

FRONTEX CONSULTATIVE FORUM

WORK PROGRAMME 2013

(as approved by the Consultative Forum on 31st January 2013)

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1. Composition

The Frontex Consultative Forum (CF) brings together the key European institutions, experts and civil society organisations throughout Europe, who are concerned with the fundamental rights of migrants and refugees.

The Consultative Forum is composed of representatives from 15 different organisations, including civil society organisations, EU agencies and international organisations: Council of Europe (**CoE**), Organisation for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (**OSCE/ ODIHR**), United Nations High Commissioner for Refugees (**UNHCR**), European Union Agency for Fundamental Rights (**FRA**), European Asylum Support Office (**EASO**), International Organisation for Migration (**IOM**), European Council for Refugees and Exiles (**ECRE**), **Red Cross** EU Office, Amnesty International European Institutions Office (**AI EIO**), International Catholic Migration Commission (**ICMC**), Caritas Europa, International Commission of Jurists (**ICJ**), Jesuit Refugee Service Europe (**JRS**), Churches' Commission for Migrants in Europe (**CCME**), Platform for International Cooperation on Undocumented Migrants (**PICUM**).

Due to its diverse composition the strength of the CF is its ability to provide holistic analysis on respect for and protection of fundamental rights based on its collective knowledge and expertise. The CF members can further make full use of the evidence they collect within their organisations' sphere and provide informed advice and assistance of social, legal and technical nature. This can in turn help to promote fundamental rights in Frontex activities.

In carrying out these tasks the shared objective should be to continuously seek to implement the highest standards, very much in line with Frontex' own objective to aim at *“the highest operational standards also in terms of the safeguards of fundamental rights”*¹ – and not the lowest common denominators.

¹ Frontex Fundamental Rights Strategy Preamble:
http://www.frontex.europa.eu/assets/Publications/General/Frontex_Fundamental_Rights_Strategy.pdf

2. Mandate & Working Methods

Under Art. 26a of the recently amended Frontex regulation (1168/2011) the role of the Consultative Forum is to “*assist the Executive Director and the Management Board in fundamental rights matters*” and to be consulted “*on the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula*” (Art. 26a § 2).²

The access to information is also covered in the regulation: “*the Consultative Forum shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency*” (Art. 26a § 4)

The working methods and the modalities of the transmission of information as endorsed by the Frontex Management Board foresee for the CF the provision of recommendations and opinions by consensus on how Frontex can structurally improve the respect and promotion of fundamental rights in its activities.³

Besides **recommendations** and **opinions** the key deliverable of the CF will be an **annual publicly available report**.

The CF members will coordinate their work around two formal meetings per year in addition to other informal meetings, means of communication and exchange and theme specific interaction with the Frontex Executive Director (ED), the Management Board (MB), the Fundamental Rights Officer (FRO) and appointed Frontex staff.

The purpose of this work programme is to define priorities for 2013 and to provide a general framework and structure for the work of the CF members. The idea is to establish working groups around the key topics so that the collective knowledge of all members of the CF is used most effectively. At the same time the work programme remains flexible for ad-hoc consultation of the CF by Frontex ED, MB and the Fundamental Rights

² Art.26a of Regulation (EC) No. 1168/2011 of 25 October 2011 amending Council Regulation (EC) No. 2007/2004 establishing a European Union Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ 2011 L304, p.17

³ Management Board Decision No. .../2012 of 26 Sept. 2012.

Officer in line with emerging needs and for the provision of assistance to Frontex by the CF.

The work programme should also help to plan the Annual Report, to define timelines for input to it and to establish a calendar, considering key events and timelines in 2013 so that all CF members are able to plan well ahead.

The cooperation with the FRO will be crucial for the work of the CF being effective and successful. The CF will, therefore, work together with the FRO as closely as possible and support her in her activities.

All activities and recommendations of the CF will fully respect the right to protection of personal data.

3. Strategic Planning

3.1 Fundamental Rights strategy & action plan

- Assisting in the further development and implementation

3.2 Frontex work programme 2014

- Provision of recommendations in the framework of 3.1

3.3 Frontex multi annual strategy 2013 - 2016

- Provision of recommendations in the framework of 3.1

Objectives:

- △ Assist in the further development, revision and implementation of the Frontex Fundamental Rights Strategy;
- △ Provide recommendations to the strategic planning related documents (e.g. work programme) and new Frontex internal documents on compliance with fundamental rights.

