



INFORMAL COMMISSION EXPERT GROUP “EUROPEAN CONTACT GROUP ON SEARCH AND RESCUE”

TERMS OF REFERENCE

1. BACKGROUND

In its Communication on a new Pact on Migration and Asylum (COM(2020)609) of 23 September 2020, the European Commission outlined the need for developing a more coordinated EU approach to the evolving practice of search and rescue in the Mediterranean sea.

While the coordination of Search and Rescue (SAR) operations is a national competence under international law, search and rescue is also a key element of the European integrated border management, implemented as a shared responsibility by Frontex and national authorities. Moreover, the repeated disembarkation in EU Member States of rescued migrants, that results from State and private operations, has a significant impact on asylum, migration and border management in particular of some EU coastal Member States. It is therefore essential, given also the complexity of the relevant legal framework, to establish a more coordinated and structured framework for cooperation at EU level in order to avoid incidents at sea, maintain safety of navigation and ensure effective migration management.

Commission Recommendation (C(2020) 6468) which accompanied the new Pact, sets out a framework of cooperation and information exchange between Member States and other relevant stakeholders, in the field of search and rescue, with a focus on operations carried out by private vessels, as their predominant activity.

This Recommendation also calls for the establishment, by the Commission, of the first interdisciplinary European Contact Group in this field. The Group will be a key tool to reinforce cooperation and coordination among Member States and with relevant stakeholders, including entities and associations operating or representing private and commercial vessels which become involved in search and rescue activities. The Group will compile national rules and practices, be a forum for the exchange of lessons learned, identify best practices and possible actions needed to increase the safety at sea, and availability of all relevant information to competent national authorities.

2. SUBJECT MATTER

The informal group of experts “European Contact Group on Search and Rescue” (“the group”) is set up.

3. TASKS

The group's tasks shall be:

- a. to establish cooperation/coordination between the Commission, Member States and stakeholders on questions relating to search and rescue operations, with a focus on those carried out by private vessels operated or owned for the specific purpose of search and rescue, in consideration of their significant impact on the implementation of Union legislation, programmes and policies;
- b. to establish a framework for the exchange of information and experiences;
- c. to establish a compilation of national rules and practices in the field of search and rescue;
- d. to identify possible means of improved cooperation among competent authorities and develop common practices in this field, in compliance with the applicable international and European legal framework;
- e. to assist the Commission to monitor the implementation of the Commission Recommendation (EU) 2020/1365 of 23 September 2020 on cooperation among Member States concerning operations carried out by vessels owned or operated by private entities for the purpose of search and rescue activities and issue, once a year, a report to the Commission;
- f. to advise and assist the Commission on matters related to search and rescue, within the limits of the Union's competences.

4. CONSULTATION

Directorate-General for Migration and Home Affairs (DG HOME) may consult the group on any matter relating to search and rescue, within the limits of the Union's competences.

5. MEMBERSHIP

1. The group shall be composed of up to 31 members.
2. The Members shall be the authorities of Member States and of Schengen Associated countries.
3. Member States' authorities and Schengen Associated Countries' authorities shall nominate their representatives and shall be responsible for ensuring that their representatives provide a high level of expertise. Each Member State and Schengen Associated country shall nominate two permanent representatives, one expert in migration issues and one expert in search and rescue/transport issues, preferably at the level of head of department.
4. Members who are no longer capable of contributing effectively to the expert group's deliberations, who, in the opinion of the Commission department concerned, do not comply with the conditions set out in Article 339 of the Treaty on the Functioning of the European Union or who resign, shall no longer be invited to participate in any meetings of the group and may be replaced for the remainder of their term of office

6. CHAIR

The group shall be chaired by a representative of DG HOME.

7. OPERATION

1. The group shall act at the request of DG HOME, in compliance with the horizontal rules¹.
2. Meetings of the group shall, in principle, be held on Commission premises and/or through videofacilities, as appropriate.
3. DG HOME shall provide secretarial services. Commission officials from other departments with an interest in the proceedings of the group, notably DG MOVE, may participate in the meetings of the group and its sub-groups, as appropriate.
4. In agreement with DG HOME, the group may, by simple majority of its members, decide that deliberations shall be public.
5. Minutes on the discussion on each point of the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat, under the responsibility of the Chair, and approved by the group.
6. In principle, the group shall adopt documents, such as opinions, recommendations or reports, by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. Members who have voted against shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

8. SUB-GROUPS

1. DG HOME may set up sub-groups for the purpose of examining specific questions on the basis of terms of reference defined by DG HOME. Sub-groups shall operate in compliance with the horizontal rules and shall report to the group. They shall be dissolved as soon as their mandate is fulfilled.
2. The members of sub-groups that are not members of the group shall be selected via a public call for applications, in compliance with Article 5 and the horizontal rules².

9. INVITED EXPERTS

DG HOME may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an *ad hoc* basis.

10. OBSERVERS

1. Organisations and public entities other than the authorities of Member States and of Schengen Associated countries, including EU agencies and international organisations, may be granted observer status, in compliance with the horizontal rules, by direct invitation.

¹ See Article 13.1 of the horizontal rules.

² See Articles 10 and 14.2 of the horizontal rules.

2. Organisations and public entities appointed as observers shall nominate their representatives.
3. The observers' representatives may be permitted by the Chair to take part in the discussions of the group and sub-groups and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group and sub-groups.

11. RULES OF PROCEDURE

On a proposal by and in agreement with DG HOME the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules³.

12. PROFESSIONAL SECRECY AND HANDLING OF CLASSIFIED INFORMATION

The members of the group and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443⁴ and 2015/444⁵. Should they fail to respect these obligations, the Commission may take all appropriate measures.

13. TRANSPARENCY

1. The group and sub-groups shall be registered in the Register of expert groups.
2. As concerns the group composition, the following data shall be published on the Register of expert groups:
 - a) the name of Member States' authorities;
 - b) the name of Schengen Associated Countries' authorities;
 - c) the name of observers.
3. All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available on the Register of expert groups. In particular, DG HOME shall publish the agenda and other relevant background documents in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001⁶.

³ See Article 17 of the horizontal rules.

⁴ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁵ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

⁶ These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

14. MEETING EXPENSES

1. Participants in the activities of the group and sub-groups shall not be remunerated for the services they offer.
2. Travel and subsistence expenses incurred by participants in the activities of the group and sub-groups shall be reimbursed by the Commission. Reimbursement shall be made in accordance with the provisions in force within the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

Done in Brussels, on [date].