FRONTEX CONSULTATIVE FORUM ON FUNDAMENTAL RIGHTS

WORKING METHODS

Article 10(2) of Regulation (EU) 2019/1896 mandates the Consultative Forum on fundamental rights (hereinafter, Consultative Forum), after consulting the Management Board and the Executive Director, to define its working methods and set up its work programme.

Article 1

Mandate

1. Having regard to Article 108 Regulation (EU) 2019/1896,

1.1. A Consultative Forum shall be established by the Agency to assist it by providing independent advice in fundamental rights matters. The Executive Director and the Management Board, in coordination with the Fundamental Rights Officer, may consult the Consultative Forum on any matter related to fundamental rights.

1.2. The Agency shall invite the EUAA, FRA, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the Consultative Forum. On the basis of a proposal by the Fundamental Rights Officer, the Management Board shall decide on the composition of the Consultative Forum and the terms of the transmission of information. The Consultative Forum shall define its working methods and set up its work programme after consulting the Management Board and the Executive Director.

1.3. The Consultative Forum shall be consulted on the 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. The Agency shall inform the Consultative Forum of the follow-up to the Forum’s recommendations.

1.4. The Consultative Forum shall publish annually a report of its activities.

1.5. Without prejudice to the tasks of the Fundamental Rights Officer, the Consultative Forum shall be provided with effective access in a timely and effective manner to all information concerning the respect for fundamental rights; this includes 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. Where the host Member State does not agree to an on-the-spot visit by the Consultative Forum to a Frontex operation on its territory, it shall provide the Agency and the Consultative Forum with duly justified reasons in writing.

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2 Management Board Decision 43/2022 adopting the rules for the Executive Director and the Management Board to inform the Consultative Forum of the follow-up to its recommendations and to ensure that action is taken with regard to recommendations of the Fundamental Rights Officer.
2. Having regard to Article 10 Regulation (EU) 2018/1240, the Consultative Forum shall have a representative in the European Travel Information and Authorisation System (hereinafter, ETIAS) Fundamental Rights Guidance Board.

2.1. The Consultative Forum shall nominate a representative to the ETIAS Fundamental Rights Guidance Board by consensus.

3. Having regard to Article 91 Regulation (EU) 2021/1134, the Consultative Forum shall have a representative in the Visa Information System (VIS) Fundamental Rights Guidance Board.

3.1. The Consultative Forum shall nominate a representative to the VIS Fundamental Rights Guidance Board by consensus.

Article 2
Composition, nomination and membership

1. UNHCR, EUAA and FRA are statutory members of the Consultative Forum and the Agency shall invite other relevant organisations to participate in the Consultative Forum as stated in Article 108 (2) of the Regulation (EU) 2019/1896.

2. Composition & nomination

2.1. Frontex, following advice by the Fundamental Rights Officer, can invite relevant international and civil society organisations to participate in the Consultative Forum bilaterally and through an open call for the period of three years (corresponding to one Consultative Forum term of office).

2.2. The Fundamental Rights Officer should consult the Consultative Forum about accession criteria and in the selection of candidates.

2.3. Following a selection procedure of the members, a Frontex Management Board decision shall formally establish the subsequent Consultative Forum composition for three years.

2.4. The co-Chairs may propose to the Fundamental Rights Officer upon request of the members to open an extraordinary call for expression of interest before the end of the respective term where there is a need for specific expertise not covered by the current members.

3. Membership

3.1. Each member shall appoint a representative and at least one alternate within one month after confirmation of their membership by the Management Board.

3.2. Appointments and cessations of the Consultative Forum members or alternates shall be promptly notified to the Co-chairpersons, Frontex Executive Director and the Frontex Management Board chair through a formal letter by the head of the respective organisation copying the Consultative Forum Secretariat.

3.3. Consultative Forum members shall actively contribute to the fundamental rights advice. They shall participate and actively engage in meetings. They shall contribute orally and in writing.

