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# **FINAL MISSION REPORT**

following the LIBE Mission to the European Border and Coast Guard Agency (Frontex) in Warsaw, Poland (24-25 February 2020)

Committee on Civil Liberties, Justice and Home Affairs

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## **I. Background and objective of the mission**

A Committee on Civil Liberties, Justice and Home Affairs (LIBE) mission visited the European Border and Coast Guard Agency (Frontex) in Warsaw, Poland, on 24-25 February. This three-Member mission was included in the LIBE planning of missions for the first semester of 2020 in accordance to the rules regarding missions to European Union agencies which allow to visit an agency falling under the responsibility of a committee every two years outside the normal quota of missions.

Since the last LIBE mission to Frontex in February 2017, the role of the Agency has developed in a very substantial manner. The mission's objective was to better understand in particular the challenges Frontex is facing in implementing the new Regulation (EU) 2019/1896 on the European Border and Coast Guard and to discuss its activities and resources. Bettina Vollath headed the LIBE mission.

The members of the mission met with Frontex' Executive Director, the Deputy Executive Director, the Directors of the various divisions (Operational Response Division, Situational Awareness and Monitoring Division, Capacity Building Division, Corporate Governance Division and International and European Cooperation Division), the head of the Task Force ETIAS, other experts, as well as representatives of the Frontex Consultative Forum on Fundamental Rights, the Fundamental Rights Office and the Data Protection Office.

## **II. Summary record by subject area of the meetings held**

### **General observations on the Agency's strategic vision, the new mandate of the European Border and Coast Guard and budgetary needs**

The Executive Director started by recalling the Agency's contribution to the functioning of the area of free movement through well-functioning external borders which enable Member States to trust each other. The activities of the Agency were presented by him as being centred around three major actions in support of Member States: irregular migration and return, external borders as filters against cross-border criminality and preparing EU border management for the future. Strategically the objectives of the Agency are to know the situation at the border, to be able to have operations on the ground and to build the necessary capacity and capability.

The Executive Director stressed the relevance of LIBE's work for Frontex especially in the context of discussions on the new budget. Mr Leggeri added that the negotiations on the new multiannual financial framework (MFF) were not very successful as it pertains to Frontex and the budget cut proposed by the Council Presidency of 43% would imply that the Agency could not deliver on the build-up of the standing corps as decided by the legislator. Furthermore, the operational footprint of the Agency would need to be decreased as of 2021 and Frontex could not proceed with the acquisition of technical equipment but would need to continue to rely on Member States' contributions of equipment which has proven to be problematic in the past.

Mr Leggeri stressed that thereby key features of the new Regulation could not be implemented as envisaged, as the new Regulation had precisely the objective to make the Agency less dependent on contributions of Member States which require resources for their own borders

and encouraged the development of expertise of staff of the Agency in areas where such expertise is lacking in Member States.

Mr Leggeri also highlighted that the current staff regulations which apply to the standing corps are not fully adequate for the specificities of law enforcement work. He mentioned as examples the aspect of retirement age and disciplinary proceedings.

The topic of the Schengen border controls was also discussed during the meeting, with an emphasis on Frontex' role in supporting Member States. Answering a question, Mr Leggeri added that the biggest vulnerability identified by Frontex, as regards external borders, is the fact that a large part of the regular travellers are not checked against the Schengen Information System and the Interpol database on stolen and lost travel documents. This is mainly caused by lack of resources and staff, in particular in Member States where there is a high pressure from the migration wave. He explained that in case of identified vulnerabilities a recommendation is addressed to the Member State concerned which, if required, may be repeated and subsequently be brought to the attention of the Management Board.

As regards returns, the biggest challenge remains the identification of the person concerned in case of non-cooperation by that person. In order to tackle this issue Frontex, supports Member States in achieving better cooperation with third countries, for example by organising missions of authorities to third countries. The Agency also assists Member States in establishing structures for return management and works actively to make Member States' responsible services aware of the assistance that may be provided by the Agency in the area of return. For the future, it is envisaged that Agency will collect statistics to provide a basis for the implementation of the new Visa Code which allows for certain restrictive measures against third countries that do not cooperate with the EU in the area of readmission to be put in place.

Lastly, the topic of cooperation with countries in the Western Balkans was discussed. At the moment, there are properly functioning working arrangements with all Western Balkan countries in place and following the entry into force of the first status agreement between the EU and Albania a first mission operates in Albania at the border to Greece. A liaison officer of the Agency will also in the future be based in Tirana. Preparations are ongoing in view of the conclusion of further status agreements and in the future a presence at the border between Bosnia and Croatia could be envisaged.

