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Thirteenth Annual Report 2025

Frontex Consultative Forum on Fundamental Rights

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Thirteenth Annual Report 2025

Frontex Consultative Forum on Fundamental Rights



Italy. UNHCR assists migrants and refugees in Lampedusa.

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1. Table of Contents

1. EXECUTIVE SUMMARY **7**
1.1 Introduction 8

2. ROLE AND COMPOSITION **11**

3. FUNDAMENTAL RIGHTS ADVICE TO FRONTEX **13**
3.1 Identification of Vulnerable Persons – VEGA operations 13
3.2 Fundamental Rights Guidance Board of the European Travel Information and Authorisation System 13
3.3 Input to Frontex Procedures and Tools 14
3.4 Training activities 15

4. ENGAGEMENT WITH OTHER STAKEHOLDERS **17**

5. ANNEXES **19**
ANNEX I: Consultative Forum Activities in 2025 19
ANNEX II: Requests for information by the Consultative Forum 21
ANNEX III: Consultative Forum Programme of Work 2026 22
Annex IV: Revision of the EBCG Regulation: Contribution by the Frontex Consultative Forum on Fundamental Rights 25
Annex V: Overview of current proceedings regarding Frontex accountability 29
Annex VI: Overview of Consultative Forum expenses 31



Italy. humanitarian corridors from Libya to Italy.

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1. EXECUTIVE SUMMARY

This report provides an overview of the activities undertaken by the Consultative Forum in 2025. It outlines the main observations and recommendations raised throughout the year with Frontex and its Management Board to strengthen fundamental rights protection in the Agency's activities.

In 2025, the Consultative Forum conducted the following activities:

- Hosted a seminar on fundamental rights compliance of the EU Migration and Asylum pact and provided guidance to the Frontex screening toolbox;
- Submitted a position paper to the European Commission on the revision of the European Border and Coast Guard Regulation;
- Advised on the identification of vulnerable persons in Frontex VEGA operations and on the revision of the related handbooks;
- Provided fundamental rights advice through the Fundamental Rights Guidance Board (FRGB) of the European Travel Information and Authorisation System (ETIAS);
- Advised on fundamental rights training.

An overview of all Consultative Forum activities is provided in Annex I, while Annex II lists formal requests for information submitted to Frontex. Annex III is the Consultative Forum's Programme of Work for 2026. Annex IV shows the Revision of the EBCG Regulation: Contribution by the Frontex Consultative Forum. Annex V is an overview of current proceedings regarding Frontex accountability, and Annex VI contains the Consultative Forum's expenses in 2025.

While the Consultative Forum observed an improvement in the feedback that Frontex divisions provide to the advice received, to date Frontex does not proactively take the initiative to consult the Consultative Forum on strategically important matters. As an illustration, the creation of the Fundamental Rights Compliance Panel as an additional safeguarding instrument is welcomed, but its objectives, activities and outcomes are perceived as not being sufficiently transparent and there is no engagement with the Consultative Forum.

In 2025 the Consultative Forum, in cooperation with the Global Campus of Human Rights, co-hosted a seminar bringing together representatives from ministries of interior, national police and border staff, Civil Society Organisations, National Human Rights Institutions, Frontex and the Fundamental Rights Officer to address opportunities and challenges raised by the implementation of the EU Screening Regulation.

Article 46 of the Frontex Regulation, which authorises the Executive Director to suspend activities, in whole or in part, and to not launch any activity if he or she considers there to be serious or persistent violations of fundamental rights, was not applied in 2025. Emerging rulings of the European Court of Justice[1] at the end of 2025 relate to Frontex accountability and point at possible fundamental rights risks. While operational plans with the Member States contain a general reference to the fundamental rights protection clause, the Consultative Forum remains concerned that to date some of them do not contain operation-specific fundamental rights safeguards as advised by the Fundamental Rights Officer. Serious incident reports and reporting by international and civil society organisations point to serious fundamental rights breaches regarding especially Greece, Bulgaria and Serbia.

In 2026, it will be important to observe the extent to which the Executive Director follows the advice of the Fundamental Rights Officer and introduces specific safeguards and thresholds conditioning the Agency's support on Member States' agreement to having specific mitigating measures in the operational plan.

Another point of serious concern is that the Frontex Management Board ultimately refused a proposal by the Fundamental Rights Officer to reform the Frontex complaints mechanism, enabling him to directly refer those complaints which concern the authorities of the Member States to the national complaints handling mechanisms. The proposal of a change in the procedure was objected to several times by some Member States' representatives of the Frontex Management Board and is hence pending.

The Consultative Forum also observed very little progress regarding the overall handling of debriefing by Frontex. While debriefing activities serve the purpose of gathering intelligence, they are prone to fundamental rights violations, as the European Ombudsman[2] has also pointed out several times. Frontex debriefing activities

[1] Court of Justice of the European Union. https://infocuria.curia.europa.eu/tabs/affair?searchTerm=T-136%2F22&lang=EN and https://infocuria.curia.europa.eu/tabs/affair?searchTerm=T-600%2F21&lang=EN

[2] See European Ombudsman (2023). Decision on how the European Border and Coast Guard Agency (Frontex) ensures respect of the rights of migrants in 'debriefing' interviews. Available at: https://www.ombudsman.europa.eu/en/case/en/62217

require a clear definition and guidelines to carry them out in compliance with fundamental rights.

The launching of the Entry-Exit System (EES), to be followed by the subsequent implementation of ETIAS and of the new Eurodac Regulation, will mark a crucial step in the development and enhancement of multiple and interoperable large-scale IT systems supporting border management at EU level, through mandatory biometric identity registration, screening and management systems. Although these emerging technologies can offer opportunities to streamline processes, their use also has wide-ranging human rights implications, including many in relation to data protection and privacy rights, which need to be thoroughly monitored during implementation. Frontex and the ETIAS FRGB are in engagement with the Member States throughout the preparatory phase and will continue in the implementation phase.

The LIBE Schengen and Borders Scrutiny Working Group continued its regular exchange with Frontex within its oversight mandate. Frontex regularly reports and attends hearings; the Consultative Forum received these reports throughout 2025.

The Consultative Forum presented its 2026 Programme of Work (Annex III) in November 2025 to the Frontex Management Board. The Annual Report 2025 of the Consultative Forum will be presented to the European Parliament's LIBE Committee and the Council Working Party on Frontiers, and to any other stakeholder upon request.

1.1 Introduction

Following the adoption in 2024 of the Pact on Migration and Asylum, reforming and introducing a set of new rules and procedures for the Common European Asylum System (CEAS), Frontex developed a 'screening toolbox' which was piloted in Lampedusa, Italy and in Sighetu Marmației, Romania in 2025 and is planned to be further tested in other Member States in 2026. While the Frontex screening toolbox does not provide an obligatory framework for the Member States, it is a key and comprehensive guidance tool for orientation and establishing standards in the EU concerning screening. In 2026 it will be important to analyse the lessons learned and recommendations from these piloting exercises and ensure mainstreaming fundamental rights safeguards as part of the overall process.

