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#### NOTE

From:	Commission services
To:	Working Party on Frontiers
Subject:	European Union Support to Ukraine's Border Management Authorities

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#### Introduction

The European Border and Coast Guard Agency ('Frontex') is mandated to cooperate with neighbouring third countries on matters covered by the European Border and Coast Guard Regulation <sup>(1)</sup> (the 'EBCG Regulation') (i.e., border management), including through the deployment of joint operations, with priority to be given to neighbouring third countries and countries of origin or transit of irregular migration. Ukraine has been engaged in formal cooperation with Frontex – primarily training and information sharing – since at least 2007.

Ukraine has now firmly indicated its interest in negotiating a so-called 'status agreement', which would enable Frontex to deploy joint operations to Ukraine if and when needed, with the European Union. Doing so would require the Commission to request and receive authorisation from the Council to open negotiations <sup>(2)</sup>.

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<sup>1</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

<sup>2</sup> Status agreements are international treaties and procedurally follow the process laid down in Art 218 TFEU.

The purpose of this agenda item is to discuss with the Member States how the European Union can best support Ukraine in the management of its borders, in particular those it shares with the Union, and to hear the Member States' views on the desirability of having a status agreement in place with Ukraine. This discussion also presents an opportunity to discuss the process and parameters of a status agreement and an eventual deployment by Frontex thereunder.

## **Legal Framework**

The EBCG Regulation tasks Frontex with cooperating with third countries including 'through the possible operational deployment of border management teams' <sup>(3)</sup>. European Integrated Border Management, the implementation of which is the objective of the Union's external border management policy, provides that such cooperation should focus 'in particular' on neighbouring third countries and third countries 'of origin or transit for illegal immigration' <sup>(4)</sup>. The operational deployment of border management teams to a third country requires, first, for a status agreement to be in place between the intended host third country and the European Union containing, inter alia, provisions on the civil and criminal liability of deployed staff, their tasks and powers as well as on the respect for fundamental rights <sup>(5)</sup>.

Once a status agreement in force, the host third country may request the deployment of a Frontex joint operation. If Frontex's executive director agrees, Frontex and its counterpart in the third country can negotiate an operational plan detailing, inter alia, the objectives of the deployment, the geographical scope of the operation and the tasks and responsibilities of the staff to be deployed <sup>(6)</sup>.

Notably, Frontex cannot deploy to a third country where the security of any staff member cannot be guaranteed <sup>(7)</sup>. Furthermore, if a Member State is not satisfied with the security of its staff participating in a joint operation, it may opt out of contributing staff to the operation <sup>(8)</sup>. As such, for any deployment to take place in practice, both the Executive Director and the participating Member States must be convinced of the security of the proposed operation.

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<sup>3</sup> Article 10(1)(u) of Regulation (EU) 2019/1896.

<sup>4</sup> Article 3(1)(g) of Regulation (EU) 2019/1896.

<sup>5</sup> Article 73(3) of Regulation (EU) 2019/1896.

<sup>6</sup> Article 38(3) of Regulation (EU) 2019/1896.

<sup>7</sup> Article 74(4) of Regulation (EU) 2019/1896.

<sup>8</sup> Article 74(5) of Regulation (EU) 2019/1896.

## Background

Frontex and the Ukrainian State Border Guard Service signed a working arrangement in 2007 which allows Frontex to provide capacity-building and advisory support. In recent years, this has included a Frontex-run awareness-raising webinars on carriers' obligations under the European Travel Information and Authorisation System (ETIAS), Ukrainian participation in Joint Action Days operations targeting trafficking in human beings, firearms and drugs and migrant smuggling and in a Frontex-led courses on weapons detection for dog handlers, European Integrated Border Management and Schengen evaluation. In response to the war against Ukraine, Frontex has also launched a range of activities to enhance the prevention and detection of firearms and ammunition at the external borders.

The Commission has negotiated status agreements with Albania, Bosnia and Herzegovina Moldova, Montenegro, North Macedonia and Serbia, which have allowed these countries to request and receive Frontex operational support for border surveillance and border checks.

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On 1 October 2024, President Zelenskyy signed a decree establishing a team to negotiate a status agreement with the European Union (<sup>9</sup>). On 25 July 2025, **DELETED**

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<sup>9</sup> Розпорядження Президента України №103/2024-рп, <https://www.president.gov.ua/documents/1032024-rp-52325>.

## Way forward

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Historically, it takes one to two years from the Commission's submission of a recommendation to open negotiations until the actual entry into force of a status agreement.

## Questions for discussion

Based on the external action policy, relevant Union legislation and the clear Union policy of supporting Ukraine, delegations are invited to make their interventions with the following questions in mind:

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