



Council of the  
European Union

Brussels, 5 February 2024  
(OR. en)

5490/24  
ADD 1

JAI 71  
FRONT 32  
MIGR 13  
IXIM 35  
SCH-EVAL 23  
FREMP 57  
COMIX 54

#### COVER NOTE

---

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	2 February 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

---

No. Cion doc.:	COM(2024) 75 final ANNEX
Subject:	ANNEX to the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the evaluation of Regulation (EU) 2019/1896 on the European Border and Coast Guard, including a review of the Standing Corps

---

Delegations will find attached document COM(2024) 75 final ANNEX.

---

Encl.: COM(2024) 75 final ANNEX



Brussels, 2.2.2024  
COM(2024) 75 final

ANNEX

**ANNEX**

*to the*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the evaluation of Regulation (EU) 2019/1896 on the European Border and Coast  
Guard, including a review of the Standing Corps**

{SWD(2024) 75 final}

## Annex I

### Action plan to support the implementation of the EBCG Regulation

While the evaluation of the EBCG Regulation and the review of the Standing Corps have shown that the Regulation delivered a good result in terms of its relevance, coherence and EU added value, they have also revealed a number of shortcomings in its implementation that need to be continuously addressed.

The implementation of the Regulation is work underway; therefore, this action plan lists the most important implementation gaps identified during the evaluation that must be addressed in the process, as well as the way forward and the responsible actors. The action plan is without prejudice to the implementation of the tasks of the Agency under the EBCG Regulation and relevant Management Board decisions (e.g. ICT Strategy). Rather, the implementation of these actions, alongside the other tasks of the Agency, should enable the Regulation to reach its full effectiveness by 2027.

#### *Governance and organisational structure of the Agency*

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
1. The organisational structure of the Agency is not yet fully aligned with its mandate, in particular as regards the management of the Standing Corps.	1.1 Full implementation of the new organisational structure, including the phasing out of Standing Corps staff from the headquarters of the Agency.	Frontex

#### *Operations*

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
2. The Agency's operational planning cycle is cumbersome	2.1 Further develop the short, medium and long-term prioritisation of deployments at border sections and the related needs assessment so as to improve the planning of deployments.	Frontex

and slow, deployments do not always reflect the changing operational needs at a border section.	2.2 Develop and roll out the Standing Corps' operational concept to improve the effectiveness of deployments and to make the allocation of resources more flexible.	Frontex
	2.3 Base operational planning primarily on risk analysis and vulnerability assessment that are constantly updated and accompanied by appropriate performance indicators to support operational decision-making.	Frontex
	2.4 Based on an integrated planning process, develop and roll out operational and contingency plans that ensure compatibility and flexibility to host joint operations.	Member States Schengen Associated Countries (SAC)
3. The Standing Corps has complex and inefficient command-and-control structures, including multiple reporting lines that limit its operational effectiveness.	3.1 Develop and roll-out a new chain-of-command structure that creates clear reporting lines and enables decisions to be made and implemented swiftly in the Standing Corps.	Frontex
	3.2 Establish clear roles and communication channels between the Agency's headquarters and deployed staff.	Frontex
4. Certain practical and logistical issues (e.g. weapon transportation, use of blue lights, car rentals and accommodation) create significant difficulties for deployed Standing Corps staff and for the use of technical equipment (e.g. recognition of Frontex vehicles, registration, maintenance).	4.1 Identify the list of practical and logistical issues in the Member States/SAC that hinder the deployment of the Standing Corps and of equipment.	Frontex
	4.2 If necessary, amend national legislation to enable the full and effective implementation of the EBCG Regulation in this area.	Member States/SAC
	4.3 Establish capacity and develop processes to provide logistical and technical support to the Standing Corps and technical equipment deployed at the external borders, e.g. by setting up antenna offices.	Frontex
	5.1 Provide access to SIS to Standing Corps staff, so as to enable their first-line work.	Frontex

