



FIFTH ANNUAL REPORT

Frontex Consultative Forum on Fundamental Rights

2017

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Frontex Consultative Forum

on Fundamental Rights

Consultative Forum Members:

- **The AIRE Centre – Advice on Individual Rights in Europe**
- **Amnesty International European Institutions Office (AI EIO)**
- **Churches' Commission for Migrants in Europe (CCME)**
- **Council of Europe (CoE)**
- **European Asylum Support Office (EASO)**
- **European Council on Refugees and Exiles (ECRE)**
- **European Union Agency for Fundamental Rights (FRA)**
- **International Commission of Jurists (ICJ)**
- **International Organization for Migration (IOM)**
- **Jesuit Refugee Service Europe (JRS)**
- **Organisation for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR)**
- **Platform for International Cooperation on Undocumented Migrants (PICUM)**
- **Red Cross EU Office**
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1 EXECUTIVE SUMMARY

Over 15 600 asylum-seekers were authorised to leave the Greek islands for government-run sites and rented accommodation on the mainland from June 2016 to October 2017

© UNHCR / Yorgos Kyvernitis / October 2017

The present report provides a **glimpse of the activities of the Consultative Forum (CF) in 2017**. It also outlines the main observations and recommendations raised throughout the year with Frontex and its Management Board in an effort to strengthen fundamental rights protection in Frontex activities.

In the course of 2017, **the Agency continued facing pressure to deliver on the new tasks foreseen in the European border and coast guard regulation**, particularly in the field of returns. With an increase of + 47 % of Frontex-coordinated and co-financed return operations and a total budget over EUR 6 million, the Agency is implementing the EU's return agenda. The Consultative Forum carried out three **on-spot visits to Frontex return operations** in order to better understand the practical functioning and the operational challenges faced (*see Section 4.3.3.*), and provided its expertise in the revision of the Frontex **Code of Conduct** for return operations and interventions (*See Section 4.2.2.*).

As in previous years, Frontex continued to **scale up its staffing with up to 208 new recruits in 2017**. In this context, against the repeated recommendations made by the Forum¹, the European Commission² and the European Parliament³, **Frontex maintained its reluctance to adequately capacitate the Fundamental Rights Office** with the provision of sufficiently qualified staff to carry out its increased responsibilities. As already highlighted in last year's report, and

- 1 See Second, Third and Fourth Annual Reports of the Consultative Forum on Fundamental Rights (<https://frontex.europa.eu/fundamental-rights/consultative-forum/documents/>).
- 2 Fourth report from the Commission to the European Parliament, the European Council and the Council on the operationalisation of the European Border and Coast Guard, June 2017, COM (2017) 325 (https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20170613_report_on_the_operationalisation_of_the_european_border_and_coast_guard_en.pdf).
- 3 See Mission Report following the LIBE Mission to the European Border and Coast Guard Agency, 20-21 February 2017 ([http://www.emeeeting.europarl.europa.eu/committees/agenda/201703/LIBE/LIBE\(2017\)0322_1](http://www.emeeeting.europarl.europa.eu/committees/agenda/201703/LIBE/LIBE(2017)0322_1)).

despite the remarkable commitment and efforts of the Fundamental Rights Officer, **the lack of adequate staffing seriously hinders the Agency's ability to deliver on its fundamental rights obligations** including on key areas such as Frontex operational activities, the newly established complaints mechanism or the protection of children. Although foreseen in its programme of work, the Consultative Forum regrets that due to a delay on the side of Frontex, it has not received a draft of a revised Fundamental Rights Strategy for consultation during 2017.

The Consultative Forum continued its work towards the **enhancement of child protection in Frontex activities** at both the strategic and working levels. A recommendation to the Agency and its Management Board was issued (*see Section 4.1.1.*) and continued support was provided to the extension of the Frontex VEGA Children concept to land and sea borders (*see Section 4.3.2.*).

In the context of Frontex operations, **focus was maintained on the central Mediterranean** with relevant exchanges on Joint Operation Triton and the adoption of a code of conduct for NGOs engaged in search and rescue (*see Section 4.3.4.*). At the same time, the Forum reiterated its concern about **Frontex activities in Hungary** as the developments in Hungarian law and practice have further exacerbated the risks of Frontex being involved in serious fundamental rights violations (*see Section 4.3.1.*).

A notable achievement during the year was the **finalisation and official launch of the Common Core Curriculum**, a key training manual offering measurable common standards for the training of border guard officers in the EU. Consultative Forum representatives supported the Frontex training unit in this endeavour with the view to further integrating fundamental rights provisions throughout the entire curriculum (*see Section 4.4.*).

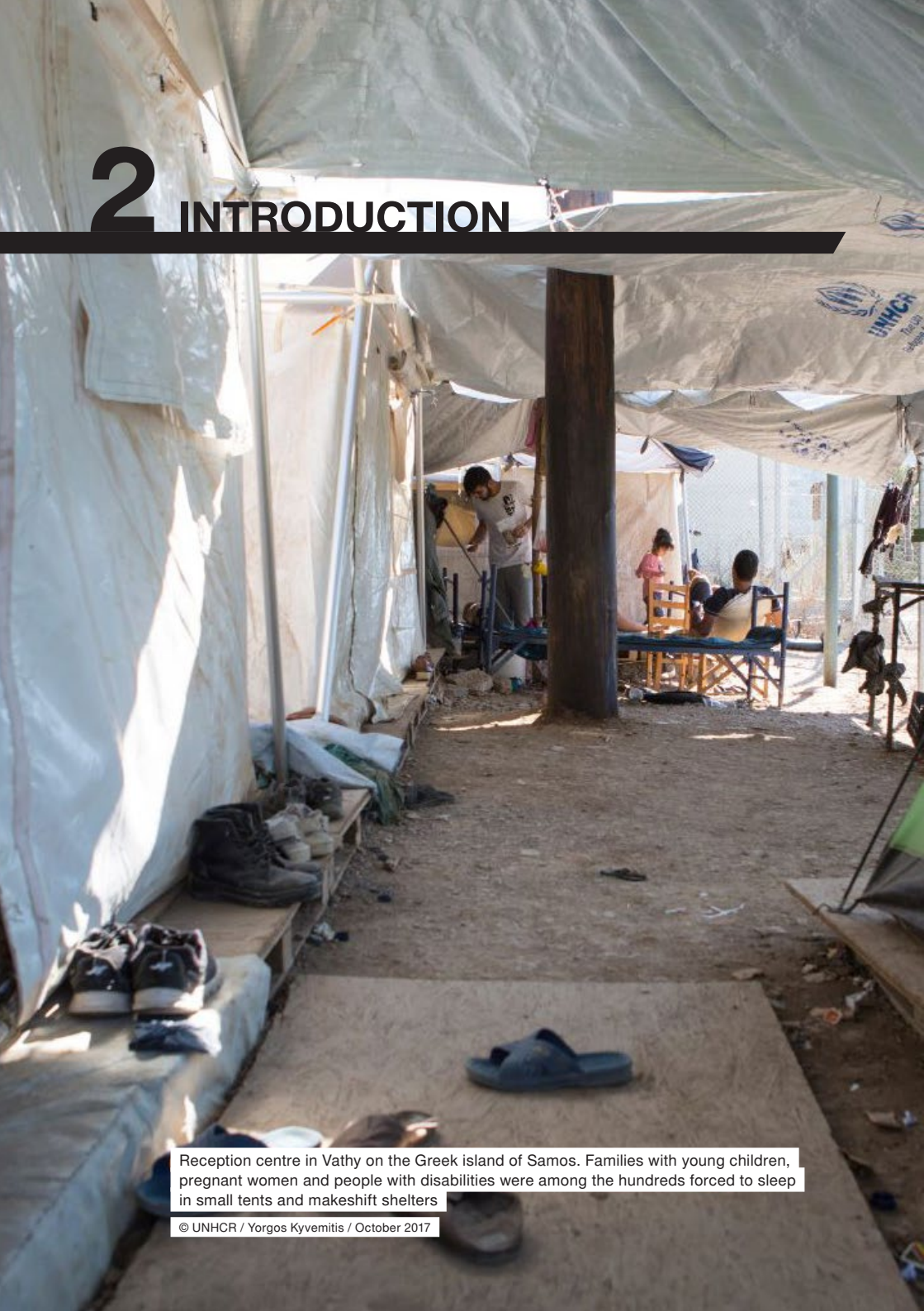
Following the positive experience in 2016, **the Consultative Forum commissioned the provision of expertise to support its ongoing work on Frontex fundamental rights accountability** (see *Section 4.1.2*). Building on the recommendations made in 2016, the Forum continued to **advocate for its advice on the Frontex complaints mechanism** to be taken on board through a revision of the existing rules and adoption of a dissemination strategy (see *Section 4.1.3*).