4. Operations

4.1 Code of conduct for joint return operations

- Review of Frontex internal records on the process of (e.g. operational plan, guidelines, evaluations) Frontex coordinated joint return operations (1-2 operations, potentially from countries where return monitoring is carried out), in order to fully capture process related information on all phases;
- Consideration of the practical return monitoring experiences and reports of the National Monitoring Mechanisms (NPM), particularly of those who monitor Frontex coordinated joint return operations;
- Compilation of practices on fundamental rights compliant return monitoring and provision of this information to Frontex⁴;

⁴ Art. 8 § 6 of Directive 2008/115/EC of the European Parliament and the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ EU L 348, 24 Dec. 2008, p. 98

- Provision of criteria and indicators for fundamental rights compliant return monitoring to the FRO;
- Reporting by the FRO to the CF upon accompanying a joint return operation;
- Based on above - provision of recommendations to the draft code of conduct prepared by Frontex serving towards a standardisation of fundamental rights compliant return monitoring.

4.2 Joint sea and/ or land border operations

- Review of Frontex internal records on the process of (e.g. operational plan, guidelines, evaluations) a Frontex coordinated joint sea and/or land border operation, in order to fully capture process related information on all phases;
- A CF delegation/ representative attending joint sea and/or land border operations, selected by the CF in consultation with the FRO, and reporting back to the CF plenary;
- Considering available data and reports, including migrants' or other testimonies on experiences at the EU's external borders to identify potential patterns;
- Based on above - provision of recommendations of fundamental rights compliant border practices to Frontex on mechanisms that ensure the identification and registration of persons in need of protection for referral to national mechanisms and the rendering of assistance to these persons.

Objectives:

- △ Allow the CF to base their recommendations for a Code of Conduct for Frontex-coordinated joint return operations on hands-on experience and knowledge;
- △ Develop proposals for mechanisms ensuring the identification/ registration of persons in need of assistance and the provision of access to protection and the identification of victims.

- △ By attending operations the CF would have the possibility to formulate recommendations, which could contribute towards a standardisation in all operations and training.

5. Training & capacity building

5.1 European Border Guards Teams' training for deployed officers

- Participating in a training to provide recommendations
- Helping qualifying the trainers

5.2 Sectoral qualifications framework

- Participating in a workshop to provide recommendations

5.3 Common Core Curricula

- Provision of input put to those which are planned to be developed in 2013
- Developing an assessment tool on national implementation of Common Core Curricula

5.4 Trafficking in Human Beings and Fundamental Rights training manuals

- Developing a module on fundamental rights in the programme on Trafficking in Human Beings
- Assisting in the delivery of training upon request

Objectives:

- △ Mainstream a fundamental rights dimension (including international protection, diversity and non-discrimination) into the common core curricula and linked training modules in a practical way in order to equip border officers with the respective skills to better cope with emerging fundamental rights challenges;
- △ Assist in the implementation of the selected training such as on fundamental rights, trafficking in human beings, child protection, victim's protection, protection of other vulnerable groups, international protection by providing expert trainers
- △ Review other training & provide recommendations upon request.

6. Risk analysis

6.1 Frontex risk analysis related data collection and analysis

- Assisting in the inclusion of a fundamental rights dimension into Frontex Risk Analysis Unit (RAU)'s products such as the diversification of data collection categories or the establishment for fundamental rights criteria to rate risk⁵;
- Provision of information on the human rights situation in third countries by the CF to RAU, which could feed into risk analysis reports.

Objectives:

- △ Inclusion of a Fundamental Rights dimension in the analysis of composition of flows into Frontex risk analysis⁶.

⁵ Frontex Fundamental Rights Action Plan, Annex 3 to the Opinion from Frontex on the European Ombudsman's own-initiative inquiry into the implementation by Frontex of its fundamental rights obligations: <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/11758/html.bookmark>

⁶ Frontex Director Ilkka Laitinen's address to the EP's LIBE Committee meeting on 11.10.2010 on "Practical steps taken by the agency to guarantee the implementation of rescue measures of migrants at sea in Frontex operations in line with the agencies obligation included in the new mandate": <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20121011-0900-COMMITTEE-LIBE&category=COMMITTEE&format=wmv>

7. 2014 Forecast

This area covers items which were de-prioritised in work programme 2013 and could potentially be covered in 2014:

- European Border Guards Teams training for deployed officers (*the 2013 recommendations could be integrated into this training and the CF could assist to deliver those training slots on Fundamental Rights and international protection*)
- Revision of general code of conduct
- Incident reports by Frontex deployed officers could be cross referenced with migrants' reports (*Frontex has incident reports on fundamental rights, what the CF could propose is to re-asses the system in place for incident reports and look at ways to encourage deployed staff to report incidents to Frontex*)
- EUROSUR: Assisting Frontex in the evaluation of fundamental rights compliance of EUROSUR (2015-2016)⁷ (*awaiting the final legal framework*)

⁷ Proposal for a Regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR). COM(2011) 873 final, 12 Dec. 2011.