Article 10 of the EU Screening Regulation obliges the Member States to establish independent national monitoring mechanisms to monitor fundamental rights compliance and to investigate rights violations during screening. Member States will need to appoint and enhance their national monitoring mechanisms by mid-2026.[3] The Consultative Forum welcomes the initiative of the Fundamental Rights Officer, FRA and European Network of National Human Rights Institutions (ENNHRI) jointly convening national human rights institutions and ombudspersons to exchange ideas about independent monitoring for stock-taking and forward planning purposes. In the long-term perspective, it will be necessary that all fundamental rights monitoring entities in the EU get closer together, towards establishing an Integrated European Monitoring Mechanism.

On 18 December 2025, the Court of Justice of the European Union (CJEU) in WS v Frontex (C-679/23 P) established that Frontex has an obligation to uphold fundamental rights during joint return operations and an obligation to verify the existence of enforceable return decisions. The Court further established the obligation to financially recover the costs for legal assistance.

In the case Hamoudi v Frontex (C-136/24 P), the Court shifted the burden of proof in situations alleging a pushback away from the victim to Frontex.

While both cases were referred to the General Court, they stimulate legal reflections on Frontex accountability. The court's considerations in two cases should guide EU legislators during the upcoming revision of the Frontex Regulation but also the new Return Regulation (*see Annex V for more information about these and other rulings*).

The European Court of Human Rights' judgment in M.A. and Z.R. v. Cyprus (39090/20) and A.R.E. v. Greece (15783/21) concerns systematic collective and summary expulsions and denial of access to asylum procedures. Also, these judgements are relevant for Frontex regarding the protection and monitoring of fundamental rights compliance in joint operations with Member States.

According to analyses published by the EUAA[4], in 2025, approximately 822,000 applications for international protection were lodged in the EU+, representing a 19% decrease compared to 2024. This decline occurred alongside an even sharper reduction in detections of

[3] European Union Agency for Fundamental Rights (2024), 'Monitoring fundamental rights during screening and the asylum border procedure – A guide on national independent mechanisms', 19 September 2024, https://fra.europa.eu/en/publication/2024/border-rights-monitoring.

[4] European Union Agency for Asylum, Latest Asylum Trends, https://www.euaa.europa.eu/latest-asylum-trends-monthly-overview

irregular border-crossings — with Frontex preliminary figures[5] indicating a roughly 26% drop. Together, these trends reflect a complex relationship between asylum and irregular migration, rather than suggesting parallel movements across both indicators.

While fewer applications were lodged overall, underlying processes differed significantly by nationality, with important implications compared to Frontex data. As in most years, applications in 2025 concerned five main nationalities: Afghanistan (14% of the total), Venezuela (11%), Syria (5%), Bangladesh (4%) and Türkiye (4%). However, their trajectories and root causes diverged markedly:

- Afghan applications increased by 33%, largely driven by repeated applications lodged by women already residing in the EU+, and so this increase was not triggered by a rise in detections at the EU's external borders.
- Venezuelans lodged 91,000 applications, with 94% applying in Spain, but these visa-free applicants arrived as regular passengers, so they do not appear as irregular border-crossing statistics.
- Far fewer Syrians applied for asylum and were also much less frequently detected at the external border.
- In contrast, Bangladeshis were increasingly detected irregularly crossing the external border, but lodged fewer applications for asylum, illustrating complex dynamics between asylum and irregular migration.
- Turkish applications declined by 40%, possibly linked to stricter border controls along the Western Balkans Route and decreasing asylum recognition rates in the past years.

This joint situational picture shows how asylum applications and irregular border-crossing detections do not move in parallel, even if they both declined in 2025. Repeated applications, regular passenger flows and nationality-specific geopolitical shifts contributed to diverging patterns between asylum and border indicators.

Globally, the number of forcibly displaced persons remains high, doubling over the last decade. In mid-2025, out of 117.3 million persons who had to flee their homes, 36.4 million were refugees (including Palestine refugees) and 8.4 million were asylum seekers.[6]

[5] Frontex (2025), Annual Brief, *https://www.frontex.europa.eu/publications/annual-brief-2025-SUXfEJ*
[6] UNHCR (2025), Refugee Data Finder, *https://www.unhcr.org/refugee-statistics*



Italy. University corridors for refugees.

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2. ROLE AND COMPOSITION

The Frontex Consultative Forum was established in October 2012 and has been operational since January 2013. Pursuant to Article 108 of Regulation 2019/1896, the Consultative Forum provides independent advice to the Agency on the respect, protection, and promotion of fundamental rights in its activities.[7]

Regulation 2019/1896 highlights specific areas[8] where the Agency should seek the Consultative Forum's views and enable it to work on any matter related to fundamental rights, upon request by the Agency, the Management Board, the Fundamental Rights Officer, or on its own initiative.[9]

The Consultative Forum closely liaises with the Frontex Fundamental Rights Office/r who has an explicit mandate to monitor and "to constantly assess the fundamental rights compliance of Frontex operational activities."[10]

In 2025, the Consultative Forum convened four meetings, one online, two in Warsaw and one in Venice, and additionally hosted a seminar on "Ensuring fundamental rights compliant screening in the context of the implementation of the EU Migration and Asylum Pact." The Frontex Management Board invited the Consultative Forum chairs to fundamental rights agenda items of all its meetings in 2025.

In 2025, the Consultative Forum was composed of 15 organisations which contributed with their expertise and resources on a voluntary basis.

The 15 organisations comprised:

Two European Union agencies:

- European Union Agency for Asylum (EUAA); and
- European Union Agency for Fundamental Rights (FRA).

Five international organisations:

- Council of Europe (CoE);
- International Organization for Migration (IOM);
- Organization for Security and Co-operation in Europe — Office for Democratic Institutions and Human Rights (OSCE/ODIHR);
- UN Human Rights Office (OHCHR);
- United Nations International Children's Emergency Fund (UNICEF) ***new member***
- United Nations High Commissioner for Refugees (UNHCR).

Seven civil society organisations:

- Churches' Commission for Migrants in Europe (CCME);
- Council of Europe's Conference of international non-governmental organisation (CINGO) ***new member***
- Council of Bars and Law Societies of Europe (CCBE);
- Global Campus of Human Rights;
- Jesuit Refugee Service Europe (JRS);
- Rule of Law Institute Foundation;
- Save the Children.

UNHCR, EUAA and FRA are statutory members of the Consultative Forum as per Regulation 2019/1896. CoE, IOM, OSCE/ODIHR and the Office of the UN High Commissioner for Human Rights (UN Human Rights), represented by its Regional Office for Europe, are members of the Consultative Forum invited by Frontex.[11]

UNHCR and FRA co-chaired the Consultative Forum in 2025 with the support of the Consultative Forum Secretariat, facilitated by the Frontex Fundamental Rights Office.[12]

Since May 2022, OSCE/ODIHR has been representing the Consultative Forum in the ETIAS Fundamental Rights Guidance Board.[13]

Please contact us: consultative.forum@frontex.europa.eu

7 Personal data is processed by the Consultative Forum Secretariat for the purpose of providing administrative support for the preparation, implementation, and management of the work of the Consultative Forum. See: The European Border and Coast Guard Agency (Frontex) (2023), Record of Processing Activity on Personal Data for Data Controllers - Consultative Forum, 28 September 2023, https://www.frontex.europa.eu/assets/Data_Protection/Records/184_Consultative_Forum.pdf.

