

MANAGEMENT BOARD DECISION 39/2020**26 November 2020****on the establishment of the Management Board Working Group on
Fundamental Rights and Legal and Operational Aspects of Operations****THE MANAGEMENT BOARD**

Having regard to the European Border and Coast Guard Regulation¹ (“Regulation”), in particular Article 100(2)(o) thereof,

Having regard to the Rules of Procedure of the Management Board² (“Rules of Procedure”), in particular Articles 16(1) and 16(2) thereof,

Whereas:

- (1) Pursuant to Article 16(1) of the Rules of Procedure the Management Board may create working groups composed of Management Board members or duly empowered experts appointed by them to assist it in its decision-making in particular in relation to European Integrated Border Management on the one hand and budget and accounts on the other hand. Members may be supported by one expert.
- (2) Pursuant to Article 16(2) of the Rules of Procedure, when creating such working groups, the Management Board shall decide on their areas of responsibility, their composition and the Working Group Spokespersons. Each working group shall adopt their own rules of procedure.
- (3) The Management Board, during its Extraordinary meeting on 10 November 2020, discussed the establishment of a Working Group that would conduct inquiries into the allegation of so-called push backs in the Eastern Mediterranean, and that would provide an interpretation to provisions of Union Regulations related to operational activities at sea and “hybrid threats” to Member States’ national security at the external borders. The Working Group should further consider these aspects, in line with the distribution of responsibilities under the Regulation, and respecting provisions of Article 100 of the Regulation
- (4) On 13 November 2020, a call for applications was launched with the view to receiving candidatures of Management Board members and/or duly empowered experts willing to become members of this Working Group.
- (5) Pursuant to Article 109(2)(d) of the Regulation, the Fundamental Rights Officer shall advise the Agency where he or she deems it necessary or where requested on any activity of the Agency without delaying those activities.
- (6) Pursuant to Article 109(7) of the Regulation, the Fundamental Rights Officer shall have access to all information concerning respect for fundamental rights in all the activities of the Agency.

¹ Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p.1).

² Management Board Decision 16/2020 of 7 July 2020 adopting Rules of Procedure of the Management Board.

HAS DECIDED AS FOLLOWS:

Article 1

Object

The Working Group of the Management Board on Fundamental Rights and Legal and Operational aspects of Operations (“Working Group”) is hereby established.

Article 2

Areas of responsibility

1. The Working Group shall:
 - a) conduct inquiries in relation to the allegations of so-called pushbacks in the Eastern Mediterranean in 2020 and, where mandated by separate decisions of the Management Board, in relation to any such allegations into other operational activities of the Agency;
 - b) contribute to the completion of the Agency’s framework for the independent monitoring of fundamental rights compliance in the Agency’s operational activities in accordance with the Regulation, including the preparation of drafts of relevant Management Board Decisions in the area of fundamental rights;
 - c) review the implementation of the existing Serious Incident Reporting mechanism³ and, if necessary, recommend its revision in view of the Regulation;
 - d) contribute to the interpretation of those provisions of Union regulations related to operational activities at sea and discuss possible operational responses to situations related to “hybrid threats” to Member States’ national security at the external borders which may arise in the context of maritime operations of the Agency; and
 - e) in addition to a), once mandated by separate decisions of the Management Board, consider any other issues regarding legal and operational aspects of the Agency’s operational activities.
2. The Working Group may create sub-groups focused on different areas of its responsibility.

Article 3

Composition

1. The Working Group shall consist of members/alternate members and/or duly empowered experts of the Management Board representing:
 - (1) Germany;
 - (2) the Hellenic Republic;
 - (3) Hungary;
 - (4) Norway;
 - (5) Romania;
 - (6) Sweden;
 - (7) Switzerland;
 - (8) France;
 - (9) the European Commission.
2. Each Working Group member may be supported by one expert in legal and/or operational matters as an advisor.

³ *Decision of the Executive Director No 2014/55 of 28 July 2014 on the adoption of the Frontex Standard Operating Procedure on Serious Incident Reporting*

3. The Working Group shall elect its Spokesperson.
4. The Spokesperson, considering the content of the discussions, may decide to invite to the Working Group meetings any staff member of the Agency, including the Executive Director and the Fundamental Rights Officer.

Article 4
Working methods

1. The Working Group shall have access to all relevant information, including information in databases, held by the Agency. The Working Group shall be entitled to produce a copy of, and obtain extracts from, any document or the content of any data medium held by the Agency.
2. The Working Group may request information from any staff of the Agency in oral or written form.
3. The Working Group shall adopt its rules of procedure.

Article 5
Timeframe and entry into force

1. The Working Group shall be established for the period necessary to complete its tasks as set out in Article 2(1).
2. The Working Group shall report to the Management Board on the allegations of so-called pushbacks in the Eastern Mediterranean at the 83rd meeting of the Management Board on 20-21 January 2021.
3. This decision enters into force on the day following its adoption.

Done in Warsaw, 26 November 2020.

For the Management Board

[signed]
Marko Gašperlin
Chairperson