### **Situational awareness and reduced vulnerabilities**

Comprehensive situational awareness was defined by Frontex as its first strategic objective. The Agency collects information from a range of resources (such as media monitoring, airplanes, drones, satellite images, humans, vessel tracking systems, information exchange etc.), fuses and analyses the information with the objective to produce actionable information and analysis to allow for informed decision making and planning.

Members were given as example the monitoring of social media in order to be aware of groups of persons organising in order to move towards the EU external borders.

The Agency also started to prepare for the implementation of the new provisions on integrated

planning as provided for in the new EBCG Regulation (Article 9 of the Regulation).

A further new task for Frontex in the new Regulation is to perform a strategic risk analysis as the starting point for the 5-year strategic policy cycle for European integrated border management (Article 8 of the Regulation). Frontex started to prepare this strategic risk analysis and intends to base it on global trends such as climate change, labour, war etc. It is scheduled to be presented by June at the latest.

As regards irregular border crossings Frontex calculated a 5% decrease during 2019 with a total number of 146 000. The biggest increase has been observed in the Western Balkans (mainly Serbian/Hungarian border) based on secondary movements from Greece. The nationalities have been mostly Afghan, Syrian and Iraqi.

Another task of the Agency, introduced through the first EBCG Regulation, is the assessment of vulnerabilities of the Member States as regards the protection of the borders. The vulnerability assessments should enable the Agency to identify and subsequently propose measures to eliminate any eventual weaknesses and thus serve also the purpose of preventing crises at the EU external borders.

According to the Regulation, the Agency monitors and assesses the availability of the Member States' technical equipment, systems, capabilities, resources, infrastructure and adequately skilled and trained staff necessary for border control. The scope of the vulnerability assessment is broad and allows for potential vulnerabilities to be identified in a wide range of areas related to border management capacities.

Currently the Agency identified 206 vulnerabilities of which 38% are persistent. Most of the vulnerabilities relate to border checks (for example when border guards do not proceed with the required checks of databases). Members were informed that this vulnerability is largely due to staff shortages, staff training or technical issues.

### **Visit of the situational room**

Members were presented the different activities carried out such as media monitoring, the provision of Eurosur services and monitoring flights on behalf of Member States.

Following questions of Members, it was acknowledged that a full view of the entire external border cannot be currently achieved. The Agency also clarified that it does currently not use artificial intelligence.

### **Operational response**

In the newly established operations room Members were given an overview of Frontex' deployments with a focus on Greece and Western Balkans and its activities in the fight against cross border crime.

At the day of the visit, the Agency had deployed 836 human resources and 277 items of

technical equipment with most deployments being to Greece. Currently all operations rely on contributions of Member States. The establishment of the standing corps through the new Regulation therefore constitutes a game changer. All joint operations are based on an operational plan agreed between the Agency and the host Member State. All activities take place under the command of the host Member State.

Currently Frontex has three large-scale **maritime joint operations**: Poseidon (Eastern Mediterranean route), Themis (Central Mediterranean route) and Indalo (Western Mediterranean route). They encompass coordinated multipurpose operational activities (border control, combating cross-border crime, coast guard functions and migration management) supporting Member States facing migratory pressure along the Mediterranean routes. They consist of border surveillance (seaborne, airborne, terrestrial assets), supporting SAR operations, preventing and detecting cross-border crime, information gathering (debriefing), including personal data, supporting migration management (screening, registration) and supporting hotspots in Italy and Greece.

As regards **land borders**, the joint operation “Flexible Operational Activities 2020 Land” in the Western Balkans and Greece deals with border surveillance, information gathering (debriefing), including personal data, supporting screening, fingerprinting and registration of migrants and reporting document and identity fraud cases (alerts). The host Member States are Greece, Bulgaria and Hungary. No Frontex operation takes place at the Croatian/Bosnian border although Frontex had proposed such an operation to Croatia.

For the first operation in a third country, based on the Status Agreement between the EU and **Albania**, on the day of the visit the Agency had deployed 55 human resources and 9 items of technical equipment to Albania. The operation takes place at the Albanian border to Greece and consists of the deployment of border management teams to support Albania’s border control activities to prevent and detect irregular immigration flows, tackle cross border crime and to promote European Integrated Border Management standards.

**Greece** is supported through several operations with a different nature (maritime border surveillance, participation in migration management support teams in hotspots, support in the area of return and readmission activities with Turkey). On the day of the visit, the Agency had deployed 415 human resources and 133 items of technical equipment to Greece.

As part of the focal point concept 12 Member States are hosting Frontex teams at land border crossing points with border control activities tailored according to the needs of each border crossing point. Similar teams are deployed to Member States’ airports.