8 See the analysis in the Seventh Annual Report, Frontex Consultative Forum on Fundamental Rights (2019), available at: https://frontex.europa.eu/assets/Partners/Consultative_Forum_files/Frontex_Consultative_Forum_annual_report_2019.pdf.

9 Article 108 (1) and Article 108 (3) of Regulation (EU) 2019/1896, https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1573722151667&uri=CELEX:32019R1896.

10 Article 110 of Regulation (EU) 2019/1896, https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1573722151667&uri=CELEX:32019R1896.

11 Management Board Decision 4/2020 of 29 January 2020 amending Management Board Decision 29/2019 of 2 December 2019 on the composition of the Consultative Forum on Fundamental Rights.

12 Frontex Consultative Forum on Fundamental Rights (2024), Working Methods 2024, https://www.frontex.europa.eu/assets/Partners/Consultative_Forum_files/Working_Methods_-_Frontex_Consultative_Forum_on_Fundamental_Rights.pdf

13 Ibid.



Greece. UNHCR identifies and assists unaccompanied minors.

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3. FUNDAMENTAL RIGHTS ADVICE TO FRONTEX

3.1 Identification of Vulnerable Persons – VEGA operations

Frontex VEGA operations aim at improving the identification of vulnerable persons, including children, during border control activities. Protection experts from Consultative Forum member agencies regularly join Frontex VEGA operations to provide on the spot advice on emerging vulnerabilities and propose specific actions, in line with international standards, at air and land borders.

In 2025 five Consultative Forum experts took part in Frontex VEGA operations in four locations. The experts visited three airports and one border crossing point in Italy, Lithuania, Moldova and Romania. They were present in the field for a total of eight weeks, working closely with Frontex staff and national border staff.

Among the observations there were positive practices which could be replicated in other locations, such as the use of body cameras, improving mutual trust. The prioritisation of passport controls for families with small children and persons with disabilities was also picked up as a good practice which should be promoted in other locations.

Recurrent observations suggest Frontex should:

- Build capacities for border guards on the rights of unaccompanied children, on child-related documents through samples, on interaction with vulnerable persons and to ultimately carry out a vulnerability assessment.
- Better equip border guards with knowledge on referral mechanisms focal points.
- Introduce accessible information materials at displays (general information material on rights and specific information material for vulnerable persons, children etc.).
- Ensure sustainability in the availability of interpretation and cultural mediators.

3.2 Fundamental Rights Guidance Board of the European Travel Information and Authorisation System

In 2025 the Fundamental Rights Guidance Board (FRGB) of the European Travel Information and Authorisation System (ETIAS) met five times to advise stakeholders, ensuring that the ETIAS system is human rights compliant. The Consultative Forum was represented by ODIHR.

The FRGB issued a guidance note in 2025 on 'Fundamental rights considerations when providing information to ETIAS applicants in order to give effect to their right to effective remedy and to a fair trial'.[14] It also published its second annual report in July 2025.[15]

Major fundamental rights challenges in the process of setting up ETIAS concern the risk screening methodology; ex-ante and ex-post assessment of the risk screening criteria, which bear discrimination and data protection related risks; and questions relating to access to an effective remedy. In 2026 it will be important to carry out a human rights compliance review and a data protection impact assessment prior to launch.

Responsibilities for the effective implementation of ETIAS will be scattered across various stakeholders including Frontex (ETIAS central unit), eu-LISA (application), Europol (watchlist), Member States (ETIAS national units) and the European Commission, which raises questions on accountability and oversight mechanisms.

For more information on the ETIAS FRGB, please see here: *ETIAS Fundamental Rights Guidance Board*.

[14] Fundamental rights considerations when providing information to ETIAS applicants in order to give effect to their right to effective remedy and to a fair trial, *https://www.frontex.europa.eu/assets/EFRGB_Guidance_Note_2_Judicial_Remedy.pdf*

[15] ETIAS Fundamental Rights Guidance Board Annual Report 2024, *https://www.frontex.europa.eu/assets/fundamental/Annual_Report_EFRGB_2024.pdf*

3.3 Input to Frontex Procedures and Tools

The Consultative Forum advised Frontex on fundamental rights in some of its procedures and tools. These either concern the governance of Frontex-led activities or are developed by Frontex to guide and assist Member States in certain areas within the wider European border and coast guard community.

Please find here summaries of selected recommendations:

- **Fundamental Rights Officer's Opinion on Hungary** in January 2025. In contrast to the mitigating measures which the Fundamental Rights Officer suggested, the Consultative Forum reiterated its opinion[16] to suspend return operations from Hungary based on the European Court of Justice ruling.[17]
- **Screening Toolbox**: The Consultative Forum delivered detailed comments on all elements of the Screening Toolbox, introduced as guidance for the national screening authorities. Major recommendations concerned:
    - the acknowledgement of statelessness,
    - the requirement to introduce an explanation of the national independent monitoring mechanisms to monitor compliance with fundamental rights, because the monitors could be present at any time in the process,
    - the introduction of the ability to lodge a complaint during the screening, and information about it,
    - the availability of interpretation and cultural mediation throughout the process,
    - specific safeguards regarding data queries, and the sharing and storing of personal data in the various and interoperable EU and national databases,
    - child protection safeguards,
    - the identification and referral of vulnerable persons in the context of conducting the preliminary vulnerability check during screening,
    - the right to good administration (e.g. issuance of decisions on paper, provision of timely information to third-country nationals).
- The **handling of complaints**: The Fundamental Rights Officer took the initiative to reform the rules governing the handling of complaints. The Consultative Forum had advised Frontex on the initial establishment of a complaints mechanism and its first reform in 2021, by emphasising for example the need to ensure accessibility and availability and the ability to lodge complaints anonymously or through third parties. In the current reform attempt the most important innovation would be the possibility for FRO to directly refer these complaints which do not concern Frontex staff but staff of national authorities to the national complaints handling mechanisms. Unfortunately, such a change was so far objected to by the Frontex Management Board and is still pending.
- The Consultative Forum has reviewed a series of **return and reintegration** related documents and specifically highlighted areas relating to:
    - the acknowledgement of statelessness and the introduction of safeguards,
    - reference and protective safeguards regarding vulnerable persons,
    - reference and protective safeguards regarding children,
    - higher awareness of gender-related issues including gender-based violence,
    - broadening of the consideration of language barriers across all stages and institutions in return,
    - clear guidance on necessity and proportionality principles in the use of force,
    - clear guidance on family separation as a last resort,
    - ensuring that return counselling only starts following an enforceable return decision and is not used to promote voluntary return upon arrival,
    - ensuring the availability and accessibility of interpreters and cultural mediators,
    - ensuring the availability and accessibility of a complaints mechanism and ensuring non-retaliation safeguards
    - avoiding stigmatising language in returns-related guidance material, such as 'violent migrants'
    - considering gender and age sensitive procedures, facilities, treatment.
- **Frontex Diversity & Implementation Plan**. The Consultative Forum reviewed and provided some suggestions on the Frontex diversity and implementation plan, predominantly concerning the consideration of categories such as disability, race, ethnicity, gender,

[16] *Ninth Annual Report - Frontex Consultative Forum on Fundamental Rights - 2021*, page 69

[17] Court of Justice of the European Union (CJEU), Commission v. Hungary, C-808/18, 17 December 2020 according to which "Hungary has failed to fulfil its obligations under Article 5, Article 6(1), Article 12(1) and Article 13(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, under Article 6, Article 24(3), Article 43 and Article 46(5) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, and under Articles 8, 9 and 11 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection."

mental health, neurodiversity, sexual orientation, generation and age, religion and beliefs and geography. The Consultative Forum further advised Frontex to collect data on wellbeing, diversity and inclusion and career progress.