Based on the work that was carried out since 2015, when gender mainstreaming was discussed for the first time at the 7th Consultative Forum meeting, **the Forum issued a concrete recommendation to the Frontex Executive Director** on how Frontex can better achieve this goal (see *Section 4.1.4*).

While the Consultative Forum has appreciated the **open and positive dialogue maintained with Frontex and the Management Board** throughout the year, it regrettably continues to face **challenges in being proactively and timely provided with access to the necessary information to carry out its mandate** as set forth in the European border and coast guard regulation.

This fifth Annual report of the Consultative Forum was presented to the Frontex Management Board on 22 March 2018.

2 INTRODUCTION



Reception centre in Vathy on the Greek island of Samos. Families with young children, pregnant women and people with disabilities were among the hundreds forced to sleep in small tents and makeshift shelters

© UNHCR / Yorgos Kyvemitis / October 2017

The migratory situation as well as Europe's response, especially in the Mediterranean, remained high on the political agenda with the need for a holistic EU approach; fundamental rights and migration in third countries; and the role of EU external action in addressing refugee and migrant movements featuring prominently.

The year 2017 was also marked by intensive efforts to further implement the European border and coast guard regulation and the changes in the Agency's structure and working methods. New fundamental rights challenges have also appeared as a direct result of the Agency's extended activities including on returns, its enhanced role in the registration of migrants and refugees as part of the migration management support teams deployed in hotspots, and Frontex support to the implementation of readmissions to Turkey.

According to UNHCR statistics, between January and June 2017, 1.9 million people were newly displaced outside their own borders as refugees and asylum-seekers, and 4.6 million people were newly displaced within their own countries as internally displaced people (IDPs), leading to a total of 6.5 million new displacements. This is more than double the number of new displacements estimated in the first half of 2016, when there were 3.2 million⁴. Overall, between January and June 2017, the world refugee population increased by 1.3 million (7 %), as compared with the 2016 year-end total, reaching 18.5 million for the first time. Of those, almost 6 million originated from Syria, which remains the largest source country of refugees at mid-2017 and accounts for almost one third of the world's total refugee population, followed by Afghanistan and South Sudan.

4 This figure does not yet include the new displacements from and within Myanmar, which happened mainly in the second half of the year. UNCHR Global Trends – Mid-Year Trends, June 2017 (<http://www.unhcr.org/statistics/unhcrstats/5aaa4fd27/mid-year-trends-june-2017.html>).

As of mid-2017, Turkey continues to host the world's largest number of refugees, (3.2 million) while Germany was the only country from the Global North appearing among the top 10 countries of asylum worldwide with a total of 864,700 refugees, the exception in an ongoing pattern that shows countries from the Global South hosting by far the largest share of the world's refugees. Indeed, as of mid-2017 Europe hosted about 2.5 million, whereas Sub-Saharan Africa hosted 5.7 million refugees with 3.8 million in east Africa, followed by Asia and Pacific (3.6 million) and the Middle East and North Africa (2.7 million). The global stateless population, which is estimated to be around 10 million persons, remained approximately constant⁵.

In 2017, the total number of irregular border crossings detected in the EU dropped to its lowest in 4 years, especially due to a fall in detections on the eastern Mediterranean and western Balkan routes. The annual total of 204 700 marked a significant decrease compared to recent years, but not yet a return to the situation before 2014. The most significant development of last year was the sudden plunge in the number of irregular border crossings in the central Mediterranean as of July, mainly due to a resumption of patrols by the Libyan coastguard. This development was part of an array of measures sanctioned by EU leaders to reduce arrivals through the central Mediterranean Sea including further engagement with the Libyan authorities⁶. The results of initiatives to build the capacity of the Libyan Coast Guard were viewed with concern by some international and non-governmental

5 UNCHR Global Trends – Mid-Year Trends, June 2017 (<http://www.unhcr.org/statistics/unhcrstats/5aaa4fd27/mid-year-trends-june-2017.html>).

6 See particularly: the Memorandum of Understanding concluded on 2 February 2017 between the Italian Government and Libya's Government of National Accord; the Declaration of Members of the European Council adopted at the informal Malta Summit of 3 February 2017; the European Commission Action plan on measures to support Italy, reduce pressure along the central Mediterranean route and increase solidarity, 4 July 2017; the Joint Statement addressing the challenge of migration and asylum, adopted at the Paris meeting on 28 August 2017 by the governments of France, Germany, Italy, Spain, Libya, Niger, Chad, Mali, the High Representative of the Union for Foreign Affairs and Security Policy/Vice President of the Commission and the European Commissioner for Migration.

organisations, including a number of those represented in the Forum⁷. According to IOM, during 2017, the Libyan coastguard intercepted 19 775 migrants in 142 different operations in the Mediterranean⁸. Civil society actors and international organisations have raised concerns that these persons are transferred back to detention places in Libya and exposed to violence and exploitation⁹.

While detection of irregular entries decreased, 707 222 applications for international protection were still lodged in the EU+ (EU plus Norway and Switzerland). While this was 43 % lower than in 2016, when 1 236 491 applications were lodged, the number of applications in 2017 was similar to the level seen in 2014. The major countries of origin of asylum-seekers remained Syria (with more than 98 000 applications), Iraq, Afghanistan and Nigeria. Whereas in 2016, Syrian, Iraqi and Afghani had represented half of all applications, in 2017 they represented just 28 % of the total – meaning that the range of nationalities applying for international protection in the EU+ broadened considerably¹⁰. Compared to the global migration and displacement trends (outlined above for reference), these numbers remain proportionally low.

- 7 Amnesty International, *Libya's Dark Web of Collusion. Abuses against Europe-bound refugees and migrants*, London 2017 (<https://www.amnesty.org/en/documents/mde19/7561/2017/en>).
- 8 *Migration Flows to Europe: 2017 Overview*, International Organization for Migration, p.11 (http://migration.iom.int/docs/2017_Overview_Arrivals_to_Europe.pdf)
- 9 See MSF, *Libya – Open letter: European Governments are feeding the business of suffering*, 6 September 2017 (<http://www.msf.org/en/article/libya-open-letter-european-governments-are-feeding-business-suffering>); Amnesty International, *Libya's Dark Web of Collusion – Abuses against Europe-bound refugees and migrants*, December 2017. Also, in November 2017, the UN High Commissioner for Human Rights stated that the EU policy of assisting Libyan coast guards is 'inhuman' since such assistance 'condemns more migrants to arbitrary and indefinite detention and expose them to torture, rape, forced labour, exploitation and extortion'. Furthermore, 'Those detained have no possibility to challenge the legality of their detention, and no access to legal aid' (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22393&LangID=E>).
- 10 EASO overview of 2017 EU+ asylum trends, February 2018 (<https://www.easo.europa.eu/news-events/press-release-easo-releases-overview-2017-eu-asylum-trends>).