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to the preparation of recommendations, opinions and the annual report of the Consultative Forum. They may also participate in on-the-spot field visits and contribute to other activities such as VEGA and training.

3.4. Consultative Forum members may take the lead on certain thematic areas by providing analysis on certain topics and gathering the input of the other members.

3.5. In addition to the co-chairpersons, other Consultative Forum members can also represent the Consultative Forum and present its advisory work or any related topic at events.

3.6. Any other (unrelated to the advice provided in the Consultative Forum) views expressed by the Consultative Forum members in external events should be understood as their individual or their organisations’ position, not representing the Consultative Forum.

Article 3
Co-chairpersons

1. The Consultative Forum shall elect two Chairpersons from amongst its members by simple majority. Should there not be enough candidates, should the membership of one of the Chairpersons cease during their mandate, or should a Chairperson be absent or indisposed, the Consultative Forum may exceptionally elect and/or be represented by only one.

1.1. The co-Chairs represent the Consultative Forum vis-à-vis Frontex staff, the Management Board, the Fundamental Rights Officer and external interlocutors and ensure the strategic direction and overall coordination of the Consultative Forum’s work.

1.2. Both co-Chairs are equal in terms of their role and tasks. They shall strive to take all decisions related to their role by consensus. Should consensus not be reached on a particular point, they may call for a plenary vote, which will decide by simple majority of the members.

1.3. While the co-Chairs consult the Consultative Forum members on all strategic decisions, they also take the initiative and responsibility to speak and act on behalf of the Consultative Forum at any time it is needed, and particularly in an emergency that requires rapid action.

1.4. The duration of the co-Chairs’ mandate is three years and it can be renewed based on re-election. Elections are to be held every 3 years (starting with February 2024). The co-Chairs and other interested members should inform the Consultative Forum members, the Secretariat and the Chairs minimum 3 weeks ahead of the elections on their planned candidature. The co-Chairs shall inform the Consultative Forum members and the Secretariat minimum six weeks ahead a resignation. In the exceptional case of the Consultative Forum being left without any Chair, the Secretariat shall call for elections for the appointment of new co-Chairs as soon as possible.

Article 4
Meetings

1. Meetings and interactions with Frontex

1.1. The Consultative Forum shall meet with the Executive Director of Frontex and the Chair of the Management Board at least three times per year.

1.2. Thematic and working level meetings and videocalls with Frontex and/or Management Board representatives may also be held in line with the Consultative Forum’s Programme of Work
and/or emerging needs and at the initiative of the Consultative Forum members, Fundamental Rights Officer, Frontex, Frontex Management Board. Such meetings are called ‘steering group meetings’ with Frontex and ‘focus group meetings’ with the Frontex Management Board (e.g. in follow up to on-the spot-visits).

1.3. Consultative Forum members may hold preparatory meetings, videocalls and exchange views and information among themselves. The Consultative Forum can invite the Fundamental Rights Officer, Fundamental Rights Monitors and/or Fundamental Rights Office staff, other Agency staff or experts to attend these meetings if deemed relevant.

1.4. The Consultative Forum might also be called to participate in meetings by the European Commission, the Council of the European Union, the European Parliament and the European Ombudsman, relevant national oversight mechanisms and other Consultative Fora.

1.5. Briefing and debriefing meetings are held ahead of and following on-the spot visits and VEGA operations.

1.6. The co-Chairs chair all meetings.

2. Consultative Forum meetings

2.1 The Consultative Forum meetings shall be convened at least three times per year by the co-Chairs.

2.2 The co-Chairs, a majority of the members, the Frontex Executive Director and/or Management Board Chair or Fundamental Rights Officer can propose to call for an extraordinary Consultative Forum meeting.

2.3 The dates and venues of the three annual meetings are proposed by the co-Chairs in consultation with the members, the Frontex Executive Director and the Management Board Chair. Meeting invitations shall be sent by the Secretariat at least six weeks ahead of the meetings.