3.4 Training activities

The Consultative Forum contributed to the development and delivery of the Course on Fundamental Rights for Multipliers of the Frontex Academy, focusing on updating the course materials with those provisions introduced by the Pact on Migration and Asylum.

The Consultative Forum joined the Interoperability Assessment Programme of the Common Core Curriculum 2024-2025 together with Frontex staff and experts from the Member States (as well as other countries with which Frontex has Working Arrangements or Status Agreements). The objective was to assess the integration of the Common Core Curriculum into the national curricula for border and coast guards and/or police authorities, with an overarching focus on interoperability.

In 2026, the CF will continue its engagement in the development of training and the revision of the Common Core Curriculum to ensure that they comprehensively cover fundamental rights.



Disembarkation in Lampedusa

© Ahmed Mahmoud/ International Organization for Migration

4. ENGAGEMENT WITH OTHER STAKEHOLDERS

Ensuring fundamental rights compliant screening in the context of the implementation of the EU Migration and Asylum Pact

The Frontex Consultative Forum hosted a seminar and panel discussions centred on the objectives, challenges, opportunities and fundamental rights considerations associated with the implementation of the EU's new Screening Regulation. By mid-2026, Member States are expected to implement the Screening Regulation. Identity, security checks and preliminary health and vulnerability checks on irregular migrants and asylum seekers at external borders are obligatory elements of the Screening. The systematic exchange of information among Member States across databases is a novelty and a challenge regarding their interoperability. To safeguard fundamental rights in this process, the establishment of independent monitoring mechanisms at the national level is foreseen. Close cooperation between diverse national authorities, EU agencies, international organisations and civil society will be required for effective implementation.

The panels convened representatives of the Consultative Forum, international and civil society organisations, national human rights institutions and representatives from the Ministries of Interior of some Member States.

The discussions focused on topics including timelines and challenges; the roles of the various actors; pilot programmes and testing-related results; and vulnerability identification and protection.

1. **Council of Europe's inter-secretariat Co-ordination Group on Migration**

In March the Consultative Forum chairs attended the Council of Europe's inter-secretariat Co-ordination Group on Migration, provided a brief on the Forum's composition, mandate and activities and presented their Annual Report 2024 and Programme of Work 2025.

2. **Schengen and Borders Scrutiny Working Group (SBSWG) organised by the Committee on Civil Liberties, Justice and Home Affairs (LIBE)**

In June several members of the Consultative Forum attended the SBSWG and provided a brief on the Forum's composition, mandate and activities and its annual report. Particular attention was dedicated to the developments introduced with the adoption of the EU Pact on Migration and Asylum, specifically in relation to screening and return procedures, which foresee a prominent role for Frontex in their implementation.

Concerning the potential revision of the EBCG regulation, the Consultative Forum highlighted five main areas that require attention:

- embedding fundamental rights safeguards in operational plans
- enabling thresholds and conditionality in Frontex support to Member States, strengthening the Serious Incident Report mechanism and transparency
- enhancing monitoring
- strengthening partnerships and cooperation, including at operational level, with various stakeholders

3. **59th Human Rights Council: Protecting Migrants' Rights at Borders: Independent Monitoring in EU and Global Contexts**

The Consultative Forum attended this side event hosted by the Friedrich Ebert Stiftung and focused on the independent monitoring mechanism. Article 10 of the Screening Regulation foresees the establishment of independent monitoring mechanisms at national level to monitor the screening and the asylum processes.



2025 Barracuda exercise

© European Border and Coast Guard Agency.

5. ANNEXES

ANNEX I: Consultative Forum Activities in 2025

Publications & Meetings

- Publication of Annual Report 2024 – 10/06
- Publication of the Programme of Work 2026 – 20/11
- Three Consultative Forum Meetings – 19/02, 14/05, 14/10
- Hosting of the Seminar *'Ensuring fundamental rights compliant screening in the context of the implementation of the EU Migration and Asylum Pact'* – 15/10
- Co-chairs' participation in four Frontex Management Board Meetings
- Reintegration Conference – 04-05/06
- Exchange with the Fundamental Rights Officer on the revision of the European Border and Coast Guard Regulation – 22/09
- Revision of the EBCG Regulation: Contribution by the Frontex Consultative Forum on Fundamental Rights in the framework of the European Commission's consultation – 28/11
- Common Core Curriculum for Basic Training in the EU - Interoperability Assessment Programme 2024-2025 – 06-07/11

VEGA Engagement

- Five experts participated for eight weeks in three air and one land VEGA activities in Italy, Lithuania, Moldova and Romania.
- VEGA debriefing meeting – 25/02

Input to Frontex procedures and tools

- Content for Workbook on Frontex Communicating with Families and Children in Return – 20/01
- Fundamental Rights Officer's Opinion on Hungary – 24/01
- Fundamental Rights Office Strategic Direction – 07/02
- Quick view Manual for Return & Reintegration Counsellors – 05/03
- Good practices on identification and documentation for the purpose of return – 21/03
- Terms of Reference and Workplan for the Frontex Fundamental Rights Officer's Representative in Brussels – 21/03
- Guide for Return Operations by Air Coordinated or Organised by Frontex – 22/05
- Diversity & Implementation Plan – 06/06
- Child-friendly poster explaining the return journey (20/06) and second revision (28/07)
- Screening Toolbox – 25/06
- Revision of Rules - Complaints Mechanism (04/07), Good Practices on Identification of Third Country Nationals and Acquisition of Travel Documents for Return (03/10)
- Voluntary returns of Unaccompanied Minors – 23/12

Engagement with other stakeholders

- Council of Europe's inter-secretariat Co-ordination Group on Migration meeting – 24/03
- International Conference on Trafficking in Human Beings (THB) – 6-7/05
- Schengen and Borders Scrutiny Working Group (SBSWG) organised by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) – 25/06
- Protecting Migrants' Rights at Borders: Independent Monitoring in EU and Global Contexts - 59th Human Rights Council side-event – 25/06

European Travel Information and Authorisation System (ETIAS) - Fundamental Rights Guidance Board

- As a standing member of the ETIAS Fundamental Rights Guidance Board the Consultative Forum participated in four meetings to advice on fundamental rights in related processes and activities, on 20-21/02; 07-08/04; 25-26/06; 01-02/10; 26-27/11.

Public Access to Documents received by the Consultative Forum[18]

- PAD-2025-00178: Consultative Forum visit to Serbia and Bulgaria in December 2024
- PAD-2025-00401: Consultative Forum meeting minutes and Fundamental Rights Office's reports to Management Board

[18] On public access to documents: The Consultative Forum has - in line with the principle of good administration - no objection to releasing its documents. Frontex is ultimately in charge of releasing the documents to requesters, in line with Regulation (EC) 1049/2001.