<p>5. Deployed Standing Corps staff does not have access to European (e.g. SIS) and national databases in most host Member States, which significantly limits the effectiveness of deployments (e.g. inability to conduct border check).</p>	<p>5.2 Review and eliminate obstacles in national legislation, or of a technical or administrative nature, that prevent the Standing Corps from accessing national databases that are necessary to carry out their tasks, as defined in the EBCG Regulation and in the operational plans.</p>	<p>Member States/SAC</p>
--	---	--------------------------

***Return***

<p><b>Issue</b></p>	<p><b>Actions</b></p>	<p><b>Responsible actor</b></p>
<p>6. In light of the Agency’s extended mandate on return, the Management Board does not provide sufficient strategic steer and follow-up on the work of the High-Level Round Table on Return. MB agenda items on return are currently focussed on reporting on the Agency’s activities only.</p>	<p>6.1 Review of the members and alternate members of the Management Board.</p>	<p>Member States/SAC</p>
	<p>6.2 Ensure that strategic discussions on return are regularly scheduled for the Management Board meetings.</p>	<p>Management Board</p>
	<p>6.3 Adjust the timing and frequency of the meetings of the High-Level Round Table on Return, as well as of technical meetings, to enable the effective preparation of and follow-up to the strategic discussions at the meetings of the Management Board.</p>	<p>Frontex European Commission Member States/SAC</p>
<p>7. There is insufficient coordination between the European Commission and the Agency in the context of the organisation of operational support on return.</p>	<p>7.1 Regular upstream coordination on operational activities and on choices of engagement in and with third countries to ensure that the Agency’s operational support contributes to the implementation of EU priorities, including of the roadmap on targeted return actions led by the Return Coordinator and of Article 25a of the Visa Code. Regular meetings to ensure that the Agency operates on the basis of the latest information regarding engagements with Member States and third countries.</p>	<p>Frontex European Commission</p>

8. Competences in the area of return are often scattered across different national authorities in the Member States. Communication with the national authorities responsible for return via the National Focal Point of Contact (NFPOC) does not always work seamlessly.	8.1 Enable appropriate cooperation and flow of information between NFPOC and national authorities responsible for return.	Member States/SAC
	8.2 Strengthen national EIBM governance by bringing together all national authorities responsible for return in an appropriate national forum and appoint specific contact points for return so as to enable the representation of a single national position at EU-level meetings.	Member States/SAC
9. Divergent understanding of key return-related concepts (e.g. voluntary return, voluntary departure) lead to divergent views on the scope of Frontex's support.	9.1 Dedicated discussions in the High-Level Roundtable on Return on the scope of the Agency's services to support return with a view to diminishing divergences and facilitating the operational application of the Agency's mandate in the area of return.	Frontex European Commission Member States/SAC
10. The pool of forced-return monitors is insufficient to monitor all relevant return operations.	10.1 Increase the number and availability of the pool of forced-return monitors to enable the monitoring of all relevant operations.	Frontex Member States/SAC

***Situational awareness***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
11. The situational picture at the EU external borders that EUROSUR provides is not entirely accurate, complete, and up-to date. This is partially due to the varying level of	11.1 Align the information and quality requirements and monitor compliance so as to ensure that national authorities provide complete and comparable information about their external border sections.	Frontex Member States/SAC