In response to a question of how to ensure the respect of fundamental rights during Frontex operations, the different tools at the disposal of the Agency were presented to Members: all participants in an operation are required to adhere to the Code of Conduct, the Fundamental Rights Officer is consulted on the establishment of the operational plan of an operation, participants are briefed about fundamental rights and receive training. The complaints mechanism is available to persons being in contact with a Frontex operation and deployed officers are obliged to report any fundamental rights violation in a serious incident report which is subsequently transmitted to the Fundamental Rights Officer.

Numerous activities are carried out in the area of **law enforcement cooperation**. Among others Frontex participates in several projects under the European multidisciplinary platform against criminal threats (EMPACT). In 2020 Frontex is to be involved in 90 Operational Actions – 12 as the action leader, 23 as the action co-leader, 55 as a participant. Most actions concern facilitation of irregular immigration, trafficking in human beings and drugs. In 2019 Frontex coordinated 5 Joint Action Days which have taken place as part of joint operations held in land, sea, and air domains. The joint action day Adria, for example, focused on drugs trafficking and irregular immigration. In 2019 the joint action days led to the following results: detection of more than 8.400 irregular migrants/refusals/overstayers and of 219 migrant smugglers, seizure of more than 460 stolen motor vehicles, of 20 tons of tobacco, of 25,7 million pieces of cigarettes, 61 firearms, 200.000 pieces of ammunition, 381 document fraud cases and 27,4 kg of cannabis. Frontex cooperates with Europol while aiming to ensure complementarity between the activities of the two agencies.

## **Return**

In the past years, Frontex has become an important actor in return management at the European level. Based on the mandate given in the first EBCG Regulation, the Agency has been acting in support of Member States mainly in the area of pre-return support and return operations.

The activities of the European Centre for Returns of the Agency include return and readmission operations, training of return experts from Member States, exchange of information and best practices in return matters, support through pools of experts, including return monitors to support operations, return interventions, digitalisation of returns through IT systems at national and EU level, cooperation with non-EU countries and support in identification of returnees and acquisition of travel documents.

As regards the identification of third country nationals, which remains one of the main problems hindering returns, Frontex works with consulates of third countries, organises missions of third countries to the EU and uses its liaison officers in third countries

The number of third country nationals returned with the support of the Agency has increased in recent years. While in 2017 these were 14197 persons (after a small decrease in 2018 to 13720), the number increased to 15679 in 2019. The increase is largely due to the use of scheduled flights (instead of charter flights) since 2018 through which in 2019 30% of persons were returned with the support of Frontex. This use of scheduled flights was made possible through agreements that the Agency concluded with airlines regulating matters such as the possibility to change tickets under preferential conditions. In 2019 Albania was the country to which most persons were returned. 802 persons were returned to Afghanistan.

In response to the question as to why the return rate remains slow, the representative of the Agency referred to the problems in relation to identification, absconding, last-minute asylum applications and refusals to board planes with the captain then sometimes refusing to take the person on board.

Several mechanisms are in place aiming at safeguarding the respect of fundamental rights of returnees. The Fundamental Rights Office as independent entity oversees any possible

violation of fundamental rights and is responsible for handling complaints that persons may lodge. As regards monitoring, while the Return Directives requires monitoring it does not define what monitoring has to encompass. Members were, however assured that under a joint flight, monitors are effectively on board while this may not be the case for national flights. On collecting return operations there is always a monitor on board.

The new EBCG Regulation provides Frontex with an enhanced mandate on return, covering now the entire return process with support for voluntary return until post-arrival assistance and post-return assistance. Expectations of Member States regarding this enhanced mandate in the area of return are big. For the Agency it is especially the size of the future budget which will determine what activities can be undertaken. It was pointed out that in particular post-arrival assistance requires substantive resources. Currently it is also envisaged that through the standing corps new profiles with specific expertise (for example on consular cooperation for return purposes or identification and issuance of travel documents) in support of return activities will be created.

In support of post-arrival and post-return activities, Frontex is currently working on taking over the activities of the European Return and Reintegration Network (ERRIN), a network of currently 15 European partner countries, established to facilitate cooperation between migration authorities. The transition to the Agency is planned for mid-2022. The Agency will also work in supporting the integration of returnees in their home country. The first two voluntary returns by scheduled flights were carried out with Frontex' technical assistance on 14-15 February 2020.

In the area of voluntary return the Agency plans to work on return counselling and coordination. For pre-return assistance the Agency will assume responsibility for the European Return Liaison Officers network (EURLO). Enhanced pre-return activities will also include an exchange programme and workshops for Member States' return practitioners, negotiation seminars, technical and operational assistance projects for third countries, the strengthening of bilateral cooperation with Member States and the Frontex Return Project Management Office.