ANNEX II: Requests for information by the Consultative Forum

Requests for information submitted in 2025	
Information requested	**Content of the response[1]**
Interpretation services • Updated 'Standard Operating Procedures for Frontex Debriefings and screening activities' • Updated 'Handbook of the OPLANs' ***(Requested on 17/01)***	• Decision of the Executive Director No R-ED-2024-57 adopting the conditions for screening and debriefing activities under the host country command and Standard Operating Procedure for debriefing activities based on the Agency's instructions. • Annex to the Decision of the Executive Director No R-ED-2024-57 - Conditions for screening and debriefing activities under the host country command and Standard Operating Procedure for debriefing activities based on the Agency's instructions. • Handbook to the Operational Plan - Updated in December 2024. ***(Response received on 07/02)***
Fundamental Rights Panel • The setting up of the new fundamental rights panel, its objectives, composition, work plan, assessment criteria, timelines and the role envisaged for the Consultative Forum; • The final evaluation report by the dissolved Working Group on Article 46 in relation to the Greece implementation plan; • Operational plan for Greece including its annexes; • The action plan for Bulgaria. ***(Requested on 18/02)***	• Decision of the Executive Director No R-ED-2024-122 on the establishment of the Fundamental Rights Compliance Panel. • Excerpt from General Part of the Operational Plan 2025 applicable to operational activities in the Member States and Third Countries. • Excerpt from Specific Activity Plan of Joint Operation Greece 2025. – ***(Response received on 17/03)***
Debriefing reports • Following the EDPS's audit report from 2023 concluding that Frontex had been automatically exchanging the debriefing reports with Europol without assessing the strict necessity of such exchange and following recent media reporting in *Le Monde* and *El Pais* stating that this information is used in courts against human rights defenders, the CF would like to request information on how Frontex guarantees lawfulness of sharing information stemming from debriefing interviews. Which mitigating measures are in place and how does the Fundamental Rights Panel's subgroup ensure to avoid this risk. ***(Requested on 30/07)***	• Management Board Decision 4/2024 adopting the general rules on the application of the data protection regulation by the Agency. • Management Board Decision 5/2024 on adopting the rules on processing operational personal data by the Agency. ***(Response received on 04/09)***

[1] When requesting information, the Consultative Forum should receive a response within 15 working days starting from the registration of the request.

ANNEX III: Consultative Forum Programme of Work 2026

6. FRONTEX CONSULTATIVE FORUM ON FUNDAMENTAL RIGHTS

PROGRAMME OF WORK 2026

The 2026 programme of work of the Frontex Consultative Forum on fundamental rights contains information on its mandate, composition and working methods

1. FRONTEX CONSULTATIVE FORUM ON FUNDAMENTAL RIGHTS MANDATE, COMPOSITION & WORKING METHODS

MANDATE

as defined in the European Border and Coast Guard (EBCG) Regulation[19]

In accordance with Article 108 of the EBCG Regulation (hereinafter referred to as "Regulation 2019/1896") the role of the Consultative Forum is to assist the Agency 'by providing independent advice in fundamental rights matters'. To this effect, the Consultative Forum may be consulted on any matter related to fundamental rights, including 'on the further development and implementation of the fundamental rights strategy, on the functioning of the complaints mechanism, on codes of conduct and on the common core curricula'.

For the purpose of performing its duties, and in line with Regulation 2019/1896, 'the Consultative Forum shall be provided with effective access in a timely and effective manner to all information concerning the respect for fundamental rights, including by carrying out on-the-spot visits to joint operations or rapid border interventions subject to the agreement of the host Member State or the third country, as applicable, to hotspot areas, and to return operations and return interventions, including in third countries'.

and in the European Travel Information and Authorisation System (ETIAS) Regulation[20]

In accordance with Article 10 of the ETIAS Regulation a Consultative Forum representative should be part of

[19] *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*.

[20] *Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226*

the 'independent ETIAS Fundamental Rights Guidance Board with an advisory and appraisal function'.

and in the Visa Information System (VIS) Regulation

In accordance with Article 9l of the VIS Regulation a Consultative Forum representative should be part of the 'independent VIS Fundamental Rights Guidance Board with an advisory and appraisal function'.

COMPOSITION

The Frontex Consultative Forum on Fundamental Rights has 15 members and brings together key European institutions, international and civil society organisations that work for the protection of the fundamental rights of migrants and refugees.

Two European Union agencies:

- European Union Asylum Agency (EUAA)
- European Union Agency for Fundamental Rights (FRA)

Five international organisations:

- Council of Europe (CoE)
- International Organization for Migration (IOM)
- Office of the High Commissioner for Human Rights (UN Human Rights - OHCHR)
- Organisation for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ ODIHR)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Children's Fund (UNICEF) ***new member joined in 2025***

Six civil society organisations:

- Council of Bars and Law Societies of Europe (CCBE)
- Churches' Commission for Migrants in Europe (CCME)
- Global Campus of Human Rights (GCHR)
- Jesuit Refugee Service Europe (JRS Europe)
- Rule of Law Institute Foundation
- Save the Children Europe (SC)
- Conference of International Non-Governmental Organisations of the Council of Europe (CINGO) ***new member joined in 2025***

While EUAA, FRA and UNHCR are statutory members as anchored in Regulation (EU) 2019/1896, Article 108(1), the international organisations are members by invitation from Frontex, and the civil society organisations are invited through an open call. In 2026 there will be a renewed invitation to an open call defining the composition of the CF from 2027 onwards.

All organisations contribute their work on a voluntary basis in accordance with the principles of independence, transparency, mutual respect, informed participation and collegiality. Given its diverse composition, the strength of the Consultative Forum lies in its ability to provide holistic analysis on respect for, protection and fulfilment of fundamental rights in border management and return operations, based on collective knowledge and expertise.

UNHCR and FRA will continue co-chairing the Consultative Forum in 2026, with the support of the Consultative Forum Secretariat, facilitated by the Fundamental Rights Officer. Elections will be held in 2026 to determine the incoming co-chairing organisations from 2027 onwards.

WORKING METHODS

The CF's *working methods* outline key principles and methods as regards the composition, nomination and membership, and common rules on the co-chairing of two member organisations and the functioning of the Forum. Furthermore, they describe the methodology of on-the-spot visits, information sharing processes in addition to the drafting of recommendations and the annual report as well as the organisation and conduct of the Consultative Forum's meetings.

The working methods are established in consultation with Frontex and the Fundamental Rights Officer and are periodically revised.

As per Article 108(3) of the Regulation (EU) 2019/1896 and in line with Management Board decision 43/2022, Frontex shall inform the Consultative Forum on the follow-up to its recommendations. Furthermore, in line with Art. 8 (1) the Frontex Management Board should share the Consultative Forum's recommendations with the European Parliament.

The Consultative Forum publishes an annual report[21], which contains an overview of its recommendations and activities of the previous year. The Consultative Forum presents its annual reports to the Management Board, the European Parliament, the Council and any other stakeholder upon request.

[21] In line with Article 108 of the 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. *Consultative Forum Tenth Annual Report 2023*

2. ENGAGEMENT WITH FRONTEX IN 2026

With the adoption of its Programme of Work, the Consultative Forum outlines priority areas for its engagement with Frontex and the Fundamental Rights Office, as jointly identified with Frontex and its Management Board and the Fundamental Rights Officer. The programme remains open for ad-hoc adjustments following consultations between the Consultative Forum and the Executive Director of Frontex, the Frontex Management Board, the Fundamental Rights Officer, as well as Frontex divisions and business units, in line with emerging needs. It remains at the discretion of the Consultative Forum to provide advice on its own initiative and submit requests for information to Frontex. Similarly, it remains at the discretion of Frontex and the Fundamental Rights Officer to invite to exchange and/ or consult the Forum on any emerging fundamental rights matter.