Despite such decrease in arrivals, the number of persons who died while trying to cross the Mediterranean Sea or are reported as missing remained alarmingly high. While it is difficult to establish a clear figure, the IOM and UNHCR consistently estimate that between 3 116 and 3 119 persons have died at sea during 2017¹¹.

This further illustrated the continued need for sufficient search and rescue capacity in the Mediterranean. In this context, the role of non-governmental organisations (NGOs) was questioned by Frontex and institutional representatives in Member States, leading to NGOs ultimately being required to sign a code of conduct – proposed by Italy and backed by the Council of the European Union. Some organisations, including some CF members, raised concerns about the negative impact of this measure on NGOs' ability to continue carrying out their prominent SAR role¹².

Against the background of a dramatic increase in the number of refugee and migrant children arriving in the European Union, many of whom are unaccompanied, and the traumatic experiences they are subjected to at all stages of their journey, the European Commission, in April 2017, proposed concrete measures to improve the

11 Missing Migrants Project, Mediterranean, International Organization for Migration (<https://missingmigrants.iom.int/region/mediterranean>) and UNHCR (<https://data2.unhcr.org/en/situations/mediterranean>).

12 See, e.g. Amnesty International, 'A perfect storm: The failure of European policies in the Central Mediterranean', London 2017; *The Independent*, 15 July 2017: Italy's draft code of conduct for refugee rescue ships 'threatens thousands of lives', charities warn (<http://www.independent.co.uk/news/world/europe/refugee-crisis-ngo-rescue-ships-mediterranean-libya-smugglers-italy-code-of-conduct-threatens-lives-a7842966.html>); EU: 'Draft code for sea rescues threatens lives', 12 July 2017 (<https://www.amnesty.ie/eu-draft-code-sea-rescues-threatens-lives>).

protection of children in migration¹³. These proposals also address the Agency's activities and urge Frontex to ensure that migrant children receive specific and appropriate protection.

13 Communication from the Commission to the European Parliament and the Council: The protection of children in migration, April 2017 (https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf).

3

COMPOSITION AND ROLE



Frontex deployed officers conducting fingerprinting at Moria – the reception and identification center (EU hotspot) on the Greek island of Lesbos. Poseidon Sea Operation 2017.

© Frontex / Francesco Malavolta / December 2017

Officially established in October 2012, and operational since January 2013, the Consultative Forum provides independent advice to the Agency's Management Board as well as its Executive Director on the respect, protection and promotion of fundamental rights through Frontex activities.

Pursuant to Article 70 of the European border and coast guard regulation, the Consultative Forum is to be consulted on matters such as the further development and implementation of the Fundamental Rights Strategy, codes of conduct and Common Core Curriculum and shall have effective access to all information related to the respect of fundamental rights in all activities of the Agency. Furthermore, the Consultative Forum conducts on-the-spot visits to operational areas and activities.

The Consultative Forum is composed of **15 organisations and institutions**, which contribute their expertise and resources on a voluntary basis, and is supported by a Consultative Forum secretariat provided by Frontex.

After the withdrawal of Caritas Europa from the Consultative Forum, Frontex launched a public call for applications in July 2017.

The Frontex Executive Director and the Chair of the Management Board reviewed the applications received from nine NGOs in order to make a proposal to the Management Board. A representative of the Consultative Forum was invited to attend the discussions and comment on the relevant expertise that would be most needed in the Forum. On 1 September 2017, the Management Board selected and invited¹⁴ Save the Children to become a member of the

¹⁴ Management Board Decision No 24/2017 of 1 September 2017 selecting and inviting the proposed civil society organisation to become a member of the Consultative Forum.

Forum. In its current composition, the Consultative Forum counts on expertise from:

(i) Two European Union agencies:

- the European Asylum Support Office (EASO); and
- the European Union Agency for Fundamental Rights (FRA).

(ii) Four UN agencies and intergovernmental organisations:

- the United Nations High Commissioner for Refugees (UNHCR);
- the Council of Europe (CoE);
- the International Organisation for Migration (IOM); and
- the Organisation for Security and Cooperation in Europe – Office for Democratic Institutions and Human Rights (OSCE-ODIHR).

(iii) Nine civil society organisations:

- The AIRE Centre – Advice on Individual Rights in Europe;
- Amnesty International European Institutions Office (AI EIO);
- Churches' Commission for Migrants in Europe (CCME);
- European Council on Refugees and Exiles (ECRE);
- International Commission of Jurists (ICJ);
- Jesuit Refugee Service Europe (JRS);
- Platform for International Cooperation on Undocumented Migrants (PICUM);
- Red Cross EU Office; and
- Save the Children.

In 2017, the Consultative Forum was chaired by UNHCR and the Jesuit Refugee Service.

Under the European border and coast guard regulation, the Consultative Forum has neither the mandate nor the capacity to monitor or systematically assess fundamental rights compliance in Frontex activities. The work of the Consultative Forum complements the role of the Fundamental Rights Officer and should not preclude the necessary oversight of relevant stakeholders such as the European Parliament, national parliaments, civil society and the judiciary. External oversight remains of particular importance in the absence of a meaningful response of Frontex on the concerns below that continued to be raised by the Forum in 2017:

- ♦ **Reluctance to adequately staff the Fundamental Rights Office** – The Consultative Forum has repeatedly alerted that the current staffing allocated to support the work of the Fundamental Rights Officer (one senior and three support staff, with supervision of an additional support staff working full time for the Consultative Forum secretariat) lacks the minimum capacity to carry out its role, including an effective monitoring of Frontex fundamental rights obligations as mandated by the European border and coast guard regulation.
- ♦ **Limitations in providing the Forum with access to information** – As outlined above, the Consultative Forum's mandate is to assist the Executive Director and the Management Board with independent advice on fundamental rights issues. For this, the provision of timely, complete, and comprehensive information in a manner that allows the Consultative Forum to effectively exercise its mandate is crucial. Over the last two years, the Forum has adopted standard procedures for the provision of information and repeatedly encouraged Frontex to proactively keep the Forum informed in recognition of its enhanced role as part of the Agency's administrative and management structure under Article 61 of the European border and coast guard regulation. While some positive steps were taken in this regard (particularly on the information shared in preparation for Consultative Forum meetings), the Forum continues to face serious and further limitations particularly in relation to relevant operational reference and guiding documents. Given the constraints this places on its work, the Forum repeatedly raised this concern with Frontex management. A final response or constructive proposal from Frontex in this regard was yet to be received by the end of 2017.

4 MAIN ACTIVITIES IN 2017



Moria – the reception and identification centre (EU hotspot) in the Greek island of Lesbos. At the start of 2017, some 57 000 refugees remained stranded in Greece after borders across Europe were closed in the summer of 2016

© UNHCR / Achilleas Zavallis / February 2017

4.1. Provision of strategic advice on the implementation of the European border and coast guard regulation

4.1.1. A child protection strategy for Frontex

On 11 May 2017, the Consultative Forum submitted a ‘Recommendation on a child protection strategy for Frontex’ to the Frontex Executive Director and the Chair of the Management Board. In line with the 2017 European Commission communication on protecting children in migration¹⁵, the recommendation stresses that children are directly and indirectly affected by most of Frontex activities. In line with the Agency’s legal obligations and responsibilities, the Forum stressed that child protection, including strong internal child safeguarding policies, is integral to an effective and rights-based integrated border management¹⁶.