As regards readmission, numbers of persons readmitted with the support of Frontex remain very low (around 200/year). Readmission from Greece to Turkey largely takes place by sea. One of the reasons for this relatively low number is the long duration of asylum procedures in Greece.

## **Fundamental rights**

Members met with a representative of the Fundamental Rights Office and one of the Co-Chairs of the Consultative Forum on Fundamental Rights.

Currently ten persons work in the **Fundamental Rights Office**, a staffing judged by the Consultative Forum as definitely not enough despite the repeated calls internally, from them and from the European Parliament.

In terms of activities of the ten persons, two are dealing with complaints. Last year 18 complaints were received of which nine were admissible. To be admissible a complaint must

relate to an activity of Frontex and therefore complaints regarding asylum procedures in Greece on which many complaints were received are not admissible. The number of complaints is increasing, also due to more awareness raising about the possibility to lodge a complaint. To further increase the awareness a video is being produced. It was pointed out that the low number of complaints may be due to unawareness, a general unwillingness of migrants to complain, given that their primary interest is to reach a place of safety, fear and incapability to lodge a complaint, as there is no proper assistance. It was identified as problematic that often complaints are of a very general nature which does not provide Member States with sufficient detail (location, date) to investigate the complaint forwarded to them. Another factor is that complaints can only be made within the context of Frontex activity. However, the lines between Frontex and national activity can be very blurred, especially in a stressful situation at the border.

Further work of the Fundamental Rights Office relates to operations. Observations are made on operational plans and on evaluations. From operations during the last year, nine serious incidents reports were received and all those cases are still open. They concern mainly Member States' staff and it takes Member States a long time to look into the cases. The Office also conducts monitoring visits to operations which are considered very useful. As regards sea border surveillance activities coordinated by the Agency, the Office has submitted comments for the annual report particularly focussing on third country assessments which should be based on a better methodology. Generally, the Office advised against the disembarkation of rescued persons in third countries.

Regarding the situation at the Croatian/Bosnian border, although no Frontex mission takes place there, reports are being received and an expression of concern was shared with the Management Board of the Agency, the Commission and Croatia.

In the area of return, 220 reports were received in 2019 with a number of issues identified.

The Office also has a team dealing with strategic and horizontal matters. Currently work is undertaken to revise the Fundamental Rights strategy of the Agency which dates from 2011 and is in urgent need of update. A draft has been submitted to the management of Frontex and it will be submitted to the Consultative Forum for comments subsequently.

The tasks of the Office also include support to training activities. Due to the lack of staff of the Office this task cannot be properly implemented, a situation which will become even more problematic given the need to train the standing corps, the training required for the future ETIAS and further training needs in the area of return for which the activities of the Agency are further enhanced. In view of the Office the curricula for training still need to better integrate fundamental rights aspects.

Preparations are underway for the recruitment of the 40 Fundamental Rights Monitors the Agency is required to recruit under the new Regulation within one year after its entry into force. The Office has agreed a pilot project with the Fundamental Rights Agency in order to test a monitoring methodology and guidelines for monitoring. The final workshop for that pilot project is scheduled for March. Staff will be required in the Office for managing the work of the monitors and for guiding them.

The **Frontex Consultative Forum on Fundamental Rights** serves as an independent body which assists the Agency by providing independent advice in fundamental rights matters. It offers strategic advice on how Frontex can structurally improve the respect for fundamental rights in its various activities. According to Article 108 of the EBCG Regulation, the Consultative Forum must be consulted on the development and implementation of the Fundamental Rights Strategy, on the functioning of the complaints mechanism, on codes of conduct and on common core curricula. The Agency must inform the Forum on the follow-up to its recommendations. The Consultative Forum shall be provided with effective access to all information related to the respect of fundamental rights in the Agency's activities in a timely and effective manner. To that end, it can also carry out site on-the-spot visits to activities of the Agency.

The forum is comprised of 15 members.<sup>1</sup> The European Asylum Support Office (EASO), the Fundamental Rights Agency (FRA) and the United Nations High Commissioner for Refugees (UNHCR) are explicitly mentioned in the EBCG Regulation and considered permanent members. Currently one staff member of the Fundamental Rights Office supports the work of the Forum, which was judged as insufficient by an external evaluation of the Forum which took place last year.

The Co-Chair of the Consultative Forum on Fundamental Rights started by underlining the great commitment of the members of the Forum, many of which are civil society organisations, and the ambition to maintain constructive relations with the Agency while highlighting matters of concern.