The key objective for the engagement is to address specific legal and operational aspects of Frontex activities through a fundamental rights perspective and tailor recommendations on the evolving legal basis related to border and migration management, including returns.

The Consultative Forum will continue working with and supporting the Frontex Fundamental Rights Officer and his team, while ensuring complementarity with his mandate and activities.

PRIORITIES

1. **Maintaining dialogue with and advising Frontex on fundamental rights safeguards in the EU Pact on Migration and Asylum, particularly in the context of the operationalisation of the Screening Regulation, through**:

   - Targeted seminars, roundtables;
   - Thematic position papers;
   - Input into Frontex operational documents, strategies, training material with particular attention to the identification of vulnerabilities and referral processes;
   - Consultations with divisions and services at DG-Home, international organisations and civil society to measure developments and inform the discussion with Frontex
   - Provision of input to the review process of the EBCG Regulation.

2. Advising on fundamental rights compliance through operational support including VEGA deployments, training initiatives and on-the-spot visits

   - **Vega**: CF experts' participation in VEGA deployments. Submission of an annual overview of related findings and recommendations. Participation in the revision of the VEGA handbook and advice to the VEGA Trafficking on Human Beings Working Group.
   - **On-the-spot visits**: Identification of locations for visits, in consultation with FRO. Sharing of observations and recommendations following the visits to identify, assess and mitigate potential fundamental rights risks.
   - **Training**: Input into Frontex training materials, handbooks and guidance tools. Contribution to training initiatives through participation in development meetings on fundamental rights-related courses, workshops and roundtables.
   - **Return:** Advice on returns-related material, operations, monitoring and IT apps, in anticipation of the renewed EU legal framework on returns
   - **Children:** Enhanced provision of tailored advice on the protection of children's rights in the context of Frontex activities.
   - **European Travel Information and Authorisation System (ETIAS)**: as a statutory member of the Fundamental Rights Guidance Board, advising on fundamental rights with particular attention to the operationalisation of new IT systems for border/ migration management, their interoperability and data protection (including storage, transmission and the retention period of personal data), the right to privacy and non-discrimination.
   - **Visa Information System** (VIS): Preparation for the related Fundamental Rights Guidance Board.

3. Advising Frontex on due diligence processes, with regard to its activities both within and outside the EU

   - Provision of fundamental rights advice to ensure due diligence in relation to Frontex's international cooperation strategy and more broadly its engagement with and operations in third countries, including outside of Europe, to ensure that Frontex's activities comply with fundamental rights and international protection standards.
   - Input into Frontex policy and strategic documents and reports, including through follow-up discussions with Frontex technical units to clarify or adjust contributions.
   - Provision of advice on the ethical and human rights compliant use of emerging technologies, including artificial intelligence, in border governance, including on human rights risk assessments; safeguards and mitigation measures; transparency; and accountability.

- Regular exchanges with Frontex operational units, including upon Frontex's request, on matters of common concern, including engagement with Frontex Contingent Commanders and Liaison Officers.

All activities and recommendations of the Consultative Forum must fully respect the right to protection of personal data.

Annex IV: Revision of the EBCG Regulation: Contribution by the Frontex Consultative Forum on Fundamental Rights

INTRODUCTION

The Consultative Forum on Fundamental Rights to Frontex (CF) provides independent fundamental rights advice to Frontex. In the past 12 years, the CF published *annual reports*, carried out visits to operational areas, issued recommendations to Frontex on a variety of fundamental rights matters, and contributed to oversight and scrutiny of Frontex in hearings, meetings and consultations. Through its work in advising Frontex on fundamental rights matters, the CF has identified several fundamental rights issues which could best be addressed at legislative level. In 2023, the CF contributed to the evaluation of the European Border and Coast Guard (EBCG) Regulation (EU) 2019/1896. The contribution is annexed to the CF's *Eleventh Annual Report – 2023* (page 69). In light of the public consultation by the European Commission on the revision of the EBCG Regulation, the CF takes the opportunity to share selected points concerning emerging activity areas, Frontex's interface with the Member States and existing safeguards.

1. ANCHORING SAFEGUARDS FOR EMERGING ACTIVITY AREAS

1.1 Vulnerability check under the Screening Regulation

Under Article 12 of the Screening Regulation, preliminary health and vulnerability checks will be mandatory elements of the screening. The Standing Corps and Frontex's capacity, expertise and operational protocols need to be adjusted in line with the requirement to conduct assessments to identify individuals with vulnerabilities and to treat and refer them accordingly, ensuring their protection. More specifically, as the vulnerability assessment under the Screening Regulation (EU) 2024/1356 should also serve to identify statelessness, the specific situation of stateless persons could be better reflected in the EBCG Regulation.

The term 'vulnerability check' under the Screening Regulation could potentially lead to confusion with the vulnerability assessment under Article 32 of the EBCG Regulation. For legal clarity purposes, consideration could be given to finding alternative wording. The vulnerability assessment by Frontex under Article 32 of the EBCG Regulation would benefit from stronger fundamental rights safeguards, which could be inspired by those included in *Regulation (EU) 2022/922* on the Schengen evaluation and monitoring mechanism.

1.2 Debriefing and data collection

1.2.1 Debriefing

Defining debriefing as a separate activity and providing clearer rules on fundamental rights for intelligence gathering during debriefing would minimise risks and protect the agency against allegations and inquiries.[22] Corresponding safeguarding provisions for debriefings should consider:

- their voluntary, anonymous and confidential nature;
- the fact that they should not take place upon disembarkation: new arrivals should first be channelled through the screening;
- the need for providing information on the debriefing in a language interviewees understand;
- recorded consent to the interviewee;
- mandatory presence of a cultural mediator or interpreter;
- guaranteeing privacy and the provision of necessary equipment;
- the obligation to refer people who ask for asylum and vulnerable persons during debriefings to the respective procedures and authorities;
- mandatory provision of information on the Frontex complaints mechanism.

The revised Regulation could lay down clearer rules for handling personal data collected during debriefings, allowing for stronger oversight by the Data Protection Officer. It should furthermore guarantee procedural safeguards, including access to legal aid, in case criminal proceedings are initiated as a result of the debriefing interview.

1.2.2 Data collection

More generally, a better breakdown of data – disaggregated by gender, age, type of vulnerability, statelessness, etc. – would enable the European Border and Coast Guard to prevent and respond to fundamental rights risks more effectively.

1.3 Information provision and cultural mediation

Taking into account Article 11 of the Screening Regulation relating to the provision of information and which also refers to cultural mediation, consideration should be given to reviewing related provisions in the EBCG Regulation, such as Article 40, to have appropriate references to information provision, interpretation and cultural mediation. This would help make the rights and procedural safeguards of migrants more effective.