2.4 The draft agenda shall be proposed by the co-Chairs to the members and to Frontex and Management Board for comments. The Consultative Forum will adopt the agenda. The draft agenda should be circulated to members two weeks ahead of the meetings.

2.5 The Secretariat shall circulate the final agenda to all meeting participants at least one week before the respective meeting.

2.6 At the beginning of Consultative Forum meetings, the agendas will be presented and adopted. The co-Chairs and members may change the agenda depending on emerging issues or time constraints in terms of participation to the meetings.

2.7 All meetings are held in-person with the possibility for online participation. The meetings will be held exclusively online when circumstances require this (such as health safety rules).

2.8 Minutes reflecting the outcome of discussions held at Consultative Forum meetings shall be drafted by the co-Chairs and distributed by the Secretariat to all meeting participants for input prior to finalisation.

2.9 Steering group meetings, focus group meetings and other working level meetings will be convened by the Consultative Forum co-Chairs at their own initiative or upon request by the members, Frontex or the Management Board.

3. Participation in the meetings

3.1 The three annual Consultative Forum meetings shall be attended by all members or alternate members. A second participant (member or one of the alternate members) can also attend if
duly justified and agreed with the co-Chairs ahead of the meetings. Additionally, a second participant (member or alternate members) have always the possibility to attend the meetings virtually.

3.2 The three annual Consultative Forum meetings shall be attended by the Management Board Chair and/or the deputy and/or other representatives as determined by the Management Board Chair.

3.3 The three annual Consultative Forum meetings shall be attended by Frontex Executive Director and/or other staff appointed by the Executive Director.

3.4 The three annual Consultative Forum meetings shall be attended by the Fundamental Rights Officer or/and the Deputy. Other Fundamental Rights Office staff including fundamental rights monitors can attend as well.

3.5 Non-member organisations as well as individuals acting in personal capacity may be invited by the co-Chairs for a specific agenda item in agreement with all members, the Executive Director and the Management Board Chair, in order to contribute to the discussions as observers.

3.6 Members should inform the Secretariat on meetings’ attendance at least 14 working days ahead of the meetings.

3.7 Prior to each in-person meeting, the Secretariat will share the applicable reimbursement rules and reimbursement claim according to Frontex internal financial regulation.

**Article 5**

**Confidentiality & secrecy**

1. Individual opinions shared during discussions and deliberations with Frontex as well as information provided by Frontex shall remain confidential amongst the Consultative Forum members, their alternates and the member organisations, unless specified otherwise. The confidentiality of internal discussions and deliberations among other members shall be respected by all meeting participants.

2. Upon their appointment Consultative Forum members and alternate members are requested to sign a ‘Declaration of Adherence to the Obligations of Professional Secrecy’ which contains the following duties:

   2.1. Not disclose or make accessible to any unauthorised person or to the public any information of a sensitive or non-public nature which come to knowledge through the membership in the Consultative Forum.

   2.2. Not disclose information of a sensitive or non-public nature to any person outside of the organisation or to the public without the prior explicit written consent of Frontex.

   2.3. Adhere to the rules foreseen in the Working Methods of the Consultative Forum and the ‘terms of transmission of information to the Consultative Forum’.

   2.4. Adhere to the applicable regulations on data protection and security.

3. In the case of deployment and participation in VEGA Activities, Consultative Forum members and other experts from the member organisations are requested to sign a ‘Declaration of confidentiality for the assignment as experts on behalf of the Frontex Consultative Forum on Fundamental Rights’ which contains the following:

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5 Management Board Decision 3/2017 of 9 February 2017 on the terms of the transmission of information to the Consultative Forum.
3.1. That all matters entrusted are confidential and must not be communicated to any third party, that no confidential information must be disclosed.