A comprehensive strategy would allow Frontex to take a systematic and coherent approach to addressing children’s rights and child protection concerns in all its activities. It would also help to ensure that children’s rights are viewed as a cross-cutting concern, rather than an isolated activity to be addressed through ad hoc responses. A drive towards increased institutional awareness of how Frontex activities affect children and the need for agency activities to be child rights compliant, can create a positive enabling culture on child protection both within the Agency and in cooperation with Member States, other EU agencies and third countries.

The recommendation further highlights the increasing need for child protection measures at the EU external borders as well as

15 European Commission Communication on protecting children in migration of 12 April 2017, COM [2017] 211 final (https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf).

16 See also Article 4 (a) European border and coast guard regulation

the obligation to ensure that appropriate safeguards, systems and referral mechanisms to uphold children's rights and meet their specific needs, are in place.

In developing a child protection strategy, Frontex should consider the following elements:

- ♦ **Organisational commitment** to children's rights and child protection as well as a clear reference to Frontex's role and obligations in terms of protecting children. The situation of **all children**, regardless of their migration status, nationality and whether unaccompanied, separated or with family members.
- ♦ Frontex's **obligations to respect** children's rights in all its activities, as well as positive obligations, to **protect** and **fulfil** children's rights¹⁷. It should therefore recognise and mitigate risks of child rights violations across each area of Frontex activity, as well as introduce measures to fulfil the rights of the children the Agency interacts with in the scope of its activity. This should include **developing a robust child safeguarding policy that applies to all Frontex staff and activities in addition to** specific measures to protect children from all forms of violence, abuse and exploitation. Adequate attention to the gender dimension of child protection would be included.
- ♦ Setting out clear **roles and responsibilities** across the Agency for planning, implementation, monitoring and evaluation, as well as processes to facilitate ongoing mainstreaming and coordination.
- ♦ Setting out a concrete and targeted **implementation plan** in relation to the specific activities identified. The contents of the strategy can be guided by the UN Committee on the Rights of the Child General Comment No 5 on General Measures for Implementation.

¹⁷ Article 34 (3) European border and coast guard regulation

- ♦ Setting out mechanisms for **monitoring and evaluation** of the performance against the strategy, with accountability at management level.
- ♦ Appropriate **human and financial resources** for implementation and oversight of the strategy must be allocated and accompanied by procedures and documentation to track budgetary allocation to child protection measures.
- ♦ A role for the **Consultative Forum** in the development, implementation and monitoring of the strategy and implementation plan should be ensured.

In its response, Frontex informed the Consultative Forum about the following initiatives the Agency is currently working on to enhance child protection and children's rights during its activities:

- ♦ The development of a specific training course on border-related child protection for border guards;
- ♦ Mainstreaming of child protection and children's rights in the Fundamental Rights Strategy which is currently under revision;
- ♦ A child protection video jointly developed by Frontex and FRA which is part of all operational briefings;
- ♦ Finalisation of the VEGA Children Handbooks Land and Sea.

The Consultative Forum sees opportunities in the current scaling up of the Agency to ensure systematic consideration of child protection concerns in already existing activities and importantly, in the design of new activities. In particular, it will be vital to ensure the development of child protection and safeguarding procedures and tools for those activities where Frontex has a new or expanded role. Failure to do so could leave a dangerous vacuum, with the risk of serious violations of child protection obligations by the Agency (and partners) when directing operations.

4.1.2. Frontex fundamental rights accountability

The Consultative Forum commissioned the provision of expertise by Dr Jorrit Rijpma and Dr Melanie Fink to support its ongoing work on Frontex fundamental rights accountability. In this context, the Consultative Forum tries to assess the risk of actions and omissions by Frontex triggering accountability or even liability for human rights violations under international and EU law. A first discussion was held during the 14th Consultative Forum meeting in October, based on four hypothetical scenarios related to sea, land and return operations as well as capacity building/indirect support, developed by the Forum. This commissioned expertise has provided the Forum with solid additional legal knowledge for any possible future recommendation on actions that could be undertaken by Frontex to avoid the risk of engaging in or supporting violations of fundamental rights in its activities. Discussions with the Frontex Legal Affairs Unit are foreseen for 2018.

4.1.3. Frontex individual complaints mechanism

In presenting the Annual Report 2016 to the European Parliament's LIBE committee on 29 June 2017 in Brussels, the Consultative Forum emphasised the need to implement effectively Article 72 of the European border and coast guard regulation, which foresees the establishment of an individual complaints mechanism.

The rules should, among other points, provide further details on the respective roles of the different actors involved in the procedure, specify the timeframe for the processing of complaints, and provide for the possibility of anonymous complaints. In this context the Consultative Forum reiterates its calls for the allocation of more technical staff and means to the Fundamental Rights Officer.

Due to the overcrowding, families with small children are camping in an olive field near Vathy – the reception and identification centre (EU hotspot) on the Greek island of Samos

© UNHCR / Yorgos Kyvemitis / October 2017



The Consultative Forum welcomes the ongoing revision of the current rules and will provide input during 2018. In addition, the Consultative Forum stands ready to support Frontex in the design and implementation of a dissemination and awareness-raising strategy for the complaints mechanism.

4.1.4. Gender mainstreaming in Frontex activities

In 2017, the Consultative Forum completed a study to examine the extent to which gender is mainstreamed in Frontex activities. This study was led by a member of the Consultative Forum, the IOM, in close cooperation with the Frontex Fundamental Rights Officer. The study reviewed a variety of Frontex internal documents, including handbooks and training materials provided by all major units within the Agency, as well as Frontex visibility materials. A questionnaire was used which inquired about, for instance, the identification and justification of gender-based needs, the existence of gender expertise in a given project team or the availability of sex-disaggregated data or information. An analysis was then conducted to examine the current situation of gender mainstreaming in Frontex activities, identify gaps and formulate practical recommendations for further action.

The Agency's commitment to gender mainstreaming would not only enhance fairness of processes and procedures and the wellbeing of all involved but also improve organisational and operational effectiveness and efficiency through better targeting, planning and implementation. It would also contribute to the maintenance of a supportive and inclusive working environment. Furthermore, gender mainstreaming is in line with the key commitments of the Agency set out in the EU Charter of Fundamental Rights, including gender equality, respect for human dignity and non-discrimination.

The following main findings and recommendations were submitted to the Frontex Executive Director, with the ultimate goal of making gender considerations inherent to all Frontex activities.

Gender is generally not mainstreamed in a consistent manner across Frontex activities and many important opportunities to do so have not been seized. Relevant EU and international legal and political frameworks for gender mainstreaming are in place, but the current body of knowledge on implementing it in border management is rather scarce. The Consultative Forum believes that Frontex has the opportunity to lead the way and set standards which will ultimately increase the Agency's operational effectiveness and efficiency.

Based on these findings, the following **recommendations** were addressed to Frontex:

1. Integrate gender into the Frontex **Fundamental Rights Strategy and Action Plan**;
2. Adopt a **Gender Equality Policy**;

3. Perform a participatory **gender audit or peer review** and monitor institutional gender equality progresses on a regular basis;
4. Develop and enhance general gender **awareness** and specific gender **expertise** among Frontex staff;
5. Collect **data** and disseminate **statistics disaggregated by sex** and in a way that contributes to identifying gender-specific needs;
6. Adapt and develop **gender-sensitive procedures, guidelines and tools**;
7. Integrate gender as a cross-cutting issue into all **monitoring and evaluation** activities and reports;
8. Establish and maintain **partnerships and collaboration** with key actors relevant to gender mainstreaming;
9. Actively **promote** gender equality and gender mainstreaming when cooperating with Member States and third countries;
10. Ensure that all **visibility material and communications** are gender-sensitive and publish items that highlight specific gender-related topics.