A major concern of the Forum remains that the text of the EBCG Regulation must be enabled. This implies, for example, that the Fundamental Rights Office must be resourced and organised in such a way as to be able to fulfil its role as envisaged by the Regulation. It is positive that the new Regulation provides explicitly for special rules to guarantee the independence of the Office. On the other side, the current staffing is not even close to sufficient. Ways have to be found out of the impasse of the past years during which the need for more staff was consistently raised while the Frontex management maintained its claim that the number of staff was sufficient.

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<sup>1</sup> Currently, the Consultative Forum is composed of representatives from:

- 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 Organization for Migration (IOM),
- Red Cross EU Office,
- Amnesty International European Institutions Office (AIEIO),
- Office of the High Commissioner for Human Rights (UN Human Rights),
- International Commission of Jurists (ICJ),
- Jesuit Refugee Service Europe (JRS),
- Churches' Commission for Migrants in Europe (CCME),
- Save the Children.

The Management Board has also invited the Platform for International Cooperation on Undocumented Migrants (PICUM) to join the Forum.

As regards the complaints mechanism and serious incidents reporting, the Forum considers that the low number of complaints and reports cannot give the full picture. In its views, it should be possible to receive also anonymous complaints and the Forum offered advice on how to further disseminate information about the complaints mechanism.

As regards the reception of information from the Agency, there has so far been no proactive information given by the Agency but it was rather the Forum asking for information which then often took long to receive. Given the complexity of activity, this left the Forum often also in a situation of not knowing what to ask for and having to discover key information via other information channels than the Agency.

As Frontex has an obligation to withdraw support in operations where fundamental rights are not respected, the Forum had recommended to Frontex not to support any returns from Hungary.

For the establishment of the standing corps, which is an occasion to improve standards in the positive sense, the Forum issued a recommendation on gender and indicated that the proper training of the corps is of concern. More resources would be necessary to properly design and implement the training on fundamental rights.

## **Data protection**

The Data Protection Officer informed Members about the implementation by the Agency of the new provisions regarding the processing of personal data by Frontex. The Data Protection Officer is working on six implementing decisions which will have to be taken by the Agency, mostly following an involvement of the European Data Protection Supervisor. Cooperation in this regard has been described as good and very helpful.

Legally, Frontex, as an EU agency, collects and further processes personal data in accordance with the provisions of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data. In accordance with this Regulation, Frontex has appointed a Data Protection Officer – member of the staff who is entrusted with the main task of ensuring, in an independent manner, the internal application of the data protection legal framework.

Further details are laid down in the EBCG Regulation. It does, for example, provide for specific rules on the processing of personal data collected during operations of the Agency. It also specifies that operational personal data collected within the task of fighting against cross-border crime and terrorism may only be exchanged with Europol or Eurojust and competent law enforcement authorities of the Member States

In the current framework, one of the main challenges the Agency is faced with is to increase the awareness among border guards of the importance of data protection. It has been argued that the understanding is gradually increasing as ultimately quality and relevance of personal data are also important from an operational border guard perspective. The Agency's

management was described as very data protection oriented and third partners wishing to cooperate are required to adhere to the Agency's standards on data protection.

### **Implementation of ETIAS (European Travel Information and Authorisation System)**

The head of the ETIAS task force explained to Members the applicable legal framework (mainly the ETIAS Regulation but also the necessary delegated and implementing acts, the EBCG Regulation, the Regulation on the Entry/Exit System, the Interoperability Regulation and the data protection package) and how the ETIAS Regulation sets out the process from the application of a third country national until the issuing of a travel authorisation and its check at the external border.

Frontex will be mainly responsible for setting up and running the ETIAS Central Unit. Operating on a 24/7 basis, the ETIAS Central Unit will have several key tasks, including:

- where necessary, verifying travel authorisation applications with regards to a traveller's identity in cases of a match against one of the databases checked during the automated process prior to the individual assessment to be carried out by the responsible national unit;
- defining, testing, implementing, evaluating and revising specific risk indicators contained in the ETIAS screening rules;
- carrying out regular audits on the processing of applications and on the implementation of the ETIAS screening rules, particularly concerning their impact on fundamental rights, privacy rules and data protection;
- ensuring that the data stored in the application files and the data recorded are correct and up to date;
- providing information about ETIAS to the general public;
- establishing and operating a help desk for travellers.

The Central Unit is expected to have a staff of 240 persons. The ETIAS and Interoperability Task Force was set-up in December 2018 and is responsible for the set-up and preparation for operation of the ETIAS Central Unit and the coordination and oversight of the execution of the interoperability projects and activities. Currently it manages the ETIAS Central Unit set-up project, supports the Commission in the elaboration of delegated and implementing acts, supplies input to eu-LISA in the elaboration of the technical requirements, defines processes, develops concepts for the operation of the Central Unit, supports and monitors the procedure for the rental and adaption of offices for the Central Unit, performs tasks for recruitment of staff for the Task Force and preparation of the recruitments for the Central Unit and supports the development of the ETIAS National Units. The new premises are expected to be available mid-2021 and the first recruitment will start in the third quarter of this year. The screening board and the fundamental rights guidance board are expected to be set-up equally mid-2021.

