

MANAGEMENT BOARD DECISION No... /2012
of ... 2012

on the working methods of the Frontex Consultative Forum and the modalities of the transmission of information to the Frontex Consultative Forum

THE MANAGEMENT BOARD,

Having regard to Frontex Regulation, in particular Article 26a (2) thereof¹,

Having regard to the Management Board Decision No 12/2012 of 23 May 2012, in particular its Article 3 thereof.

Whereas:

- (1) On a Proposal by Frontex Executive Director the Management Board is required to decide on the working methods of and the modalities of the transmission of information to the Frontex Consultative Forum.
- (2) The Management Board should invite nine Civil Society Organisations to become members of the Frontex Consultative Forum based on the selection procedure conducted by the Drafting Committee according to the selection criteria laid down in the aforementioned Management Board Decision No 12/2012 and indicated in the call for application.
- (3) Principles of transparency, mutual respect, open process, informed participation, collegiality and consensus are required to be applied to the work of the Frontex Consultative Forum as widely as possible.
- (4) The members of the Frontex Consultative Forum should appoint individual persons as their representatives for the purpose of a proper organisation of the meetings and confidentiality requirements.
- (5) It is necessary that the representatives of the members of the Frontex Consultative Forum commit to respect Frontex rules on classified and sensitive information.

¹ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1), as last amended.

HAS DECIDED AS FOLLOWS:

Article 1

The Working Methods and the Modalities of the Transmission of Information to the Frontex Consultative Forum attached to this Decision as Annex I are hereby adopted.

Article 2

The first nine Civil Society Organisations listed in Annex II attached to this Decision are hereby invited to become members of the Frontex Consultative Forum. In case of a necessary replacement subsequent invitations automatically follow the order of assessment listed in Annex II.

Article 3

The Annexes attached to this Decision and the Appendix of Annex I form integral parts of this Decision.

Article 4

This Decision, its Annexes and the Appendix enter into force on the day following its signature and shall be revised by the Management Board together with the Decision of the Management Board 12/2012 of 23 May 2012 at the latest three years after their entry into force.

Done in Warsaw, ___ September 2012

For the Management Board

Ralf GÖBEL

Chairperson

**Working Methods of the Frontex Consultative Forum
and Modalities of the Transmission of Information to the
Frontex Consultative Forum**

INTRODUCTION

Article 26a (2) of the Frontex Regulation² states that Frontex shall establish a Frontex Consultative Forum (CF) to "assist the Executive Director and the Management Board in fundamental rights matters" and that the CF shall also "be consulted by Frontex on the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula". It also stipulates that "on a proposal by the Executive Director, the Management Board shall decide on the composition and the working methods of the Consultative Forum and the modalities of the transmission of information to the Consultative Forum"

Furthermore, the CF is obliged to produce a publicly-available report annually.

The CF is a knowledge and expertise resource to enable Frontex and its Management Board (MB) to gain information and advice relevant to the aim of developing and promoting the respect of Fundamental Rights (FR) in all Frontex' activities.

While the tasks of Fundamental Rights Officer (FRO) are monitoring and reporting on a regular basis to the CF, the Management Board and to the Frontex Executive Director (ED) as appointing authority; the CF will offer strategic opinions, recommendations and a pool of information on how Frontex can structurally improve the respect and promotion of FR in its various activities. The role of the CF and the FRO should therefore be understood as complementary.

I. WORKING METHODS

1. General Principles

The CF shall operate according to the principles of transparency, mutual respect, open process, informed participation, collegiality and consensus with the aim of enhancing the respect and promotion of FR in all Frontex activities as laid down in the Frontex Regulation and the Frontex Fundamental Rights Strategy.

2. Appointment and participation

2.1. Members of the CF

The organisations invited to become CF members shall appoint their representative(s) and alternate(s) prior to the participation at the CF meetings and inform the Chair and Co-Chair as well as the Secretariat accordingly.

CF Members must inform the Chair and Co-Chair as well as the Secretariat of any change as regards their representatives or alternates.

2.2. Other participants

Non-member organisations as well as individuals acting in a personal capacity may be invited by the Chair and Co-Chair in consultation with ED following a proposal of CF members on the basis of a

² Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1) as last amended.

specific agenda item, in order to contribute actively to the discussions or to act as observers. Non-member organisations are to appoint their representatives and inform the Chair and Co-Chair as well as the Secretariat prior to the CF meeting.

Non-member organisations must inform the Chair and Co-Chair as well as the Secretariat of any change as regards their representatives or alternates.