The Consultative Forum believes the recent major developments within Frontex, most notably the new regulation and changes in the Agency's structure, present an opportunity to implement these recommendations, particularly when updating policies and tools, such as the new Frontex Fundamental Rights Strategy.

The Consultative Forum will discuss the concrete implementation of these recommendations with Frontex senior management, relevant Frontex staff and the Fundamental Rights Officer during 2018.

4.2. Revision of the Fundamental Rights Strategy and the Codes of Conduct

4.2.1. Revision of the Frontex Fundamental Rights Strategy

As highlighted in the fourth annual report of the Consultative Forum, the Fundamental Rights Strategy remains the main document which specifically tackles fundamental rights in Frontex activities and, most importantly, sets out how to effectively ensure their promotion, respect, and protection.

Following an initial consultation prior to the adoption of the European border and coast guard regulation in 2016, the revision of the Strategy was put on standby. Regrettably, and against the initial plans to complete the process upon adoption of the new regulation, the revision of its Fundamental Rights Strategy was not prioritised by Frontex in 2017, and the Consultative Forum was yet to be further consulted on its development by the end of the year. Given its relevance, the Consultative Forum remains ready to contribute to the revision and adoption of the Frontex Fundamental Rights Strategy in 2018.

4.2.2. Revision of the Frontex Code of Conduct for all persons participating in Frontex activities

In January 2017, Consultative Forum representatives participated in a meeting with the Frontex Legal Affairs Unit where the Consultative Forum's proposals to the draft revision of the Code of Conduct applicable to all persons participating in the activities of the Agency (CoC) were discussed. The revised CoC was adopted by the Management Board on 10 April 2017¹⁸. It includes, as suggested by the Forum, a new foreword on 'core

¹⁸ Frontex Code of Conduct applicable to all persons participating in Frontex operational activities.



A woman and her baby walk through Kara Tepe camp on Lesbos

© UNHCR / Pavlos Avagianos / April 2017

values and principles' where emphasis is put on the commitment of the Agency to promote and uphold 'behavioural standards' in a way that respects and reflects the values of the EU Charter of Fundamental Rights. Also in line with the Consultative Forum proposals, the CoC contains references to the 'promotion, protection, respect and fulfilment' of fundamental rights throughout the text, the obligation of participants to 'keep themselves informed about the most up-to-date Frontex objectives, good practices and policies' as well as a new provision on the 'commitment to prevent exploitation and sexual abuse'.

Unfortunately, Frontex did not take on board recommendations by the Consultative Forum to include in the Code of Conduct specific references to omissions or failures to act or to the prohibition to obey or obligation not to comply with and report instructions that are illicit or against international, EU or national legislation, the Code of Conduct or the legal framework of the activity.

4.2.3. Code of Conduct for Return Operations and Return Interventions coordinated or organised by Frontex

A first draft of the Code of Conduct for Return Operations and Return Interventions that will replace the current Code of Conduct for Joint Return Operations was shared with the Consultative Forum in September 2017.

The Consultative Forum stressed the importance of the Code clearly differentiating between legal standards, including fundamental rights (e.g. the prohibition of *refoulement*), and operational standards. Considering the binding nature of the Code¹⁹, the Consultative Forum considers it essential to strengthen the wording relating to the legal framework and, in particular, fundamental rights obligations such as the right to an effective remedy, while striking the right balance with references to operational guidelines.

The Code should reflect the changes introduced by the European border and coast guard regulation, e.g. returnees' access to the Frontex complaint mechanism; and the fundamental rights implications of Frontex increasing engagement with third countries, e.g. presence of third country officers in Frontex return operations as well as the possible involvement of Frontex deployed officers in operations carried out from the territory of third countries. Furthermore, the Consultative Forum proposed a new provision on 'identification and treatment of vulnerable persons', the inclusion of a gender perspective throughout the text and references to returnees' right to be informed of their rights in a language they understand.

¹⁹ The Code of Conduct is part of the Implementation Plans for Return Operations and Return Interventions and, thus, it becomes legally binding.

The Forum presented and discussed its views during a meeting with the Legal Affairs Unit and representatives from Member States in November 2017. The Code of Conduct for Return Operations and Return Interventions is expected to be adopted by the Management Board during 2018.

4.3. Fundamental rights and Frontex operations

4.3.1. Frontex operational activities in Hungary

With a letter dated 10 November 2016, the Consultative Forum recommended to the Frontex Executive Director that operational support at the Hungarian–Serbian border was made contingent upon Frontex being satisfied that people arriving at that border were duly registered by Hungarian authorities, given access to fair asylum procedure and an individual assessment of their international protection needs, were not summarily returned to Serbia, and that instances of police abuse and violence are investigated in an independent and impartial manner. Until this could be guaranteed, the Consultative Forum recommended to the Frontex Executive Director to immediately take action pursuant to Article 25(4) of Regulation (EU) 2016/1624 and suspend operational activities at the Hungarian–Serbian border²⁰. The Executive Director, however, decided to maintain the presence of members of the European border and coast guards teams and Frontex staff, noting the active contribution that Frontex presence can have to **minimise potential risks related to the use of force, as well as to document circumstances on the ground**. Since then, the situation has further deteriorated, as a result of new legislation, which requires all asylum-seekers to be detained for the duration of the asylum procedure, in addition to other restrictions. The act and the implementing decrees also introduce other changes to the reception and asylum procedures, including ‘state of emergency’ measures to prevent entry and expel

20 Consultative Forum Annual Report 2016, pp. 38-39.

people arriving irregularly, to allow access to asylum procedure exclusively through a truncated procedure conducted in the transit zones at the land border, and to limit access to legal assistance and documentation for asylum applicants²¹. In response, the Commission has also launched an infringement procedure against Hungary considering that asylum procedures, rules on return and reception conditions are incompatible with EU law. Moreover, in the case of *Ilias and Ahmed*²² the European Court of Human Rights (ECtHR) found the expulsion of two Bangladeshi nationals from the transit zones to Serbia, to be in violation of Article 3 of the ECHR.

In light of these developments, on 9 August 2017, the Consultative Forum requested details of Frontex current operational activities in Hungary, including reports by the Fundamental Rights Officer, information on submitted serious incidents reports and individual complaints. The request was granted but the information provided, in particular the operational plans, were not complete. Whereas the Consultative Forum was informed by Frontex at its October 2017 meeting that the Agency had significantly reduced the number of deployed officers and assets in Hungary, the Consultative Forum maintained its initial recommendation as the developments in law and practice in Hungary have further exacerbated the risks of Frontex being involved in serious fundamental rights violations.

21 See AIDA Country Report: Hungary, February 2018 (<http://www.asylumineurope.org/reports/country/hungary>).

22 European Court of Human Rights, Application No 47287/15, *Ilias and Ahmed v Hungary*, Judgment of 14 March 2017.

4.3.2. Enhancement of child protection in Frontex operations

(a) Participation in Joint Operation VEGA Children 2017 – Phase I and Phase II

The Consultative Forum supported Joint Operation VEGA Children 2017 Phase I (1 June until 9 July) and Phase II (31 August until 8 October) with the deployment of experts on trafficking in human beings (THB), child protection and interviewing in order to provide on-the-ground advice to Frontex and national officials on how to improve the identification and referral of children on the move at risk at EU airports.

Since the beginning of Joint Operation VEGA Children in 2014, 13 EU airports have agreed to host mixed teams²³. Every EU Member State is invited to take part in the Joint Operation and Frontex actively encourages Member States to host mixed teams. However, the final decision lies with the Member States.