As major challenges, besides the challenging overall implementation timeline, were described the coordination with all the actors involved, the technical complexity, the dependency on the readiness of all Member States, and the need for communication to the travellers, the tourist industry, carriers and the general public.

## **Establishment of the Standing Corps**

The standing corps, composed of several categories of staff of which a part being of the Agency itself (so-called category 1 staff), can be considered the key innovation of the new EBCG Regulation. The Agency informed Members about the state of play of the recruitment of the first 750 category 1 staff:

Preparations for this recruitment were started by the Agency directly following the political agreement on the new Regulation and thereby ahead of its formal entry into force. The Agency started by benchmarking Member States' recruitment standards. Following the publication of the vacancy notice and its wide diffusion some 7500 applications were received. Applications were received from all the EU Member States but geographical balance will not be possible to be achieved fully. Furthermore, although the Agency had designed its recruitment campaign in a way to encourage the application of women, gender balance will equally not be possible to achieve. Applications were subsequently screened and applicants had to undergo an English language test. Currently, physical tests are being undertaken which will be followed by an interview and a psychological assessment. Staff will be recruited at three levels (basic, medium and intermediate) and will require a security clearance. Following their recruitment they will undertake six months of training by the Agency. The first Frontex border guards will be ready to take on their new tasks in January 2021.

The main challenge for the Agency in the recruitment of so many persons is to ensure the quality of the staff recruited. It is the ambition of Frontex to make the quality of the staff a more important criterion than the "filling of the numbers".

Further challenges are related to the need for the Agency to apply the EU staff regulation fully although this staff regulation was designed for persons working in an office environment and not for law enforcement on the ground. Issues identified have been, for example, that the staff regulation sets no age limit for recruitment, that it sets a uniform retirement age without taking into account the physical hardship a border guard job entails and that a certain level of physical fitness throughout the entire career has to be maintained as there will be only limited positions available in the headquarters. It was also noted that the establishment plan as decided by the Commission contains an imbalance between AD and AST positions which seemed to have happened by mistake.

The Agency also started working on the procedures for the deployment of the staff. While the employment place of the staff will be in Warsaw to which they may bring their families they will spend a large part of their working time (up to four months) deployed in an operational area before being able to take leave or undergo further training. The Agency is aware of the social hardship this may entail and is working with Polish authorities to be able to offer a satisfactory social package for the staff. In response to a question, Frontex explained that current turnover of staff in the Agency is low given the high level of professional commitment and it expects this to be at a similar level for the staff of the standing corps.

## **Building the EBCG capacities**

Capability was presented as the physical assets and human resources while capacity defines

the numbers of those.

Human resources are a major concern for the Agency. There is staff shortage in the law enforcement domain with a lot of training required for the staff to use the complex technology. Furthermore, the job is a hard one: border guards are confronted with dying migrants and human misery while being on mission away from home. There is a shortage of appropriate psychological assistance, which is essential for the staff to properly do their jobs. Nevertheless, Frontex aims to design jobs in such a way that they can become a career.

Long-term thinking is also required in the field of equipment which often is used for up to 40 years. Frontex is currently assessing in what circumstances to continue to lease and in what circumstances to buy the equipment. In this regard, operational availability and costs need to be balanced. Air assets, for example, were described as very expensive to lease. In addition, as the budget is only given for 7 years, which makes it impossible for Frontex to buy vessels. This comes with the problem that leased vessels are more expensive and are not allowed to carry the EU flag. This limits their competence to act on sea. Given the costs involved, the future MFF will define what the Agency will be able to do. As the new EBCG Regulation foresees, equally as a new element, an integrated planning process the intention is to identify capabilities missing at national level and to complement the national capabilities at European level.

Frontex is also tasked to proactively monitor and contribute to research and innovation activities relevant for border control and to keep the European Parliament, Member States and the European Commission informed of new developments – including advanced technology - in the field of border management. In this regard the challenge is that there is relevant research but little market uptake given the underfunding of the law enforcement sector. The Agency regularly invites the industry to present its products which are then tested by the Agency in an operational environment. Asked about the border control of the future, the Agency representative cautioned against the risk of overemphasising technology over human activity.

## **Budget and ICT strategy**

The new EBCG regulation requires from Frontex the implementation of a number of ICT projects. They include the need for a new communication network to replace the current EUROSUR network, the need for enhanced secured information exchange capability and a heightened end-to-end information security guarantee. Furthermore, systems need to be place for situational awareness and the ongoing operations.