2.3. Frontex participants

Frontex is represented by the following participants:

- The MB Chairperson or/and its Deputy or/and other duly authorised MB representative;
- The ED or/and its Deputy;
- The FRO;
- Other Frontex Staff Members assigned by the Executive Director to contribute with their expertise to specific agenda items or as observers;

3. Operation

3.1. Chair

The CF will have a Chair and Co-chair elected among and by its members following the candidatures proposed by the own CF members.

The CF Chair shall be elected among the three organisations explicitly mentioned in the Article 26a (2) of Frontex Regulation and shall rotate among them afterwards.

The Co-Chair shall be elected among the remaining CF members.

The duration of the mandate of the Chair and Co-Chair is one year.

3.2. Convening a meeting

The CF meetings are convened in consultation with the Chair and Co-Chair at the initiative of the ED and the Chairperson of the MB or at the initiative of a majority of CF members.

The CF members may informally discuss or exchange views and information in any other way outside the CF meetings.

3.3. Agenda

The Agenda shall be set by the Chair and Co-Chair in consultation with the ED or his/her deputy and the Chairperson of the MB or his/her deputy.

The draft agenda will be submitted to the CF members at the latest two weeks before the date of the CF meeting.

CF adopts its agenda during the first point of its meeting.

3.4. Decision-making and confidentiality of deliberations

The CF adopts its opinions and recommendations by consensus of its members. Individual opinions and discussions of the CF Members shall remain confidential (so called “Chatham House Rule”).

When consensus cannot be reached, the Chair may exceptionally proceed to voting by simple majority of the CF members where also minority positions will be recorded.

If necessary, the opinions and recommendations of the CF may be adopted by written procedure.

3.5. Initiative, form, preparation and follow-up of the CF opinions and recommendations

The CF may act in the form of an opinion at the initiative of the MB or the ED when being consulted on certain matter. The CF may also act in the form of a recommendation at the initiative of the CF Members.

The CF shall be consulted on the further development and implementation of the Frontex Fundamental Rights Strategy, Code of Conduct and Common Core Curricula.

The CF may only adopt and deliver opinions and formulate recommendations to the MB and to the ED as stipulated in the Frontex Regulation and in accordance with these Working Methods and the Agenda of the CF meeting set according to point 3.3.

The opinions, recommendations and annual report of the CF shall be transmitted to the ED and MB.

The Chair of the MB and/or Frontex ED may request the Chair and Co-chair of the CF to present the CF opinion or recommendation.

On the request of the CF, the MB and/or ED may submit a reply in writing to the CF presenting their views and actions undertaken following the CF opinion and/or recommendation.

In order to prepare its opinions or recommendations, the CF members may appoint a rapporteur among them for preparing the draft text. The CF may also request the FRO to report on a certain topic or the ED to grant access to information as set out below under Title II.

The CF shall prepare an annual report of its activities.

3.6. Publicity

The annual report shall be made publicly available after presentation to the MB.

Public access to the opinions and recommendations of the CF is to be provided in accordance with the Regulation (EC) No 1049/20013 and Title II below.

3.7. Minutes

The outcome of the discussions, drafted by the Secretariat and approved by the Chair and Co-Chair and the CF members, shall be formally recorded in the minutes of the meeting.

4. Organisation

4.1. Secretariat

The Secretariat provides the CF with the administrative support for the preparation, implementation and management of the CF's work and acts as single contact point for the request and transmission of information, cf. Part II point 3.

It is provided by Frontex.

4.2. Frequency and location of the meetings

The CF meetings shall take place at the Frontex Headquarters, in Warsaw, Poland, in principle twice a year.

4.3. Expenses

Costs related to the participation of CF members and other participants at CF meetings shall be born by Frontex in accordance with the relevant rules in force for Frontex meetings.

³Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

II. MODALITIES OF TRANSMISSION OF INFORMATION

1. General principles

- 1.1. Article 11d of Frontex Regulation referring to the Commission's Rules on security regarding the protection of EU classified information laid down in annex to Commission Decision 2001/844/EC, ECSC, Euratom and the relevant Frontex rules on the sensitive unclassified information shall apply to the work of the CF.
- 1.2. CF members, their representatives and other participants shall sign a "Declaration of adherence to professional secrecy", set out in the Appendix.

2. Type of Frontex Information and applicable rules

Without prejudice to the abovementioned rules,

- 2.1 Unclassified information (non sensitive information) shall be made immediately available to CF Members upon request.
- 2.2 Sensitive unclassified information are to be processed and exchanged in accordance with Article 11d of Frontex Regulation referring to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and with the relevant Frontex rules.
- 2.3 EU Classified Information are to be processed and exchanged in accordance with Article 11d of Frontex Regulation referring to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and with the relevant Frontex rules.

