Meeting Document

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<th>From:</th>
<th>General Secretariat of the Council</th>
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<td>To:</td>
<td>Working Party on Frontiers</td>
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<td>Subject:</td>
<td>Establishing national independent mechanisms to monitor fundamental rights during screening and asylum procedures at borders</td>
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Delegations will find attached the presentation made by the Fundamental Rights Agency at the meeting of the Working Party on Frontiers of 06 June 2024 on the above-mentioned subject.
Establishing national independent mechanisms to monitor fundamental rights during screening and asylum procedures at borders

Justice, Digital and Migration Unit
fra.europa.eu
Legal background & objectives

✓ Fundamental rights monitoring = core fundamental rights protection tool → preventative; enhances the protection of victims; supports domestic investigations; improves transparency and accountability

✓ When monitoring, attention should be paid to all fundamental rights (FR) guaranteed under the EU Charter

✓ FRA updated its 2022 guidance, following Art. 10 & recitals of the Screening Reg. and consulting various stakeholders
Guidance covers **nine key aspects** (building blocks):

1. Independence and operational autonomy
2. Thematic coverage
3. Powers of the monitoring mechanism
4. Facilitating investigations
5. Staffing and expertise
6. Resources and funding
7. Reporting, transparency and accountability
8. Synergies with existing monitoring mechanisms
9. Cooperation with other authorities and actors
1. Independence and operational autonomy

- Guaranteed in law
- Ombuds institutions/NHRIs to be prioritised
- Free of any institutional affiliation with the responsible authorities
- Transparent recruitment of the staff of national monitoring mechanism
- Operational autonomy & authority to take action on its own initiative
- Periodically evaluated
2. Thematic coverage

- Screening process & asylum border procedure
- MSs may extend it to border management & return border procedure
- Monitoring the actual implementation of FR safeguards
3. Powers of the monitoring mechanism

- Conduct periodic, random, and unannounced visits
- Unimpeded access to all activities during screening [and asylum border procedure]
- Access documents, registers and records etc.
- Right to speak to all organisations and people
- Right to record its activities
- Appropriate security clearance
4. Facilitating investigations

- System to be in place to record all allegations of FR violations
- Right to receive complaints
- Direct communication with investigative authorities
- Monitor and report on the progress of the investigations
- In case of having own investigative powers, activate that internally
5. Staffing and expertise

Appropriately staffed & with relevant knowledge & experience

Multidisciplinary approach

Regular on-the-job training for the staff

To pool knowledge, close cooperation with other human rights monitoring mechanisms, NGOs, academia, experts in FR
6. Resources and funding

- Appropriate financial means & sufficient for its tasks
- Compliance with principle of independence
- Access EU funds for its activities
7. Reporting, transparency and accountability

- Publicly present its findings
- Annual public report
- Report on remedial actions
- Performance regularly evaluated
8. Synergies with existing monitoring mechanisms

- Coherence and complementarity & information sharing
- Take into account information from third parties
- Cooperation with national, regional & international bodies in charge of protection of FR (NHRIs and Ombuds institutions)
- Build on existing monitoring mandates
- Communicate findings to Sch-Eval, FX vulnerability assessments, EUAA monitoring mechanism, and national monitoring committees for EU funds
- W/O prejudice to and support activities of Frontex FRM and EUAA monitoring mechanisms
9. Cooperation with other authorities and actors

Duty to cooperate through regular exchange of information and respecting the mechanism's mandate

National legislation stipulating such a duty
Annexes

**Annex I** – Applicable standards: Fundamental and human rights framework

- Charter of Fundamental Rights of the EU (and CJEU case law)
- ECHR
- International legal instruments
- EU law instruments relevant at borders

**Annex II** – FRA guidance and other materials on applicable European standards at borders
Thank you for your attention

Questions

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