




CODE OF CONDUCT
FOR ALL PERSONS PARTICIPATING
IN FRONTEX ACTIVITIES



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Cooperation at the External Borders of the Member States
of the European Union

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Dear reader,

I am pleased to present you the Frontex Code of Conduct. This document is binding not only for Frontex staff, but also for all those who take part in our activities: operations, training and any other activities coordinated by this Agency.

I am happy to say that this document is the product of an extensive consultation process; a number of Member States' authorities and international organisations took active part in its drafting, including UNHCR and the Fundamental Rights Agency. The initial draft was then consulted with the Frontex Management Board giving an opportunity to the relevant bodies of the Member States to share their comments. Their contribution in the creation of the final text was truly invaluable.

I am proud to say that with this document Frontex fills an important gap. A comparative study commissioned by Frontex on existing codes of conduct used by the border guard services of the EU Member States conducted by the Centre for Global Ethics at the University of Birmingham has shown that while many EU Member States have Codes of Conduct that are used by border guards (23 of the EU and Schengen-Associated Countries), only three were written specifically for border guards. The vast majority were written for police or other services performing border management functions in the Member States concerned. This is perhaps surprising, given that border guards are often called upon to perform tasks that involve consideration of ethical and legal principles that are not normally faced during other types of police work.

Each organisation dealing with law enforcement must be guided by the highest standards and I am convinced that this document is yet another element contributing to one of our key aims — for Frontex to become the custodian of best practices for border control.

Raising and harmonising of ethical standards is key to providing a coherent and comprehensive response to the challenges of modern border control. I hope this document will be helpful to all those working in the field of border management.



Ilkka Laitinen
Frontex Executive Director

CHAPTER I

GENERAL PROVISIONS

Article 1

Objectives, scope and subject matter

1. The present Code of Conduct aims to promote professional values based on the principles of the rule of law and the respect of fundamental rights and to establish the ethical behaviour standards that guide all persons participating in Frontex activities.
2. In this regard it sets out principles and rules which guide the conduct of all persons participating in Frontex activities, namely, Frontex staff, officers of border guard services of a Member State and other staff performing any actions in a Frontex activity.

Article 2

Definitions

For the purpose of the present Code, the following definitions apply:

- a) The term “participant” refers to any person participating in a Frontex activity.
- b) The term “Frontex activity” means any activity coordinated or led by Frontex within the framework of its tasks as described in the Frontex Regulation, including Joint Operations, Pilot Projects, Joint Return Operations, and Trainings.

- c) The term “Frontex staff” refers to the staff to whom Staff Regulations and the Conditions of Employment of Other Servants* apply and includes also seconded national experts.
- d) The term “law enforcement officers” includes border guards and/or other public officials deployed from a Member State, who enjoy the prerogatives of public authority.
- e) The term “Member State” also includes the Schengen Associated Countries. As regards Joint Return Operations, the terms “home and host Member States” are understood as referring to “participating and organising Member States” respectively.
- f) The term “discrimination” means any unfair treatment or arbitrary action or distinction based on a person’s sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.
- g) The term “harassment” means any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment.

* Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities (CEOS), as laid down in Council Regulation (EEC, Euratom, ECSC) No. 259/68 and the amendments thereto, OJ L 56 of 4.3.1968, p. 1, as last amended.

CHAPTER II PRINCIPLES

Article 3

Lawfulness

1. Participants in Frontex activities serve the public interest and shall comply with international law, European Union law, the national law of both home and host Member States and the present Code of Conduct.
2. They shall also meet the obligations imposed upon them by the provisions stated in the Operational/Implementation Plan, or other similar agreed rules.

Article 4

Fundamental rights

Participants in Frontex activities shall:

- a) promote and respect human dignity and the fundamental rights of every individual, regardless of their sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
- b) promote compliance with the relevant international and European instruments regarding fundamental rights protection.

Article 5

International protection

Participants in Frontex activities shall:

- a) promote, in full compliance with the principle of *non refoulment*, that persons seeking international protection are recognised, receive adequate assistance, are informed, in an appropriate way, about their rights and relevant procedures and are referred to national authorities responsible for receiving their asylum requests;
- b) provide persons in their custody with proper access to health care;
- c) give special consideration to particularly vulnerable groups of people, including women, unaccompanied minors, disabled people, persons susceptible to exploitation and victims of exploitation or trafficking in human beings.

Article 6

Performance of duties

Participants in Frontex activities shall ensure that instructions, directives and required duties are carried out promptly and diligently.

Article 7

Responsibility

Participants in Frontex activities are primarily and individually responsible for their actions in their work.