3. Transmission and Request of Information

Information necessary for the work of the CF and concerning respect for FR in Frontex activities according to Article 26a(4) of the Frontex Regulation shall be transferred by Frontex to the CF via the Secretariat or during the CF meetings.

If the information concerned is considered insufficient by the CF for its proper functioning, it may decide to ask Frontex ED for additional information. The ED decides to transfer the requested information, unless the request of the CF is considered to be unjustified. Requests for additional information shall be transmitted to Frontex via the Secretariat or during the CF meetings.

Specific e-mail addresses will be provided by the Secretariat and by the CF members for this purpose.

Transmission of information shall be conducted pursuant to the above-mentioned rules (defined in points 1 and 2 of Title II).

4. Liability

In case of breach of the professional secrecy and other confidentiality requirements by one of the representatives at the CF, the rules referred to in points 1 and 2 of Title II shall apply.

5. Protection of personal data

All processing of personal data for administrative purposes concerning the work of the CF shall be carried out in accordance with Regulation (EC) 45/2001⁴.

⁴ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data.

III. FINAL PROVISIONS

1.1 Duration of Membership

Except for the organisations mentioned in Article 26a of the Frontex Regulation, the term of mandate of CF membership shall be of three years, which may be renewed.

1.2 Evaluation

The MB Decision laying down the present Working Methods and Modalities of the Transmission of Information shall be revised together with the MB Decision establishing the Composition of the CF by the MB at the latest three years after its entry into force.

Without prejudice to Article 4 of the present Decision, at the request of the MB the CF members may perform a mid-term and/or final evaluation of the work of the CF to be submitted to the MB in view of the revision of the two abovementioned MB Decisions.

Declaration of Adherence to Professional Secrecy

TAKING INTO CONSIDERATION that Frontex may disclose information of a sensitive or non-public nature to members of the Frontex Consultative Forum on Fundamental Rights for the purpose of receiving advice on ensuring respect and promotion of Fundamental Rights in Frontex activities,

in my capacity as the [Director, Chair, Representative] of [ORGANISATION] being a member of Frontex Consultative Forum on Fundamental Rights, I, the undersigned,

AGREE THAT

1. the organisation that I represent is under obligation of confidentiality and may 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 our knowledge through the membership in the Frontex Consultative Forum;
2. any disclosure of information of a sensitive or non-public nature to any person outside my organisation or to the public shall require the prior explicit written consent of Frontex;
3. the organisation that I represent adheres to the rules foreseen in the Working Methods of the Frontex Consultative Forum and the modalities of transmission of information to the Frontex Consultative Forum;
4. the organisation that I represent adheres to the applicable regulations on data protection and security.

UNDERSTAND THAT

1. The obligations of this declaration are unlimited in time and continue to apply even after the termination of membership in the Frontex Consultative Forum;
2. In case of breach of these obligations the organisation I represent will immediately be excluded from membership of the Frontex Consultative Forum.

AGREED AND SIGNED IN DUPLICATE

NAME: Date:.....

Signature:

Declaration of Adherence to Professional Secrecy

TAKING INTO CONSIDERATION that Frontex may disclose information of a sensitive or non-public nature to members of the Frontex Consultative Forum on Fundamental Rights for the purpose of receiving advice on ensuring respect and promotion of Fundamental Rights in Frontex activities,

I, the undersigned, **NN**, have been appointed to represent **[ORGANISATION]** at the Frontex Consultative Forum

AGREE THAT

I took note of the Declaration of Adherence to Professional Secrecy which has been signed by **[Director of ORGANISATION]** on my behalf and by which I am under the obligation of confidentiality and shall 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 my knowledge through the membership in the Frontex Consultative Forum.

UNDERSTAND THAT

1. The obligations of the declaration signed by **[Director, etc.]** of my organisation are unlimited in time and continue to apply even after the termination of membership in the Frontex Consultative Forum;
2. In case of breach of these obligations I and the organisation I represent will immediately be excluded from membership of the Frontex Consultative Forum.

AGREED AND SIGNED IN DUPLICATE

NAME: Date:.....

Signature:

ANNEX II - List of Civil Society Organisations

Civil society organisations invited to become members of the Frontex Consultative Forum:

Amnesty International European Institutions Office
Caritas Europa
Churches' Commission for Migrants in Europe
European Council for Refugees and Exiles
International Catholic Migration Commission
International Commission of Jurists
Jesuit Refugee Service
Platform for International Cooperation on Undocumented Migrants
Red Cross EU Office

Reserve List in order of the assessment:

European Association for the Defense of Human Rights
Greek Council for Refugees
Altiero Spinelli Centre
Helsinki Foundation for Human Rights
Human Rights League
International Rehabilitation Council for Torture Victims