1.4 Gender and disability perspective

While the current EBCG Regulation contains general references to vulnerable persons and non-discrimination, a clear reference to gender and persons with disabilities is advisable. Frontex staff and Standing Corps should have or obtain qualifications on matters including gender-based violence and the identification of the needs of persons with disabilities. Overall, Frontex would benefit from gender mainstreaming throughout its activities (staffing, interpretation, knowledge on gender-based violence matters) and should further ensure that facilities and information are accessible for persons with disabilities, including mental disabilities.

[22] See in this regard *https://www.ombudsman.europa.eu/en/case/en/62217* and: *https://www.edps.europa.eu/press-publications/press-news/press-releases/2025/edps-reprimands-frontex-non-compliance-regulation-eu-20191896_en*.

1.5 Emerging technologies and rights

Frontex is increasingly making use of digital technologies, including Artificial Intelligence (AI), in support of its operations (such as drones and AI for risk analysis). The revised Regulation should provide a legal framework to ensure that the design, purchase and use of such technology respects fundamental rights at all times, including the right to privacy and the right to non-discrimination. Any use of AI must not only comply with EU data protection law but also with the EU AI Act, which the Regulation should expressly mention.

1.6 Return and reintegration

The proposed Return Regulation, once adopted, will result in new fundamental rights risks for Frontex. For example, strengthened safeguards will be required if Frontex operates in return hubs or is expected to conduct returns from third countries to third countries.

Frontex's role in reintegration support could be further strengthened including by providing a definition to better frame the concept. Empowering Frontex in reintegration support to work in close cooperation with those international and civil society organisations that have the related experience could strengthen the sustainability of reintegration.

2. STRENGTHENING SAFEGUARDS IN FRONTEX'S INTERFACE WITH MEMBER STATES

2.1 Serious incidents reporting

European human rights law and rule of law standards require effective investigations, which should include proportionate and dissuasive sanctions. The European Court of Human Rights (ECtHR) emphasises states' positive obligations in this regard.[23] Article 10 (2b) of the Screening Regulation requires national monitoring mechanisms to 'trigger, where necessary, investigations into such allegations and monitor the progress of such investigations.' The Frontex FRO, who investigates serious incident reports, needs to rely on effective national investigations. The EBCG Regulation could recall that Member States should support the FRO in such investigations. To further improve accountability and enhance public oversight, Frontex should publicly report about serious incidents and the outcomes of related investigations.

2.2 Complaints mechanism

In alignment with integrated border management, an integrated complaints handling system could be achieved through establishing a direct link between FRO and the national complaints handling mechanisms. The FRO should be enabled to directly refer inadmissible complaints to the national complaints handling authorities, provided data protection safeguards are in place. This would allow for a follow-up to those complaints that the FRO receives but qualifies as inadmissible because they concern national staff. To ensure accountability and consistency, the revised Regulation should also provide for an obligation for Member States to investigate incidents within set timeframes and report back to the FRO on the follow-up given to the complaints and their outcomes.

The revised Regulation should also set a clear obligation to provide timely and meaningful feedback to individuals who filed complaints, ensuring transparency and trust in the mechanism.

[23] See e.g. *Safi and Others v. Greece*, Appl. No 5418/15, judgment of 7 July 2022, para. 115 ff, *Alkhatib and Others v. Greece*, Appl. No 3566/16, judgment of 16 January 2024, (in French) para. 84 ff, *Alhowais v. Hungary*, Appl. No 59435/17, judgment of 2 February 2023, para. 76 ff.

2.3 Suspension of operations under Article 46

Article 46 provides for the suspension or not launching of operations in whole or in part in case of serious and persisting fundamental rights or international protection violations. It is a last resort measure and remains underused. Article 46 should codify a gradual approach in phasing down Frontex activities, and set criteria, indicators and timelines for the potential suspension of operations.

Carrying out regular assessment of fundamental rights risks in the operational area should become an integral element of operational plans, as part of the 'general instructions on how to ensure the safeguarding of fundamental rights' envisaged in Article 38 (3)(l) of the Regulation. This would avoid Article 46 considerations operating only as an emergency tool.

3. PRESERVING EXISITING SAFEGUARDS

3.1 Monitoring

3.1.1 Fundamental rights officer and fundamental rights monitors

The EBCG Regulation should envisage a proportionate growth of the fundamental rights monitors, allowing for effective monitoring of a fast-growing agency.

The Screening and the Asylum Border Procedure Regulations foresee the establishment of independent national monitoring mechanisms. Monitoring mandates of Frontex and national monitoring actors vary, but complement each other. An integrated system bringing together all actors will ensure a comprehensive approach to the monitoring of fundamental rights compliance.

3.1.2 Return monitoring

Return monitoring under Article 8 (6) of the Return Directive decreased over the last years. Information by FRA shows that in 2024, five Member States did not monitor any return operation at all. Within Frontex, national return operations are the least monitored by the Frontex pool of forced return monitors.

To ensure independence and effectiveness, the pool of monitors should be reformed and detached from Frontex, so as not to be affiliated with the entity that carries out returns. It should be expanded to carry out EU-wide monitoring of national and Frontex-run return operations.

3.2 Consultative Forum

The CF, in place since 2013, has proved to be a well-functioning fundamental rights advisory body to Frontex, which is also illustrated by the fact that the Frontex MB has been inviting the CF to discussions on fundamental rights. The revision of the EBCG Regulation could institutionalise such practice.

The European Travel Information and Authorisation System (ETIAS) and the Visa Information System (VIS) regulations anchor a mandatory CF membership in the Fundamental Rights Guidance Board of both systems. With these, the CF's tasks grew considerably. Given the CF's voluntary nature this can pose a challenge to keep up with growing needs in the future.

The CF's access to information, as regulated in Article 109 (5) of the EBCG Regulation, could be complemented with a requirement for Frontex to cooperate in good faith with the CF. Inserting reasonable timeframes for consultations with the CF would enable the CF to provide comprehensive analysis and input when requested.

Annex V: Overview of current proceedings regarding Frontex accountability

Court of Justice of the European Union

CJEU, WS v Frontex, 18 December 2025, C-679/23 P

The facts of the case go back to 9 October 2016, when a Kurdish family from Syria (two parents and four children) arrived on the Greek island of Milos. Five days later, they were transferred to an identification and reception centre where they indicated their intention to apply for asylum. Eleven days after arrival, they were transferred to Türkiye in a joint return operation coordinated by Frontex.

The ruling is a result of an appeal of a decision of the General Court of 6 September 2023, WS and Others (T-600/21) which constituted a claim for compensation for the damage allegedly suffered due to Frontex's failure to comply with its obligations before, during and after the return operation.

Regarding the absence of the return decision, the Court said that the EBCG Regulation imposes specific obligations on Frontex for joint return operations. Considering these, Frontex has to verify the existence of enforceable return decisions for all persons whom Member States propose to be returned.

Major clarifications were brought by the Court on:

- The verification of the existence of such decisions is unrelated to their merits, therefore it does not interfere with the Member State's competence.
- The duty of sincere cooperation reinforces Frontex's obligations and should encourage it to support MSs so that they carry out their tasks in line with EU law and in a fundamental rights-compliant manner.
- A list of persons who had not lodged an application for asylum is not enough, as it did not allow Frontex to presume that the appellants were subject of written and enforceable return decisions.

The Court concludes that there is a 'verification obligation' of Frontex whether there is a return decision.

