tasked to develop an internal quality control mechanism to ensure a high level of training, expertise and professionalism of statutory staff, in particular statutory staff who participate in the operational activities of the Agency.

Over the last years, and in accordance with its mandate, the Consultative Forum has advised the Agency in the area of training and responded to consultations on the Common Core Curriculum and other relevant initiatives relating to training. In line with its mandate, the Forum’s role is to give advice. The Consultative Forum is not in a position to formally endorse materials produced by Frontex.
With the new responsibilities of Frontex in mind, and the aim of better delivering our advice in this field, the Forum engaged an external expert to map training materials and expertise involved in the development of training courses, analyse the extent of fundamental rights mainstreaming in Frontex training courses and products, identify good practices and areas of improvement and make concrete recommendations to the Consultative Forum on how to deliver its advice in the most effective manner.

The Consultative Forum discussed the expert’s findings as well as her recommendations to the Forum at its 20th meeting on 29-30 October 2019. Based on the analysis of the main conclusions of the expert’s report, the Consultative Forum submits the following seven recommendations relating to training. These recommendations take account of the current state of affairs and expectations on the Agency. They capitalize on the good practices identified in the work of the Agency and make suggestions on how to involve the Consultative Forum in the most meaningful and effective ways. The Consultative Forum has also identified urgent steps that Frontex should initiate as a matter of priority to ensure compliance with the provisions in the Regulation.

### Engagement of the Consultative Forum and the Fundamental Rights Officer

1. **Promoting transparency, efficiency and predictability** – Frontex should increase the transparency, efficiency and predictability of its processes for the development of new training courses and materials affecting fundamental rights. The training unit should develop a meaningful engagement plan with the Fundamental Rights Office and the Consultative Forum. This approach should also orient relations with other actors with whom Frontex engages bilaterally on fundamental rights aspects of its training activities.
2. **Engaging meaningfully the Consultative Forum** – Frontex should engage the Consultative Forum in a meaningful way from the outset, taking into account the following:

2.1 **Needs assessment and planning** - Through the operational and monitoring activities of its members, the Consultative Forum is in a position to provide meaningful advice at the training needs assessment and planning stages. Such engagement will aid Frontex in ensuring that its training on fundamental rights targets the actual needs on the ground and can be flexibly adapted. Advise from the Consultative Forum should be considered at the early stages of the process and before the plans are presented for adoption to the Management Board.

2.2 **Quality assurance system** - The Agency should meaningfully involve the Fundamental Rights Officer and consult the Forum in the development of its quality assurance system under Article 62(10) of the Regulation. The system, to be put in place without delay, must ensure that adequate expertise on fundamental rights is engaged in the training development and delivery processes. With the increased mandate and responsibilities of the Agency, such system will be key to monitor and quickly address potential shortcomings, thus maintaining the high quality of training that the Regulation requires.

2.3 **Incorporate core fundamental rights messages into all courses** - Frontex should involve the Forum in formulating core fundamental rights content which should feature in all courses, regardless of the profile of the trainees. It should cover topics such as protection of personal data, non-discrimination, *non-refoulement*, access to international protection, child safeguarding and proportionality and necessity in the use of force. The core fundamental rights content should build on key tools already developed
by Frontex but also take into account relevant training materials the Consultative Forum can provide. The Fundamental Rights Officer should play a key role in developing such key content and endorse the final version. Frontex should request the advise of the Consultative Forum on the areas to be covered and on the relevant materials to consider.

**Fundamental rights expertise for the development and delivery of training**

3. **Involving the necessary degree of fundamental rights expertise** – In view of the increased responsibilities and operational engagement of the Agency, including in the territory of third countries, the Consultative Forum finds it essential for the Agency to ensure that at least one person with the necessary degree of theoretical and practical expertise on fundamental rights is present in all activities related to the development and delivery of training. This is a pre-condition to ensuring adequate mainstreaming of fundamental rights and is essential to maintain the quality of training. To this end, the Fundamental Rights Office must be adequately staffed, including with senior staff, to ensure a meaningful involvement in training needs assessments; development and review of training materials; training of trainers; development and implementation of the Frontex training quality system and in the selection and engagement of training experts from the Member States and Frontex expert database.