Budget performance, which had been an issue, has continuously increased with Frontex using 100% of its 2019 budget. For 2020 the initial budget of 460m € constitutes a significant increase from the 333m € of 2019 which is mainly due to the implementation of the new mandate, including the recruitment foreseen for the standing corps.

For the new MFF, according to the legislative financial statement of the new EBCG Regulation, the budget of the Agency was planned to grow from EUR 330m in 2019 to EUR 900m in 2021 and to EUR 1.8bn in 2027.

The main areas covered by this budget are:

- EUR 3.3 bn for standing corps deployment related costs

- EUR 2.2 bn for acquisition of technical equipment
- EUR 1.75 bn for return
- EUR 160 m for EUROSUR

The latest figures, however, for the negotiations within the European Council foresee a cut by 42% of the overall Frontex budget. According to the Agency, this would not allow it to implement the mandate as foreseen by the legislator in the new EBCG Regulation.

## **International and European Cooperation**

In **cooperating with third countries**, Frontex pursues three main objectives: to build up trust to allow for engagement in operational cooperation; to support the capacities of partner countries; to be the European center of expertise for Integrated Border Management. Cooperation takes place in all areas of Frontex work, depending on how intensive relations with a partner are. Cooperation priorities are countries neighbouring the EU, countries which are origin or transit for irregular migration, countries which are relevant for other types of cross-border crimes and countries which share similar challenges and technical capabilities. In the international cooperation strategy 2018-2020 the following were defined as priority regions: Western Balkans; Turkey, the Middle East and the Silk Route region; North and West Africa, Sub-Saharan countries and the Horn of Africa; Eastern Partnership countries; USA, Canada and other strategic partners.

Cooperation takes place in the framework of working arrangements which are in force with 18 countries.

Several regional risk analysis networks were set up, including the Africa-Frontex Intelligence Community.

As regards capacity building and technical assistance for which Frontex aims to promote European integrated border management standards, Frontex acts as advisory partner on integrated border management for all Commission funded capacity building work, and as implementing partner for Commission funded technical assistance project. It also finances own capacity building initiatives.

Further to questions of Members of how to safeguard the respect of EU standards on fundamental rights when cooperating with third countries, it was explained that Frontex acts within the general policy of the EU towards a third country and cooperates in this regard with the European External Action Service. Currently a methodology is being prepared to assess the Agency's work with third countries from a fundamental rights perspective. Furthermore, Frontex provides training on fundamental rights and raises awareness. In the future, Frontex will also have the fundamental rights monitors provided for in the new Regulation and the Parliament receives more information.

The cooperation with the **Western Balkan region** comprises a full package of cooperation in view of preparing the ground for a possible accession to the EU. In Albania the first operation with executive powers takes place.

With **Russia** a working arrangement was signed but the cooperation takes place at a very

modest level. There is no concrete engagement with Russian partners besides the occasional invitation to events. With **Belarus** also a working arrangement was signed. The aim is to work on capacity building and training.

In **Libya** there is no direct engagement with authorities but support to the EUBAM mission. In this context, Frontex advises on border management standards and provides training to the coast guard on search and rescue, fundamental rights and general security measures.

Frontex is also working on strengthening **inter-agency cooperation** to ensure complementarity with other EU agencies. Recently, for example, Europol's Management Board visited Frontex and cooperation is also close in the implementation of ETIAS in which both agencies are involved. Cooperation with the Fisheries Control Agency and the Maritime Safety Agency takes place as part of the coastguard functions of the three agencies. Cooperation with FRA currently focusses on the setting up of the fundamental rights monitoring system and a service-level agreement was concluded to that end.

Frontex now has posted 11 **Liaison Officers** to EU Member States who may cover relations with up to four Member States. They are the "face" of the Agency in those Member States and play a particular role in the vulnerability assessment of the respective Member State.

Frontex Liaison Officers in third countries are posted in Turkey, Niger, the Western Balkans (Serbia; Albania upcoming) and Senegal. A possible deployment in an Eastern partnership country is under discussion. In response to a question, it was further explained that the concrete activity of a liaison officer varies. Their activity depends on the location and their profile. There are for example some which work on facilitating return. In the Western Balkan countries the liaison officer supports the implementation of the status agreements, prepares the ground for operations, is involved in training and research projects and represents Frontex in conferences. In Niger the tasks are more related to information exchange and situational awareness. The liaison officer also facilitates dialogue.

The new EBCG Regulation also provides for a further enhanced mandate in the external dimension, for example in the field of return or through the establishment of antenna offices. Implementation work will be necessary to update the working arrangements and to further develop the network of liaison officers.