3.2. The personal responsibility for maintaining the confidentiality of any documents or electronic files sent and for returning, erasing or destroying all confidential documents or files upon completing any assignment as a VEGA expert, unless otherwise instructed by Frontex.

3.3. That comments and recommendations made, following the assignment, will be solely shared with members of the Consultative Forum for the purpose of internal discussions and with Frontex entities responsible.

3.4. That in case of breach of these obligations the organisation on behalf of which the VEGA expert is nominated will immediately be excluded from the membership of the Frontex Consultative Forum while Frontex may recourse to all available legal remedies against the appointed representative.

Article 6
Recommendations & fundamental rights advice

1. The Consultative Forum shall operate and adopt its opinions and recommendations according to the principles of independence, transparency, mutual respect, open process, informed participation, collegiality and consensus. The aim is to enhance the respect, protection and fundamental rights in all Frontex activities in line with international and EU legislation and standards and in accordance with the Regulation (EU) 2019/1896.

2. The Consultative Forum may act on its own initiative or issue recommendations at the request of the Management Board or the Executive Director.

3. In accordance with Article 1 Management Board Decision 43/2022, where the Consultative Forum is consulted pursuant to Articles 108(1) and 108(3) Regulation (EU) 2019/1896, the Consultative Forum shall be consulted within a minimum timeframe of four weeks to allow for high quality analysis and input.

4. The Consultative Forum should strive to adopt its recommendations by consensus of its members. When consensus cannot be reached, recommendations may exceptionally be adopted by simple majority of the members. Abstentions, minority or dissenting positions shall be recorded upon request by the concerned members. The members may also exceptionally request not to take part in activities, including in recommendations.

5. The Consultative Forum’s recommendations shall be submitted to the Frontex Executive Director, the Chair of the Management Board and the Fundamental Rights Officer via the Secretariat. The Consultative Forum may also provide fundamental rights advice in other forms such as orally at meetings, during and in follow up to on-the-spot visits and within VEGA operations.

Article 7
Follow-up by Frontex and the Management Board to Consultative Forum recommendations

Management Board Decision 43/2022 of 20 July 2022 adopting the rules for the Executive Director and the Management Board to inform the Consultative Forum of the follow-up of its recommendations and to ensure that action is taken with regard to recommendations of the Fundamental Rights Officer.
1. In line with Regulation (EU) 2019/1896 and Management Board Decision 43/2022, the Agency shall timely and effectively inform the Consultative Forum of the follow-up to its recommendations.

Article 8
Access to information
1. According to Regulation (EU) 2019/1896, the Agency shall provide its Consultative Forum with access to all information of relevance to the respect, protection and fulfilment of fundamental rights in Frontex activities in a timely and effective manner.
2. The Consultative Forum may also request the Fundamental Rights Officer, Frontex or the Management Board to provide information on a certain topic during a Consultative Forum meeting or in written form (“request for information” procedure). When requesting information, the Consultative Forum should receive a response in a timely and effective manner but not later than 15 working days upon registration of the request.
3. The Consultative Forum might request information at meetings and Frontex and/ or the Management Board can provide such information on the spot or in writing to the Consultative Forum.

Article 9
On-the-spot visits
1. Pursuant to Article 108(5) of Regulation (EU) 2019/1896, the Consultative Forum may, ‘without prejudice to the tasks of the Fundamental Rights Officer, carry 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.’
2. To support the Agency with tailored advice or to provide expertise, the Consultative Forum can perform on-the-spot visits upon the host Member State or the third country’s agreement. Where the host Member State, or third country, does not agree, it “shall provide the Agency with duly justified reasons in writing.”
3. The purpose of the visits is to observe Frontex activities and to gather information about the operational context. Periodic observations of the specific role of Frontex in joint operations allow the Consultative Forum to tailor its recommendations to the operational context.
4. Destinations of on-the-spot field visits shall be proposed and agreed among the members at Consultative Forum meetings, ideally at the beginning of the year to allow for sufficient preparation. The destinations and the dates can be supplemented and/ or changed based on emerging needs and with the agreement of the majority of the members.
5. All Consultative Forum members, alternates and/ or other relevant experts from the member organisations as designated by them can participate in on-the-spot visits. Interest for participating shall be communicated to the co-Chairs at least two months before the scheduled dates of the mission. By requesting participation, members commit to undertaking the mission, reporting
observations (orally and in writing) to the Consultative Forum. Cancellations should be communicated at least two weeks ahead of the mission to the Secretariat.