4. **Basing training materials on diversified sources** – The mainstreaming of fundamental rights in training requires the engagement of adequate expertise from a variety of sources including governmental, intergovernmental and non-governmental organizations. Under the lead of the Fundamental Rights Officer and in consultation with the Consultative
Forum, Frontex should define detailed criteria and/or terms of reference for the engagement of Member States experts as well as external fundamental rights experts (e.g. from the Frontex’ external experts’ database) for the development, review and delivery of training courses and materials. The Fundamental Rights Officer should be in the lead on the recruitment or engagement of fundamental rights expertise to support Frontex training activities.

5. **Providing different perspectives** – The Agency should ensure that training products and experts involved in the development and delivery of training apply different perspectives on how to address fundamental rights risks and challenges, including from civil society, national human rights institutions, and international bodies with expertise on fundamental rights protection, migration or asylum, as well as migrants and refugees themselves.

6. **Updating the list of fundamental rights risks** – The Fundamental Rights Officer has developed a list of potential fundamental rights violations that is included as reference in some training products. Taking into account the new mandate of the Agency, the Forum recommends that the Fundamental Rights Officer updates the list of potential fundamental rights violations as a key tool to include in Frontex training courses. The update should be undertaken in consultation with the Forum. It should map fundamental rights risks and match them with obligations stemming from European and International law, illustrating this through practical examples based on national and European case law as well as on conclusions by human rights treaty bodies. It should also provide examples of good practice.

Immediate interventions to enhance the quality of training that is currently being developed
7. Recruiting external fundamental rights expertise to review current developments – After having carefully considered the detailed needs and the time constraints for the development of a number of Frontex training courses and noting the insufficient capacity within the Fundamental Rights Office, external fundamental rights expertise should be engaged. As already recommended at the Consultative Forum’s 21th meeting held on 18-19 February 2020, Frontex should hire external expertise without delay, from its external expert pool. The Consultative Forum stands ready to advice on the degree of expertise required. The Fundamental Rights Officer should take the lead in the selection of expert(s), who should focus on the following:

7.1 Training of category one staff - The common curriculum that Frontex has developed for the training of category one members of the Standing Corps constitutes an adaptation of the Frontex Common Core Curriculum. Given the relevance of this curriculum and in the spirit of the Regulation, that envisages consultation with the Consultative Forum prior to the adoption of Frontex Common Core Curriculum, the external expert(s) should urgently review and comment on the curriculum for category one staff. This should include a review and fundamental rights mainstreaming in the curriculum itself, train-the-trainers’ courses, related training manuals, lesson plans, presentations and other course materials that are being developed.

7.2 Pre-deployment induction course - The expert(s) should also review and propose amendments to the pre-deployment induction course to ensure fundamental rights are adequately mainstreamed. The review should also consider existing tools and take into account the expertise developed by or recommended by the Consultative Forum. The expert(s) should ensure that fundamental rights aspects
are duly reflected and considered in all course materials, including case studies and lesson plans.

7.3 Frontex profile courses - The expert(s) should undertake a similar review and mainstream fundamental rights in all Frontex profile courses. This recommendation is also applicable to those profiles that may not directly come in contact with migrants or refugees but equally affect the exercise of their rights, such as Frontex surveillance activities.

7.4 Course design and train the trainers - In consultation with the Forum, the expert(s) should also review and propose the use of relevant materials produced by or recommended by the Consultative Forum in Frontex training methodology courses for Frontex trainers. This includes the Frontex Course in Course Design in line with Bologna/Copenhagen Principles, using Sectoral Qualifications Framework for Border Guard Guarding (SQF for BG).
ANNEX IV: Consultative Forum Work Programme 2020

I. Introduction

In accordance with Article 108 of the Regulation on the establishment of a European Border and Coast Guard\textsuperscript{128} (hereinafter referred to as "Regulation 2019/1896") the role of the Consultative Forum is to assist the Agency "by providing independent advice in fundamental rights matters". To this effect, the Consultative Forum may be consulted on any matter related to fundamental rights, including "on the further development and implementation of the fundamental rights strategy, on the functioning of the complaints mechanism, on codes of conduct and on the common core curricula".