cooperation, reporting practices and of integration of new capabilities by national authorities.		
12. High costs and limited added value of upgrading the EUROSUR communication network to CONFIDENTIEL UE/EU CONFIDENTIAL classification level, as provided for in the EBCG Regulation.	12.1 Identify the actual needs, in terms of the type and scale of information to be exchanged, to upgrade the information exchange in EUROSUR, and other EU classified information exchange systems, up to the CONFIDENTIEL UE/EU CONFIDENTIAL classification level.	Frontex Member States/SAC
	12.2 Develop solutions and implement a roadmap that enables information exchange up to CONFIDENTIEL UE/EU CONFIDENTIAL classification level with more limited financial and logistical investment.	Frontex
13. Risk analysis does not cover return and information on third countries, despite being key components of EIBM.	13.1 Develop indicators and data needs that enable the Agency to carry out risk analysis on return and migratory flows from third countries.	Frontex Member States/SAC
	13.2 Regularly monitor the coherence of information on return and migratory flows from third countries available at Frontex with official European statistics. Work with Member States and the European Commission (Eurostat) to improve data coherence where differences exist.	Frontex Member States/SAC European Commission
14. Vulnerability assessment data are not fully used in risk analysis products, despite being key instruments to identify potential vulnerabilities at the EU's external borders, thereby reducing the accuracy of risk analysis.	14.1 Review and remove obstacles to using the vulnerability assessment data in risk analysis, including the review of the respective methodologies and confidentiality requirements.	Frontex Member States/SAC
15. The mechanism to enforce the Executive Director's recommendations to Member	15.1 Swifter decisions on the recommendations of the Executive Director to Member States so as to eliminate vulnerabilities more effectively at the EU's external borders.	Management Board

<p>States, on the basis of vulnerability assessments, is not fully exploited, although those recommendations concern serious vulnerabilities at the external borders that pose a risk to EIBM.</p>		
--	--	--

***European integrated border management***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
<p>16. The successful implementation of EIBM largely depends on the effective and aligned implementation of the EIBM multiannual policy cycle in the national strategies for EIBM which are still in the process of being adapted.</p>	<p>16.1 Align the national strategies for EIBM with the requirements on its 15 components set out in the Communication on the EIBM multiannual strategic policy and the Technical and Operational Strategy for EIBM.</p>	<p>Member States/SAC</p>

***Capability development***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
<p>17. Lack of long-term strategic view and predictability to key investments in capabilities, such as recruitment, training,</p>	<p>17.1 Develop the capability roadmap and provide annual updates to the Management Board on its implementation so as to further develop and implement the integrated planning process for the EBCG.</p>	<p>Frontex</p>



<p>technical equipment and research and development, at the Agency and in Member States.</p>	<p>17.2 Establish and update the national capability development plans, in line with the national strategy for EIBM, including the medium- to long-term evolution of the national human and technical capabilities for border management and return.</p>	<p>Member States/SAC</p>
<p>18. The implementation of the Agency's acquisition strategy lags behind schedule which negatively impacts the Agency's ability to absorb the financial resources available for technical equipment under the Multiannual Financial Framework and thereby the achievement of the objectives of the EBCG Regulation.</p>	<p>18.1 Establish and respect key milestones for the acquisition or lease of technical equipment.</p>	<p>Frontex</p>
	<p>18.2 Review the practical application of the rules on public procurement in the Agency to identify and, where possible, address the problems that result in a high number of unsuccessful procurements.</p>	<p>Frontex</p>
	<p>18.3 Provide a governance structure that enables the Management Board and Member States to closely monitor the Agency's progress on the implementation plan.</p>	<p>Frontex Management Board</p>
<p>19. The needs of Member States for the Agency's support with technical equipment, especially with large-scale equipment, greatly exceeds the Technical Equipment Pool available to the Agency; this has a significant negative impact on the Agency's ability to meet the operational needs at the EU's external borders.</p>	<p>19.1 Improve long-term planning and ensure Member States' commitment to contribute to the Technical Equipment Pool so as to enable swift deployments reflecting actual operational needs.</p>	<p>Frontex</p>
	<p>19.2 Contribute to the Technical Equipment Pool in line with the legal obligations set out in the EBCG Regulation.</p>	<p>Member States/SAC</p>