### **III. Conclusions**

The Members of the mission:

- consider that the Agency has made good progress in implementing the new Regulation while at the same time would welcome an update of the roadmap on its implementation to ensure the timely action of Parliament when this is foreseen in the Regulation and proper scrutiny,
- call on the Agency to do its utmost to ensure that the category 1 staff of the standing corps whose recruitment process has started will be highly professional and trained according to the highest standards; stress in this regard the need to continue efforts in recruiting women and to strengthen the fundamental rights principles in the staff training;
- call on the Agency to consider equally as priority the recruitment of the Fundamental Rights Monitors and the enabling of those provisions of the Regulation aiming at ensuring the respect of fundamental rights and rendering the work of the Fundamental Rights Office effective; believe that there is a need to make the existing fundamental rights complaints mechanism more effective, visible and accessible;
- refer to the Schengen Borders Code according to which obligations related to access to international protection shall be respected and call on the Agency to ensure that any instruction given in the framework of a Frontex activity or an activity supported by Frontex complies with the relevant Union and international law, including the principle of non-refoulement;
- consider the reduction of the Agency's budget under the new MFF as being discussed in the European Council as nullifying the intention of the legislator regarding the setting-up of the standing corps and the enhanced mandate of the Agency; recall that currently operations rely exclusively on contributions of Member States and that it was precisely this dependence, also as regards technical equipment, which has been identified as critical weakness leading to the major changes introduced through the new Regulation;
- indicate their continued availability to the Agency to assist in case of any further legislative or budgetary modifications that may be necessary for the Agency to operate successfully;
- notes the information received on the ongoing operational activities including in the area of return; suggest establishing a regular mechanism by which the Agency briefs Members about ongoing operations including about serious incidents and other reports about violence and non-respect of fundamental rights at the external border; calls on the Agency to follow-up any such reports;
- given the need to strengthen parliamentary scrutiny over the Agency look forward to continuing and deepening the cooperation with Frontex and would like to express their gratitude to the Agency and its entire staff for the efforts made in welcoming the mission and providing it with a thorough overview over its activities.

**Annex**  
Programme

ANNEX

**Committee on Civil Liberties, Justice and Home Affairs (LIBE)**

**Mission FRONTEX – Warsaw, Poland  
24-25 February 2020**

Monday, 24/02/2020	Agenda item
12:00 12:15	EP Delegation meeting in the lobby of the hotel Departure to Frontex
12:30 - 13:30	Introduction / working lunch with Frontex Executive Director: <b>Presentation of the Agency’s strategic vision</b> , followed by exchange of views: <ul style="list-style-type: none"> <li>- <i>strategic framework and SPD,</i></li> <li>- <i>challenges related to the implementation of the new legal framework,</i></li> <li>- <i>Strategic challenges related to cooperation with stakeholders.</i></li> </ul>
13:30 - 14:30	<b>Comprehensive situational awareness and reduced vulnerabilities :</b> <ul style="list-style-type: none"> <li>- <i>focus on vulnerability assessment,</i></li> <li>- <i>Risk analysis with a focus on last developments at the external borders.</i></li> <li>- <i>Monitoring and fusion services.</i></li> </ul>
14.30 - 15.00	Visit of the <b>Frontex Situation Centre rooms</b>
15:00 - 16:30	<b>Operational response</b> <ul style="list-style-type: none"> <li>- <i>Overview of Frontex deployments with a focus on Greece and Western Balkans</i></li> <li>- <i>visit to the FOCC covering JO Flexible Operational Activities Western Balkans)</i></li> <li>- <i>Fight against cross border crime (Law enforcement and Coast Guard cooperation)</i></li> </ul>
16:30 - 17:00	<b>Returns</b> , with a focus on future development as regards post return and post arrival
17:00 - 18:00	Implementation of enhanced <b>fundamental rights dimension</b> in EBCG regulation, including fundamental rights training and data protection
18:00 - 18:45	Presentation of the <b>ETIAS and interoperability Task Force</b>
Tuesday, 25/02/2020	
9:00 - 10:30	<b>Working breakfast on the establishment of the Standing Corps</b> (recruitment ; training ; equipment ; deployment management)
10:30 - 11:30	<b>Building the EBCG capacities</b> <ul style="list-style-type: none"> <li>- <i>Acquisition policy</i></li> </ul>

	<ul style="list-style-type: none"><li>- <i>Research and Innovation</i></li><li>- <i>ICT strategy</i></li><li>- <i>Budget</i></li></ul>
11:30 - 12:00	Coffee break and Informal meeting with Agency Staff
12:00 - 13:00	Presentation of <b>International Cooperation</b>
13:00 - 14:00	<b>Lunch</b>