Article 8

Conflict of interests

To perform their duties properly, participants in Frontex activities shall refrain from any activities which would undermine or compromise their independence and the appropriate performance of their duties.

Article 9

Confidentiality

1. Confidential or sensitive information in the possession of a participant in Frontex activities shall not be publicly disclosed, including in social media or environment, unless the performance of duty or the needs of justice strictly require disclosure or disclosure has been appropriately authorised.
2. Participants shall not express themselves regarding Frontex activities in the media unless explicit authorisation is given, in accordance with the Operational Plan or other similar agreed rules.
3. Participants are bound by the obligation to behave with discretion regarding current, past, and planned or potential Frontex activities.

Article 10

Behavioural standards

Participants in Frontex activities whether on or off duty shall:

- a) abstain from all behaviour likely to compromise the prestige and the nature of the public mission in which they are invested or to bring discredit upon their organisation or Frontex;

- b) act with fairness and impartiality in their dealings with the public and other participants in Frontex activities, treating all with courtesy and respect, avoiding all forms of victimisation or discrimination, bearing in mind the diverse nature of all people, including backgrounds, origin and/or rank;
- c) abstain from actions contrary to the public order;
- d) refrain from using vulgar, obscene or otherwise offensive speech or gestures that could be considered abusive towards other participants in Frontex activities or the public.

CHAPTER III

PROHIBITED CONDUCTS

Article 11

Abuse of authority

All improper use of a position of influence, power or authority is forbidden.

Article 12

Discrimination

All discriminatory behaviours as defined in Article 2 towards the public or other participants in Frontex activities are forbidden.

Article 13

Harassment

All forms of harassment as defined in Article 2 are forbidden.

Article 14

Corruption

1. The use of public position for illegitimate private gains as well as the acceptance of unjustified rewards for actions taken in Frontex activities is forbidden.

2. Consent to any form of corrupt activity is forbidden.

Article 15

Use of narcotics and drugs

The use or possession of narcotics and drugs, unless prescribed for medical reasons, is forbidden.

Article 16

Consumption of alcohol

1. The consumption of alcohol while on duty is forbidden.
2. The consumption of alcohol off duty may be moderate, unless the Operational Plan or other similar agreed rules prohibit it.
3. A participant unexpectedly called out for duty is obliged, at no risk of discredit, to say that he/she has consumed alcohol and may not be fit for duty.
4. A participant shall not report for duty or appear in public in a state of intoxication.

Article 17

Sexual services

Using or soliciting any sexual services from any premises, whether public or private, is forbidden.

CHAPTER IV

SPECIAL RULES AND PRINCIPLES APPLICABLE TO LAW ENFORCEMENT OFFICERS

Article 18

Personal and professional behaviour

Given the prerogatives of authority, law enforcement officers have a particular responsibility to act with fairness and impartiality in their dealings with the public or other participants in Frontex activities, treating all with courtesy and respect.

Article 19

Use of force

1. Pursuant to Article 10 of the Frontex Regulation, while performing their tasks law enforcement officers may only use force with the consent of the home Member State and the host Member State, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State.
2. The use of force shall not exceed the minimum degree necessitated by the circumstances, for the performance of duties or in legitimate self-defence or in legitimate defence of other persons.

Article 20

Use of weapons

1. Pursuant to Article 10 of the Frontex Regulation, while performing their tasks law enforcement officers enjoying guest officer status may only use weapons with the consent of the home Member State and the host Member State, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State.
2. The use of weapons is an exceptional measure and it shall not exceed the minimum degree necessitated by the circumstances, for the performance of duties or in legitimate self-defence or in legitimate defence of other persons.

CHAPTER V

FINAL PROVISIONS

Article 21

Training

Participants in Frontex activities shall, previous to their engagement in Frontex activities, get acquainted with the content of the present Code through appropriate training provided by national authorities responsible for the deployment of the participants or by Frontex.

Article 22

Reporting

Participants in Frontex activities who have reason to believe that a violation of the present Code has occurred or is about to occur, are obliged to report the matter to Frontex via the appropriate channels.

Article 23

Sanctions

1. In the case of violation of the present Code by a Frontex staff member, the Executive Director will take adequate measures which may include the immediate removal of the Frontex staff member from the activity.

2. If the violation was committed by a person deployed by a Member State, the Executive Director may request the Member State to immediately remove the person concerned from the Frontex activity and expects that the relevant authority of the Member State will use its powers regarding the necessary disciplinary measures and, if applicable, to remove the person concerned from the respective pool for a defined period.
3. Without prejudice to paragraphs 1 and 2, in a case of serious violation of the present Code, the competent authority will adopt immediate measures that may result in the removal of a participant from Frontex activity.