**Cooperation**

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
<p>20. In the last years, the Agency concluded or renewed several working arrangements with EU bodies and agencies. However, some key aspects of its cooperation (notably with Europol) are based on arrangements pre-dating the EBCG Regulation and therefore are not aligned with it.</p>	<p>20.1 Review and, where necessary, renegotiate working arrangements so as to align them with the requirements of the EBCG Regulation to ensure effective operational cooperation, including information exchange.</p>	<p>Frontex Management Board</p>
	<p>20.2 Conclude a renewed working arrangement between Europol and Frontex to facilitate inter alia the transfer of data for the purpose of fight against migrant smuggling.</p>	<p>Frontex Europol</p>
<p>21. Synergies with other EU agencies are not fully exploited in cooperation with third countries with respect to tackling irregular migration and related cross-border crime, in particular migrant smuggling.</p>	<p>21.1 Develop closer cooperation with other EU agencies within the boundaries of the agencies' legal mandates with a view to optimising the use of resources, information and know-how to step up cooperation with third countries to tackle irregular migration and related cross-border crime.</p>	<p>Frontex Europol Eurojust</p>
<p>22. The Agency has working arrangements with a number of international organisations, including some that pre-date the EBCG Regulation and are not listed therein.</p>	<p>22.1 Review the existing working arrangements with international organisations and align them with the EBCG Regulation.</p>	<p>Frontex Management Board</p>
<p>23. Status agreements enable Frontex deployment in third countries with a view to strengthening their external</p>	<p>23.1 Intensify efforts to negotiate and conclude status agreements with priority third countries, in line with the EU's overall relations with these countries, to enable the deployment of the Standing Corps and of technical equipment in accordance with operational needs.</p>	<p>European Commission</p>

border protection. However, status agreements have not been concluded yet with important countries of origin or transit of migration towards the EU.		
24. The Agency has not been able to conclude any new working arrangements with third countries under the EBCG Regulation, as the European Data Protection Supervisor considered that the provisions on the protection of personal data were insufficient in the Commission's model working arrangement.	24.1 Update the model working arrangement by including provisions that ensure the protection of personal data in line with the applicable EU legal framework.	European Commission
	24.2 Intensify efforts to conclude working arrangements with third countries, including adequate provisions on the protection of personal data.	Frontex Management Board

***Fundamental rights***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
25. The Agency's Fundamental Rights Strategy has not been fully implemented yet.	25.1 Implement all components of the action plan of the Fundamental Rights Strategy across all activities of the Agency and EBCG as a whole, as applicable.	Frontex Member States / SAC
	25.2 Report regularly to the Management Board on the progress of implementation and its evaluation to the Management Board.	Frontex
26. While the Fundamental Rights Officer (FRO) can investigate incidents that occur during operations where the Agency	26.1 Review and, where necessary, strengthen the effectiveness, independence and timeliness of the investigations of possible fundamental rights violations committed by the staff of the national authorities of Member States, including by developing clear and transparent procedures.	Member States/SAC

<p>participates, fundamental rights violations committed by the staff of Member States can only be followed up on and eventually sanctioned by national authorities. There is a mixed experience in Member States as regards the effectiveness of the follow-up to the FRO's reports and cooperation with the FRO.</p>	<p>26.2 Ensure that all operational plans stipulate clear procedures and timelines for cooperating with the FRO's investigations both by the Agency and the authorities of the host Member State.</p>	<p>Frontex Member States/SAC</p>
<p>27. Fundamental rights monitors (FRMs) have a crucial role to play in assessing the fundamental rights compliance of operational activities. However, in some Member States they are prevented from accessing certain operational areas that restricts their ability to carry out their tasks enshrined in the EBCG Regulation.</p>	<p>27.1 Ensure that all operational plans guarantee the access of FRMs to operational areas, including patrolling areas and debriefing interviews, as required by the EBCG Regulation.</p>	<p>Frontex</p>
	<p>27.2 Enable the access of FRMs to all operational areas, as required by the EBCG Regulation.</p>	<p>Member States/SAC</p>
<p>28. The complaints mechanism and the Serious Incident Reporting (SIR) mechanism would benefit from greater ease of reporting, protection for those submitting reports, and enhanced awareness of the mechanism.</p>	<p>28.1 Review the complaints mechanism and the SIR mechanism, identify, and adopt improvements that facilitate access for potential complainants, including children and vulnerable persons, and removes remaining obstacles to reporting.</p>	<p>Frontex</p>