So far, Belgium, Bulgaria, Hungary, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden and Switzerland have hosted representatives of the Consultative Forum. Portugal, Spain and Romania have welcomed mixed teams every year since 2014 and in 2016, Lithuania, for instance, started receiving mixed teams at Vilnius airport. The Consultative Forum acknowledges the great effort made by hosting Member States and welcomes their willingness to engage with international and civil society organisations at the working level as well as to benefit from their expertise in the field of THB, child protection and interviewing.

²³ Teams composed of one national officer, one Frontex deployed officer and one Frontex Consultative Forum's representative, i.e. an expert from an International Organisation or a civil society organisation.

In 2017, the Consultative Forum ensured the deployment of 13 experts during Phase I whilst during Phase II, 18 experts were deployed.

Recommendations that would improve the protection of children at airports were made in the context of the operation, including²⁴:

- Enhance **training** for border guards on language, intercultural communication and interview techniques as well as support training on child protection to airline companies and other service providers at airports;
- Enhance **gender sensitisation**;
- Develop **awareness** about vulnerabilities of travellers, in particular THB risks and child protection, for first-line officers;
- Develop **standard operating procedures** to identify vulnerabilities;
- Ensure first-line officers are provided with **feedback** on the outcome of the cases submitted under national referral mechanisms;
- **Child-friendly facilities** for second-line checks (while awaiting documentation, pre-investigation procedure, etc.) as well as on the potentialities of creating separate lines (in busier airports) for families and children for better scrutiny and faster service;
- With regards to **VEGA Children Handbook**, checklists for easy reference could improve the comprehensibility of the tool. The duty to provide information about the possibility to apply for asylum should also be explained.

²⁴ These recommendations derive from the final reports submitted by participants from the Consultative Forum to Joint Operation VEGA Children Phase I and Phase II during 2017. For the sake of completeness, all recommendations are reported here, whereas the Consultative Forum is aware of some of them rather touching upon Member States' competences and not the Agency's mandate.



Child-friendly space in Vial – reception and identification centre (EU hotspot) in the Greek island of Chios

© UNHCR / Alfredo D'Amato / February 2017

(b) VEGA Children Handbooks Land and Sea

During 2017, the Consultative Forum supported both Frontex land and sea borders sectors in the drafting of the respective VEGA Children Handbooks. Consultative Forum members regularly provided written comments and shared their expertise during a workshop with representatives from Member States. The Consultative Forum welcomes the fruitful cooperation with both sectors and the genuine openness towards international and civil society organisations' input. In particular the organisation of mixed workshops in which Consultative Forum members would directly discuss with border and coast guard officials has positively contributed to the drafting process.

Based on VEGA Children Handbook Air, both Handbooks had to be tailored to the specificities of the land and sea context. For instance, VEGA Children Handbook Land provides guidance for dealing with children at the green border during border surveillance; and a new section on 'humanitarian border management for mass migration flows' was developed. VEGA Children Handbook Sea tackles the particularities of identification and referral at landing points, disembarkation ports and registration facilities. Furthermore,

both Handbooks provide basic hints to border guards on how to effectively apply the principle of the best interests of the child as well as on how to deal and communicate with children.

4.3.3. Fundamental rights in Frontex return activities

(a) Expanded Frontex return mandate

The European border and coast guard regulation extended Frontex's return mandate considerably. 2017 was the first year in which this mandate was implemented in its quantitative and qualitative dimensions. **Not only did Frontex coordinated return operations increase in number (+ 47 %) but the new regulation also added new types/categories of return operations and other return support activities.**

These changes are:

- ♦ **New types/categories of operations** are collecting return operations²⁵, Frontex coordinated national forced return operations²⁶ and return interventions. In this regard, it is worth noting that, in the view of the Consultative Forum, 'traditional' joint forced return operations²⁷ have partly changed profile and turned into de facto Frontex-coordinated-and-financed national forced return operations;
- ♦ Increased **cooperation with third countries of return**, which means that third country officials and escorts are increasingly involved and present in forced return operations;
- ♦ Establishment of a **pool of forced return monitors**;

25 Frontex conducts collecting return operations with Albania, Georgia and Ukraine. In this type of operation, the means of transport and escort officers are provided by the third country of return. In addition, escort officers are trained by the Agency prior to the organisation of the operation and one forced return monitor and medical staff are present throughout the entire return operation.

26 Forced return operations in which only one Member State is involved.

27 Forced return operations in which several Member States are involved.

- ♦ Coordination of **readmission operations** from Greece to Turkey.

It should be noted that the regulation entails other new elements on returns, which the Consultative Forum did not look into, such as the increased role of Frontex in the acquisition of travel documents for returnees, the strengthened own initiative element, Frontex assistance in voluntary departures and the establishment of pools of escorts and other forced return experts.

**In 2017, Frontex coordinated and co-financed
341 forced return operations at EU level²⁸**
(+ 47 % compared with 2016)

150 national forced return operations

153 joint forced return operations

38 collecting return operations

(b) Observing return operations

The Consultative Forum observed Frontex return support activities during 2017. The key rationale for the observations carried out by the Consultative Forum is the provision of advice to Frontex and the Management Board on the enhancement of fundamental rights in those activities. The objective for the Consultative Forum's recommendations should always be that they are practical and applicable. Given the expansion of Frontex returns mandate and the increase of figures, the Consultative Forum observed return

operations of the various categories in order to early on shed light on potential fundamental rights gaps and risks.

Ultimately three Consultative Forum members observed three Frontex forced return operations, covering the pre-departure, in-flight and arrival phases:

- Frontex Collecting Return Operations from Lille (France) to Tirana (Albania)
- Frontex Joint Return Operation from Athens (Greece) to Islamabad (Pakistan): and
- Frontex Joint Return Operation from Hannover (Germany) to Belgrade (Serbia) and Podgorica (Montenegro).

These observations were a result of a constructive and transparent cooperation between the Consultative Forum members, the Frontex return unit and the national authorities. Access to information, inclusion of the Consultative Forum members in all related correspondence, preparatory meetings, briefings and debriefings and access to all relevant sites were granted.

Key observations focused on due diligence in ensuring respect for the principle of refoulement, the provision of information and communication with returnees, practical challenges in the complaints provision of the code of conduct, medical attention during flights and other matters such as protection of data of returnees.

Preliminary observations from the visits were discussed with the head of the Frontex Return Support Unit during the 14th Consultative Forum meeting in Warsaw in October 2017, and will be further discussed at a dedicated focus group meeting in January 2018.

(c) Pool of forced return monitors

The Consultative Forum also works with Frontex, the European Union Agency for Fundamental Rights (FRA) and the International

Centre for Migration Policy Development (ICMPD) on strengthening the monitoring capacities in the Member States and in the Frontex pool. The European Commission-funded and ICMPD-run project FREM II has a series of activities ranging from hands-on training to the facilitation of sharing current practices and experiences and lessons learned. Consultative Forum members contributed in 2017 to various activities of this project.

From 341 forced return operations, 188 were monitored, out of them 94 monitors were deployed from the Frontex pool²⁹

20 out of 150 national forced return operations (NROs) were monitored (13 %). All monitors were provided by the Member States.

130 out of 153 joint forced return operations (JROs) were monitored (81 %). 62 of them were deployed by the Frontex pool of forced return monitors.

All 38 collecting return operations (CROs) were monitored (100 %). 32 of them were deployed by the Frontex pool of forced return monitors.

