



EUROPEAN BORDER AND COAST GUARD AGENCY

Revision of the Management Board Decision on Implementing Measures for Processing Operational Personal Data

Overview of new OPD rules

Head of the Field Operations Unit
and Head of the Coast Guard and Law Enforcement Unit (*ad interim*)

PROCESS

- basic legal references and suggestions on drawing up new OPD rules
- what is expected from MS
- MS to fully digest the EBCG 2.0 - so they can:
 - (a) state what use the Regulation can be to them in the field of OPD
 - (b) identify what are the challenges in the sharing of OPD

KEY ISSUES

- ❑ New FRONTEX Regulation (EU) 2019/1896 of 13 Nov 2019 establishes several novelties, including in relation to the LE competencies
- ❑ Management Board Decision n. 58/2015 of 18 December 2015 on “adopting Implementing Measures for processing personal data collected during joint operations, pilot project and rapid intervention”:
 - MB Decision n. 58/2015 is outdated as based on the previous EBCG Regulation 2007/2004.
 - There is a need of MB Decision n. 58/2015 revision, particularly in relation to OPD processing to enhance the new LE competencies envisioned in the new Regulation.

KEY MESSAGES

- Facilitate effective enforcement of new provisions of the Regulation
- FRONTEX to use better its LE competencies

FRONTEX's LE competence

- ❑ According to the Art. 1 of the EBCG Regulation (2019), the Regulation *“contributes to the detection, prevention **and combating** of cross-border crime at the external borders”*
- ❑ The list of definitions in Art. 2 states that *“‘cross-border crime’ means any serious crime **with a cross-border dimension** that is committed or attempted at, along or in the proximity of the external borders”*
- ❑ Based on Art. 10(q) FRONTEX can *“within the respective mandates of the agencies concerned, cooperate with Europol and Eurojust and provide support to Member States in circumstances requiring increased technical and operational assistance **at the external borders in the fight against cross-border crime and terrorism**”*

Article 90 of the EBCG Regulation

Article 90 of the EBCG Regulation defines the scope of processing of personal data by the Agency.

- Frontex processes personal data, which it has collected while **monitoring migratory flows, carrying out risk analyses** or in **the course of operations** for the purpose of identifying suspects of cross-border crime:
 - *PD processing for that purpose shall relate to natural persons whom the competent authorities of the Member States, Europol, Eurojust, or the Agency have reasonable grounds to suspect are involved in cross-border crime.*
 - *The Agency shall only exchange PD with Europol, Eurojust and competent law enforcement authorities of MSs in accordance with Art. 90 and 68 of the Regulation.*
 - *The course of operations must be adhered in line with Art. 38(5) of the Regulation.*
- Frontex processes the OPD during the performance of its tasks related - within the respective mandates of the agencies concerned - to the **cooperation with Europol and Eurojust** and **provide support to Member States** in circumstances requiring increased technical and operational assistance at the external borders in the fight against cross-border crime and terrorism (point q of Art. 10(1) of the Regulation).

FRONTEX



EUROPEAN BORDER AND COAST GUARD AGENCY

Thank you for your attention!

Operational Response Division
Field Operations Unit and
Coast Guard and Law Enforcement Unit