6. Terms of reference for on-the-spot visits detail scope, implementation modalities and outcome of the visits.

7. The Consultative Forum communicates its observations in writing to Frontex and MB, provides a summary of its observations in the annual reports and discusses operational details with Frontex in the context of Consultative Forum and/ or focus group meetings.

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**Article 10**

**Participation in Frontex Management Board meetings**

1. The Consultative Forum co-Chairs and/ or its members may be invited to Frontex Management Board meetings and other meetings (e.g. extraordinary meetings, executive board meetings or MB working group meetings) for agenda items related to fundamental rights.

2. The co-Chairs may participate in Management Board meetings to present the Consultative Forum Programmes of Work and Annual Reports.

3. The Consultative Forum co-Chairs may refer to its recommendations or may provide relevant fundamental rights advice on the spot, which should be reflected in the meeting minutes of the Frontex Management Board meetings.

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**Article 11**

**Annual report**


2. The annual report shall contain an outline of all activities carried out and the recommendations issued throughout the year. Whenever available, the annual report may include references to Frontex follow-up on the Consultative Forum’s opinions and recommendations.

3. The annual report shall be adopted by the Consultative Forum and presented to the Management Board.

4. The editing and layout of the annual report shall be provided by the respective Frontex service and/ external service provider.

5. The annual report should be published on the Frontex website accompanied by a press release drafted by the co-Chairs ideally in the first quarter of the year.

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**Article 12**

**Transparency and public access to documents**


2. The Agency shall consult the co-Chairs via the Secretariat concerning the content of all information and documents related to the Consultative Forum that are to be made publicly available, including on Frontex website.

3. The Consultative Forum Secretariat will record and list all requests in the Annual Report.
Article 13

Role of the Secretariat

1. The Secretariat is embedded in the Fundamental Rights Office and is responsible for providing administrative support for the preparation, implementation and management of the Consultative Forum’s work. Upon request of the co-Chairs, or members working on specific matters as thematic rapporteurs, the Secretariat may also provide technical support to the work of the Consultative Forum.

2. The Secretariat shall ensure that all information of relevance to the work of the Consultative Forum is made available to its members within a reasonable timeframe. In coordination with the co-Chairs, the Secretariat shall also ensure that members are duly informed regarding the work of the Consultative Forum and relevant developments.

3. Without prejudice to the Staff Regulation, the Secretariat shall be provided by the Fundamental Rights Officer and work under the instructions of the co-Chairs on all matters related to the Consultative Forum. The Fundamental Rights Officer is in charge of supervising the Secretariat and is the Reporting Officer. Recruitments and appraisals of Secretariat staff are managed by the Fundamental Rights Officer and the co-Chairs may contribute upon mutual agreement.

4. The Secretariat work plan will be established jointly with the co-Chairs and the Fundamental Rights Officer, based on mutual understanding.

5. The Secretariat should keep a record of all past and present files in relation to the Consultative Forum’s work (this includes but is not limited to letters, correspondence, meeting minutes and all points listed underneath) and should treat these as strictly confidential.