For the purpose of performing its duties, and in line with the Regulation 2019/1896, "the Consultative Forum shall be provided with effective access in a timely and effective manner to all information concerning the respect for fundamental rights, including by carrying out on-the-spot visits to joint operations or rapid border interventions subject to the agreement of the host Member State or the third country, as applicable, to hotspot areas, and to return operations and return interventions, including in third countries".

With the adoption of its Work Programme, the Consultative Forum sets its priorities for 2020. This document also defines specific outputs or results the Consultative Forum aims at achieving through its activities.

The Program of Work reflects priorities and activities jointly identified with Frontex and its Management Board and it remains

\textsuperscript{128} Regulation (EU) 2019/1896.
flexible for ad-hoc consultation of the Consultative Forum by the Executive Director of Frontex and the Frontex Management Board in line with emerging needs.

The **priorities of the Consultative Forum in 2020** are:

B. Revision and further development of the Frontex Fundamental Rights Strategy and its implementing documents.
C. Fundamental Rights implications of Frontex operational and return activities.
D. Fundamental Rights implications of Frontex engagement with third countries.
E. Child protection and safeguarding in the activities of the Agency.

In the implementation of this program of work, the Consultative Forum will continue working together with and supporting the Frontex Fundamental Rights Officer and her team, while ensuring complementarity with her mandate and activities.

All activities and recommendations of the Consultative Forum will fully respect the right to protection of personal data.

**II. Priorities and activities**

**Priority A: Implementation of EU Regulation 2019/1896 and its fundamental rights implications**

In line with its mandate, the Consultative Forum will make its collective fundamental rights expertise available to the Agency in relation to the implementation of the 2019 European Border and Coast Guard Regulation.
Activity A.1: Rules on the independence of the Frontex Fundamental Rights Office
Output: Advice on the Agency’s proposed rules on the independence of the Frontex Fundamental Rights Office.

Activity A.2: Setting up of a Frontex Standing Corps
Output: Advice on fundamental rights aspects in relation to the setting up of a Frontex Standing Corps, including Frontex rules on the use of force.

Activity A.3: Enhancement of the Frontex Complaints Mechanism
Output: Advice on the enhancement of rules for the individual complaints mechanism as well as on the adoption and implementation of a dissemination plan.

Activity A.4: Frontex monitoring of fundamental rights implications in its activities
Output: Advice on the framework and modalities for the engagement of Fundamental Rights Monitors and on the revision of the Frontex Serious Incident Reporting mechanism.

Activity A.5: Strengthening fundamental rights expertise for the development and delivery of Frontex training activities
Output: Advice on the establishment of a Training Quality Assurance System and fundamental rights components in the development and delivery of Frontex training activities.

Activity A.6: Modalities for the provision of feedback on the work of the Consultative Forum
Output: Consultations to establish modalities for Frontex to inform the Consultative Forum on the follow-up to its recommendations.
Priority B: Revision and further development of the Frontex Fundamental Rights Strategy and its implementing documents


Priority C: Fundamental Rights implications of Frontex operational and return activities

Activity C.1: Consultative Forum visit to a Frontex operational activity

Output: Consultative Forum visit to a Frontex operational activity followed by a focus group discussion on findings with Frontex and Management Board Representatives.

Activity C.2: Frontex policy for the engagement of interpreters and cultural mediators in its operations

Output: Advice on the fundamental rights implications of Frontex engagement with cultural mediators and interpreters.

Activity C.3: Fundamental Rights Implications of Frontex return activities

Output: Ongoing advice and organisation of a focus group meeting with the European Centre for Returns to discuss progress in the implementation of the Consultative Forum recommendation on return.

Priority D: Fundamental Rights implications of Frontex engagement with third countries

Output: Organisation of a Focus group meeting with Frontex and the Management Board to discuss progress in the implementation of Frontex recommendations on
third country engagement as well as observations of the Consultative Forum visits to Serbia and Albania.

Priority E: Child protection and safeguarding in the activities of the Agency

**Output:** Organisation of a meeting with Frontex to discuss progress in the implementation of the Consultative Forum recommendation on child protection and safeguarding. Advice on next steps to enhance Frontex policy on child protection and child safeguarding taking into consideration the Agency’s extended mandate.