29. The mechanism in Article 46 is not explicit about the procedural steps that the Agency has to take to address serious or persistent violations of fundamental rights in the host Member State.	29.1 Ensure that all operational plans require the regular assessment of the fundamental rights risks associated with, and the fundamental rights compliance of, every Frontex operational activity, in line with the EBCG Regulation.	Frontex
	29.2 Develop and implement mitigating measures where they are deemed necessary on the basis of the assessment conducted by the FRO, to address all relevant fundamental rights concerns and prevent fundamental rights violations in the context of all Agency activities.	Frontex Member States/SAC

***Personal data protection***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
30. After a long delay, the Agency will have implementing rules in place, that map and aim to address the personal data protection aspects of all their activities. However, the rigorous implementation of the MB decisions is key to ensure that the Agency's activities are in line with the EU legal framework.	30.1 Ensure the swift implementation of the MB decisions on personal data processing in all activities of the Agency and provide regular reports to the Management Board on the progress achieved. Ensure the continued close cooperation between Frontex's Data Protection Officer and the EDPS.	Frontex
	30.2 Monitor the state of play of the implementation of the MB decisions on personal data processing.	Management Board
31. The office of the Data Protection Officer (DPO) has been understaffed for a long time although the protection of personal data has to be ensured in all the Agency's activities, including on the ground.	31.1 Make sufficient HR resources available to the DPO's office so that it can effectively carry out its tasks deriving from the EBCG Regulation.	Frontex

***Standing Corps***

<b>Issue</b>	<b>Actions</b>	<b>Responsible actor</b>
32. Host Member States do not always find the training of category 1 Standing Corps staff adequate to address their operational needs in the course of deployments.	32.1 Review the conditions of recruitment of category 1 Standing Corps staff and ensure the intermediate assessment of the progress of staff members in time before the end of the probationary period.	Frontex
	32.2 Identify the shortcomings in the training of category 1 staff and, where necessary, update the training curricula.	Frontex Member States/SAC
33. The availability of certain categories of Standing Corps profiles does not fully correlate with the actual deployment needs. While the situation has improved over time, specific profiles are in high demand and Frontex reports major gaps (e.g. dog handlers, advanced level document officers).	33.1 Intensify the training of staff with specialised profiles so as to enable the Standing Corps to meet the operational needs at the external borders and in return interventions.	Frontex Member States/SAC
	33.2 Intensify training to ensure that category 1 staff have multiples profile to increase the flexibility of deployments.	Frontex
34. There are persistent gaps between the number of categories 2 and 3 Standing Corps officers that certain Member States are required to second or nominate to the Agency under the EBCG Regulation. Those Member States who do not meet the legal quota prevent the Agency from effectively responding to	34.1 Improve long-term planning and ensure Member States' commitment to contribute to the Standing Corps to enable swift deployments reflecting actual operational needs.	Frontex
	34.2 Contribute to categories 2 and 3 of the Standing Corps in line with the obligations set out with the EBCG Regulation.	Member States/SAC

operational needs at the EU external borders.		
35. Category 1 Standing Corps staff is subject to the EU Staff Regulations, including on working time, shift work, overtime, stand-by etc. The consequent restrictions prevent them from being fully operational members of border guard teams at the external borders and limits the operational value of their deployment to Member States.	35.1 Specify the issues that need to be addressed to increase the effectiveness of the deployment of category 1 Standing Corps staff, and within the limits of the Staff Regulations and the Conditions of Employment of other servants of the European Union, explore the possibility to adopt the necessary MB decisions and Commission delegated acts to the operational needs at the external borders.	Frontex Management Board European Commission