Around 55% of the monitored operations involved monitors from the Frontex pool and the rest from Member State's resources. An increase of monitored operations can be observed in 2017 compared to 2016 where 41 % of all Frontex forced return operations were monitored. This increase is particularly reflected in joint forced return operations and collecting operations. The number of monitored

29 Frontex, 2018.

Frontex coordinated national return operations (**new category per regulation**) was, however, extremely low in 2017. Efforts should be made to increase the monitoring of Frontex-coordinated national forced return operations by activating the pool more towards the use for national operations in 2018. Frontex should also as a flanking measure actively encourage those Member States benefiting from Frontex coordinated national forced return operations but not having sufficient return monitoring capacities to strengthen or establish such capacities.

Another gap seems to be the activation or full use of the Frontex pool. Frontex received 122 requests from Member States to deploy forced return monitors from the pool but could only deploy monitors in 94 cases. Since the Frontex pool is also composed of forced return monitors from the Member States, it is hence another reason for Frontex to look into strengthening the monitoring capacities in the Member States.

Member States' return monitoring figures reflect in some countries an increase of monitoring via Frontex pool and a decrease of monitored national operations (**these are the regular and entirely national return operations which are neither coordinated nor financed by Frontex**).

(d) Readmissions

In 2017 Frontex conducted 50 readmission operations between Greece and Turkey; out of them 22 were monitored (44 %) ³⁰

30 Frontex, 2018.

Frontex started providing readmission training in mid-2017. The Consultative Forum reviewed the agenda for such training sessions and provided proposals to enhance the fundamental rights protection dimension. Considering the equal potential impact on fundamental rights of readmission and return operations, the Consultative Forum advised Frontex to handle readmissions as return operations, in order to make use of the already existing standards for return operations (code, monitoring, escorts training, etc.).

4.3.4. Search and rescue in the context of maritime operations

In 2016 and in the first quarter of 2017, NGO vessels rescued an increasingly large number of people in the Mediterranean Sea³¹. They joined Frontex assets deployed as part of Operation Triton, Italian national maritime assets and navy vessels as part of EUNAVFOR Med (as well as merchant vessels) in being called upon to contribute to search and rescue (SAR) operations at sea, in compliance with international law obligations³².

The intensity of the flow of migrants (some 180 000 arriving by sea in 2017) in increasingly shoddy vessels, with ever more unsafe conditions aboard, led NGOs to strengthen SAR capacities in closer proximity to Libya, which in turn sparked a debate about their role, including accusations of encouraging more dangerous sea crossings and of links with human smugglers³³. With the reactivation of patrolling by the Libyan coastguard in the second half of 2017 (with consequent concerns about Libyan Coast Guard practices and for the human rights of migrants transferred back to Libyan detention facilities³⁴ and the introduction by Italian authorities of a mandatory Code of Conduct for NGO vessels operating in the SAR

31 NGO vessels were involved in 443 search and rescue operations in the central Mediterranean during 2017. This number amounts to about 40 % of all search and rescue operations in the central Mediterranean. Source: Frontex Situation Centre, data extracted from JORA on 21 January 2018.

32 UN General Assembly, Convention on the Law of the Sea, 10 December 1982 and International Maritime Organization (IMO), International Convention for the Safety of Life At Sea, 1 November 1974, 1184 UNTS 3 and International Maritime Organization (IMO), International Convention on Maritime Search and Rescue, 27 April 1979, 1403 UNTS.

33 Some of these allegations were based on an article in the *Financial Times* claiming that such links were based on Frontex's risk analysis. See 'EU Border Force flags concerns over charities' interactions with migrant smugglers' (<https://www.ft.com/content/3e6b6450-c1f7-11e6-9bca-2b93a6856354>). This was subsequently retracted by the newspaper after a request by the Agency.

34 *Vide supra*, introduction, and e.g. Amnesty International, *A Perfect Storm – The failure of European policies in the Central Mediterranean*, July 2017.



Refugees and migrants arriving in Catania after being rescued by SOS Méditerranée, a European maritime and humanitarian organisation for the rescue of life in the Mediterranean founded by citizens in May 2015

© Frontex / April 2017

area near Libyan waters, the controversy came to a head. This raised concerns with a number of Forum members about the direction of Frontex operations and the impact of measures taken against NGOs on their ability to continue life-saving operations at sea³⁵.

Against this background, the Consultative Forum organised a dedicated session on search and rescue with representatives from Médecins sans frontières (MSF), the International Maritime Rescue Federation, the Frontex Deputy Executive Director and the Chair of the Management Board to discuss the roles and responsibilities of Frontex and NGOs involved in SAR at sea as well as the common and specific challenges faced when trying to rescue persons in distress.

During discussions, some members expressed concerns in particular about accusations made in the media against NGOs and requested Frontex to make a public statement either orally or in writing supporting NGO SAR activities.

35 <http://www.amnesty.eu/en/news/press-releases/all/eu-draft-code-for-sea-rescues-threatens-lives-1057/>; Amnesty International, *Libya's Dark Web of Collusion*, pp. 47-49.

Members of the Forum stressed the importance of conducting SAR operations, whilst clarifying roles and responsibilities of the different actors involved, emphasising the need to establish clear channels of communication. Frontex clarified in the meeting that it appreciates the role which NGOs play with regard to SAR and called for joint ideas for strengthening efforts to efficiently save lives at sea.

4.3.5. Frontex engagement with third countries and the impact on fundamental rights

At its 12th meeting, the Consultative Forum held a session with representatives of the European External Action Service and with representatives from academia in order to get a clearer view of the legal and political framework of Frontex engagement with third countries. During the meeting, fundamental rights implications as well as potential challenges and limitations of a Frontex enhanced mandate in this area were discussed. Frontex increasing engagement with third countries was further discussed at the 14th Consultative Forum meeting with Frontex Liaison Officers to the western Balkan countries and to EU Border Assistance Mission in Libya (EUBAM) as well as with the Deputy Executive Director and the Chair of the Management Board.

The Consultative Forum has called for a fundamental rights risk assessment to be conducted before any Frontex engagement with third countries takes place, in particular, with Libya. In addition, the Forum emphasised that the Frontex Codes of conduct are applicable to all participants in Frontex operations, including third country observers.

The Consultative Forum stresses that respect for migrants' and refugees' fundamental rights is one of the key principles upon which cooperation among transit, origin and destination countries should be built on.



Surveillance from patrol airplane in the context of Frontex Joint Operation Minerva 2017 which aims at control irregular migration flows from Western Mediterranean region towards the territory of EU Member States and to tackle cross-border crime

© Frontex / Krzysztof Borowski / August 2017

To implement coordinated operational activities at the external sea borders of the Western Mediterranean region in order to control irregular migration flows towards the territory of the Member States of the European Union and to tackle cross-border crime.

The Consultative Forum commented on the draft **2017 Africa–Frontex Intelligence Community Joint Report (AFIC)**. AFIC, as other regional risk analysis networks and communities (Western Balkans Risk Analysis Network and Eastern Partnership Risk Analysis Network) are managed and supported by the Frontex Risk Analysis Unit. Risk analysis is the starting point for all Frontex activities, from high-level strategic decision-making to planning and implementation of operational activities. In this context, AFIC provides a framework for regular knowledge and intelligence sharing between Frontex and African countries. The report covers issues related to the central and western Mediterranean routes, profiles of smugglers, human trafficking, and document fraud. With respect to the central Mediterranean route, the Forum emphasised the protection needs of those using the route as well as the humanitarian needs which stem from the time spent and conditions endured in Libya. **The Forum also noted the continued use of terms such as ‘illegal’ migrant as well as referring to the activities of the Libyan**

Coast Guard as 'rescues'³⁶. The 2017 AFIC report will be published in 2018.