6. The Secretariat should further:
   6.1. Distribute information amongst the members upon request by the Consultative Forum co-Chairs;
   6.2. Distribute recommendations/opinions/letters to the Agency and the Management Board where relevant;
   6.3. Send request for information to Registration for further handling as authorised by the Executive Director;
   6.4. Keep correspondence and information relating to the Consultative Forum confidential and within the Consultative Forum; not share this information any further unless explicitly requested by the co-Chairs;
   6.5. Draft meeting minutes and submit to the co-Chairs not later than 5 working days following the meeting;
   6.6. Maintain and update a list of Consultative Forum members and alternates;
   6.7. Maintain and update a dissemination list of stakeholders for the Annual Report;
   6.8. Record/list all recommendations, activities, consultations, requests for information (as per annexes of the Annual Reports);

7. The Consultative Forum Secretariat, in cooperation with Frontex Digital Service Unit, will maintain and archive all Consultative Forum related documents in a dedicated “Sharepoint” for the use of the Consultative Forum members.

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7.1. All Consultative Forum documents are stored and archived in the Sharepoint, including all documents requiring a co-drafting by all members. The Secretariat will provide all Members with a link to provide inputs/comments on.

7.2. The Sharepoint can be accessed by all members after creating an external user profile with the support of Frontex Digital Service Unit.

Article 14

Expenses

1. Frontex allocates an annual budget for the activities of the Consultative Forum, based on a cost estimation carried out by the co-Chairs at the end of each year. The Consultative Forum’s annual budget shall be administered by the Secretariat in cooperation with the co-Chairs and the Fundamental Rights Officer as Authorizing Officer.

2. The Consultative Forum’s budget shall cover costs related to:
   2.1. the participation of the Consultative Forum members at meetings in accordance with the relevant rules in force for Frontex meetings;
   2.2. on-the-spot visits (made by the Consultative Forum members and/or appointed experts) and
   2.3. other events attended by the Consultative Forum members on behalf of the Consultative Forum.

3. Frontex shall cover the costs by the Consultative Forum members and/or appointed experts related to VEGA deployments, training and other activities.

4. The Consultative Forum might exceptionally cover other expenses such as the participation of relevant fundamental rights experts to meetings or consultancy services.

5. An overview of the Consultative Forum’s annual expenses is provided as part of the Annual Report.

6. As a rule, Frontex does not reimburse EU institutions, bodies, offices and agencies, unless otherwise agreed and justified. As stated in the respective cooperation arrangements signed with the European Border and Coast Agency, the European Union Asylum Agency and the European Union Agency for Fundamental Rights bear their own expenses [...], unless otherwise agreed on a case-by-case basis.9

Article 15

Data protection10


10 Legal Basis: Article 5(1)(a) (“processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body”) of Regulation 2018/1725. As required by Article 5(2) of said Regulation, the basis for the processing is required to be laid down in Union law, which, in this case is Article 108 and 109 of the EU Regulation 2019/1896; Article 5(1)(b) (“processing is necessary for compliance with a legal obligation to which the controller is subject”). Your data will be processed for compliance with legal obligation as per specific requirements laid down in the Financial Regulation of the Agency adopted by the Management Board Decision 19/2019 related to reimbursement of costs for participants, financing of events; Article 5(1)(d) (“the data subject has given consent to the processing of his or her personal data for one or more specific purposes”). Your consent will be the lawful basis for processing personal data for the purpose of ensuring secretariat support for the CF, organising relevant events and any other activity related to the CF such as communication, promotion, and all follow-up actions.
1. The Data Controller of personal data collected is the European Border and Coast Guard Agency and the internal responsible unit (the Fundamental Rights Office). Personal data is processed for the purpose providing administrative support for the preparation, implementation and management of the work of the Consultative Forum, namely:

1.2. acting as single point for the request and transmission of information related to administrative support;

1.3. keeping up to date and maintaining data bases with relevant contact information related to administrative support;

1.4. keeping correspondence and sharing information with a particular entity;

1.5. distributing information, and reporting on activities upon request of the interested third-party. Their consent is gathered before being part of the distribution list;

1.6. recording/ listing all activities/ consultations/ recommendations of the Consultative Forum.