4.4. Frontex training materials and methodologies in areas related to fundamental rights

During 2017, the Consultative Forum continued supporting the revision of the **Common Core Curriculum (CCC) basic level**, a key training manual offering measurable common standards for basic-level border guard officers in the EU, which can be integrated in the national curricula in a flexible manner. This latest revision aimed at updating and aligning the CCC's content to the Sectoral Qualifications Framework for Border and Coast Guarding. In particular, one of the objectives of this exercise was to further integrate fundamental rights provisions throughout the entire curriculum, with the support of the Forum.

The CCC basic level was launched and officially signed by the Executive Director on 12 June 2017 and is now in its implementation phase.

In August 2017, the first development meeting of the **CCC for mid-level management border and coast guard training** took place at Frontex HQ. The Consultative Forum participated in the follow-up CCC mid-level meetings. The support will continue during 2018 both through expert participation in the meetings as well as written contributions.

³⁶ Operations conducted by the Libyan Coast Guard do not amount to rescues as migrants are intercepted to be conducted to detention centres where they face extreme violence, deprivation of their liberty, torture, rape, etc. See Amnesty International (2017), 'Libya's dark web of collusion: abuses against Europe-bound refugees and migrants' (URL: <https://www.amnesty.org/en/documents/mde19/7561/2017/en>).



A Consultative Forum member presented the work of the Consultative Forum during the **Mid-level Management Course (MLC): Module 2 Fundamental Rights** on 9 May 2017 in Romania.

During 2017, the training unit started revising the **Frontex Fundamental Rights Training for Border Guards**³⁷ with the view to update its content to the latest legislative changes and in an attempt to tailor it to the different border guarding activities in the context of Frontex operations, i.e. regular border checks, detection, interception, screening, reception, registration, debriefing and return. The Consultative Forum provided extensive written contributions to the draft manual. The first course for Frontex Fundamental Rights trainers will take place during 2018.

In September, inputs were provided also to the **EU Integrated Border Management (IBM) concept**, on which a training curricula will be developed.

37 Fundamental rights training for border guards (http://frontex.europa.eu/assets/Publications/Training/Fundamental_Rights_Training_for_Border_GuardsI.pdf).

5 PREVIEW OF 2018



A child at Moria – the reception and identification centre (EU hotspot) in the Greek island of Lesbos. Frontex Joint Operation Poseidon Sea 2017

Priorities for 2018 were discussed with the Frontex Deputy Executive Director and Chair of the Management Board during the 14th Consultative Forum meeting on 12 October 2017 in Warsaw. With this discussion in mind, the Consultative Forum set the priorities for 2018 in its programme of work³⁸.

The Consultative Forum's programme of work contains a number of activities and expected outputs which the Forum aims to achieve during the year. The priorities of the Forum in 2018 are:

- A.** Implementation of the European border and coast guard regulation;
- B.** Revision and further development of the Frontex Fundamental Rights Strategy and its implementing documents;
- C.** Fundamental rights in Frontex operations and return support activities;
- D.** Frontex training activities with an impact on fundamental rights;
- E.** External evaluation of the Frontex Consultative Forum.

³⁸ Consultative Forum Programme of Work 2018 (http://frontex.europa.eu/assets/Partners/Consultative_Forum_files/Consultative_Forum_Program_of_Work_2018.pdf). The Consultative Forum's Programme of Work was adopted by the Forum on 31 November 2017 and presented to the Frontex Management Board on 22 November 2017.

6 ANNEXES



A deployed Multipurpose Aerial Surveillance aircraft allowing Frontex to track vessels and monitor the sea in real time.

© Frontex / April 2017

7.1. ANNEX I: List of activities 2017

13 January Consultation on the revision of the Code of Conduct for all participants in Frontex operations, Frontex Headquarters, Warsaw

1–2 February 12th Consultative Forum meeting, Frontex Headquarters, Warsaw

7–9 February CCC – Basic-level development meeting, Frontex Headquarters, Warsaw

7–9 March Operational Heads of Airports Conference, Cascais, Portugal

9 May Mid-level Management Course (MLC): Module 2 Fundamental Rights, Romania

16–17 May 13th Consultative Forum meeting, Red Cross premises, Brussels

31 May VEGA Children Phase I operational briefing, Frontex Headquarters, Warsaw

31 May Observation of Frontex Collecting Return Operation

8 June Workshop to support the drafting of the VEGA Children Handbook Land, Frontex Headquarters, Warsaw

29 June Presentation of Consultative Forum's Annual Report 2016 to the LIBE Committee, Brussels

11 July VEGA Children phase I operational debriefing, Frontex Headquarters, Warsaw

19 July Observation Frontex Joint Return Operation

22–25 August CCC – Mid-level development meeting, Frontex Headquarters, Warsaw

24 August Observation Frontex Joint Return Operation

29 August Meeting on the selection of a civil society organisation to become a member of the Frontex Consultative Forum, Warsaw

30 August VEGA Children phase II operational briefing, Frontex Headquarters, Warsaw

5–6 October Workshop to support the drafting of the VEGA Children Handbook Sea, Frontex Headquarters, Warsaw

10 October VEGA Children phase II operational debriefing, Frontex Headquarters, Warsaw

11–12 October 14th Consultative Forum meeting, Frontex Headquarters, Warsaw

17–18 October 'Annual Lessons Learned Meeting and Workshop on Reporting' in the framework of the project 'Forced Return Monitoring II (FReM)', Athens

9 November Consultation on the revision of the Code of Conduct for Return Operations and Return Intervention, Frontex Headquarters, Warsaw

22 November Participation in 67th Management Board meeting, Frontex Headquarters, Warsaw

11–15 December CCC – Mid-Level development meeting, Frontex Headquarters, Warsaw

7.2. ANNEX II: List of consultations 2017

- Code of Conduct for all participants in Frontex operations
- Code of Conduct for return operations and return intervention
- Africa-Frontex Intelligence Community Joint Report 2017 (AFIC)
- Common Core Curriculum mid-level
- VEGA Children Handbook Land and Sea
- Frontex individual complaints mechanism: rules

7.3. ANNEX III: List of requests for information³⁹ filed by the Consultative Forum

| Date of the request | Subject | Brief description |
|---------------------|----------------------|--|
| 20 January | Risk analysis | Vulnerability assessment methodology |
| 9 February | Corporate governance | Frontex staffing plans for 2016, 2017 and 2018 |

³⁹ As per Article 70(5) European border and coast guard regulation, the Consultative Forum 'shall have effective access to all information concerning the respect for fundamental rights'.

| Date of the request | Subject | Brief description |
|---------------------|--------------------|--|
| 10 July | Cabinet operations | Italy's proposals on Joint Operation Triton, including a code of conduct for NGO vessels involved in SAR operations in the Mediterranean and Frontex's assessment |
| 21 July | Operations | Operational Plans Poseidon 2017; Triton 2017; JO Coordination Points 2017; JO Flexible Operational Activities 2017 Land on Border Surveillance; JO Flexible Operational Activities 2017 Land on Border Checks and Flexible Operational Activities 2017 |
| 9 August | Cabinet operations | <p>Frontex operational activities in Hungary, including operational plans, number and profile of deployed officers, number and type of involved technical assets.</p> <p>FRO report(s) and the number of serious incident reports (SiRs) related to alleged violations of fundamental rights reported to Frontex and investigated in Hungary, including facts, follow-up actions by Frontex and findings as well as number of individual complaints related to alleged violations of fundamental rights in Hungary and reported via the individual complaints mechanism, including facts, follow-up actions by Frontex and findings.</p> |

7 CONTACT US

If you would like to know more about the work of the Consultative Forum or have any comment about this Annual Report, please contact our secretariat at: **consultative.forum@frontex.europa.eu**



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