As for the responsibility for the return flight, the Court clarified that it cannot be concluded that the host Member States' liability excludes Frontex liability in relation to possible fundamental rights breaches committed during a return operation. Although the main principle is that when teams operate in a Member State, that Member State is to be held liable for any damage caused by the teams, the possibility of concurrent liabilities cannot be rejected. Moreover, the Frontex Regulation imposes a general obligation to ensure the protection of fundamental rights, and further, the obligation to monitor effectively their respect in all its activities, e.g. by means of operational plans. These are monitoring obligations additional to those of the Member States.

When it comes to considerations on the **link between conduct and damage,** the Court explained that the causal link may remain unbroken despite a decision of the person where the decision may be regarded as a reasonable response having regard to the circumstances (e.g. moving from one third country to another because of fear for their life).

Finally, regarding **the costs of legal assistance** constituting material damage suffered by the applicant, the Court considered the specificities and requirements of the Frontex complaints mechanism and its availability only to persons directly affected by Frontex staff actions, e.g. in return operations; that FRO, although independent, carries out their tasks in the context of the Frontex organisation; that the mechanism does not guarantee that the complainant will benefit from safeguards associated with the right to effective remedy, including the right to be advised, defended and represented, which are enshrined in Article 47 of the Charter. Although not explicitly, the Court implies that assistance may be necessary to use the mechanism even if this was not mandatory but chosen by the complainant.

Hamoudi v Frontex, 18.12.2025, C-136/24 P

The applicant was a Syrian national. On 28 April 2020, he arrived by boat from Türkiye to the island of Samos with a group of other persons. He was intercepted by the police and he alleged that he was sent back out to sea, where he was intercepted by the Turkish coast guard and brought to Türkiye. Allegedly, a Frontex surveillance aeroplane flew over the scene twice. After being trapped in Türkiye, he managed to flee to Germany, where he lodged an asylum application. At the time of the incident, two Frontex operational activities were ongoing in the zone: rapid border intervention in the Aegean Sea and Joint Operation Poseidon.

The applicant sought, as in the case above, compensation for damage suffered as a result of the unlawful conduct of Frontex. He filed an appeal to an order previously issued by the General Court on 13 December 2023 that dismissed the actions. The decision seemed severe in terms of the standard of proof that was expected from a person in such circumstances. Indeed, the General Chamber said that the evidence produced was not enough to demonstrate conclusively that the appellant was present and involved

in the alleged incident and did also not demonstrate the actual damage (thus one of the three conditions not met).

In its ruling, the Court of Justice sets principles regarding the application of the rules relating to the burden of proof and taking of evidence. The main consideration is that these rules cannot undermine the effectiveness of the judicial protection of the rights of individuals that are conferred on them by EU law. Therefore, where that would be the case, there is an obligation to adapt the rules. An action for non-contractual liability may be the only legal remedy capable of ensuring to the requisite standard judicial protection before EU judicature against Frontex.

In circumstances of alleged pushback, persons cannot be requested to adduce **conclusive proof** that that operation occurred and that they were present during it. Failure to adapt the burden of proof applied in "usual circumstances" might hinder all legal action by victims of a pushback against Frontex. This would mean de facto immunity for Frontex and would jeopardise the effective protection of Fundamental Rights (Article 18, 19 and 47 Charter). The Court also referred to and took inspiration from ECtHR case law.

Consequently, it is sufficient that persons alleging being a victims of a pushback produce only **prima facie evidence** that that operation occurred and they were present. Therefore, the Court found that the General Court imposed a standard that was too high: it should have examined whether there is prima facie evidence instead of requiring conducive proof that the applicant was present and involved in the alleged incident.

On the existence of prima facie evidence, the Court clarified how to look at certain elements of evidence in the context of a pushback, for example: the fact that a person does not remember the exact date of the event is not enough to dismiss the probative value of the witness evidence for the purpose of determining if it constitutes prima facie evidence. Moreover, where the applicant provides prima facie evidence that she has been a victim of a pushback, the General Chamber is required to take further steps and investigate to assess the truth of that circumstance.

Although the cases WS v Frontex and Hamoudi v Frontex were referred back to the General Court and therefore the final decision is yet to come, the rulings above contain several principles that must already be considered by the EU legislator and the Agency.

European Court of Human Rights

G.R.J. v. Greece, 07 January 2025 (application no. 15067/21)[24] and A.R.E. v. Greece (application no. 15783/21)[25]

The Court acknowledged a systematic pattern of collective expulsions in both cases. Frontex operates in this context and has to ensure the protection of fundamental rights in its operational plans.

European Ombudsman

Several decisions regarding Frontex were taken by the European Ombudsman. Many of these concerned access to Frontex documents.

- Refusal to give public access to two opinions by its Fundamental Rights Officer.[26]
- Refusal to give public access to reports on the situation at the Bulgarian border.[27]
- Refusal to give public access to documents related to guidance on return addressed to children.[28]

[24] European Court of Human Rights (2025), Rulings concerning Greece, 07 January 2025, *https://www.echr.coe.int/w/rulings-concerning-greece*.

[25] Ibid.

[26] *Decision on the refusal by the European Border and Coast Guard Agency (Frontex) to give public access to two opinions by its Fundamental Rights Officer (case 1497/2024/ACB) | Decision | European Ombudsman*

Recommendation on the refusal by the European Border and Coast Guard Agency (Frontex) to give public access to two opinions by its Fundamental Rights Officer (case 1497/2024/ACB) | Recommendation | European Ombudsman

[27] *Decision on the European Border and Coast Guard Agency's (Frontex) refusal to give public access to reports on the situation at the Bulgarian border (case 170/2025/NH) | Decision | European Ombudsman*

[28] *Decision on how the European Border and Coast Guard Agency (Frontex) dealt with a request for public access to documents related to guidance on return addressed to children (case 1259/2024/NH) | Decision | European Ombudsman*

Annex VI: Overview of Consultative Forum expenses

The Consultative Forum covers its expenses from the Frontex Fundamental Rights office budget. The chairs carry out an estimation at the end of each year for the upcoming year for the allocation of the resources required.

The Consultative Forum's expenses amounted to EUR 58,583.45 in 2025.

CONSULTATIVE FORUM EXPENSES IN 2025	
Members' participation in Consultative Forum activities and on-the-spot visits (including organisational expenses such as travel, accommodation, catering)	Total: EUR 58,583.45

In addition to the above, Consultative Forum members also participated in VEGA activities and attended training workshops. These expenses were covered by the Frontex Operations Programming Sector (OPS) and by the European Border and Coast Guard Academy respectively.

As envisaged in Article 108(4), the Consultative Forum issues an Annual Report concerning its activities. While the Annual Report is drafted by the Consultative Forum with the support of the Consultative Forum Secretariat, the costs for the publication and printing of the Annual Report are covered by Frontex Communication Office (COMMS).

The Consultative Forum's expenses covered by various Frontex units amounted to EUR 11,418.26 in 2025.

CONSULTATIVE FORUM BREAKDOWN OF EXPENSES WITHIN VARIOUS FRONTEX ACTIVITIES IN 2025		
Five experts participated for eight weeks in three air and one land VEGA activities in Italy, Lithuania, Moldova, and Romania	EUR 10,250.26	Total: EUR 11,418.26
Participation of two Consultative Forum experts in 10 Frontex training activities	EUR 0	
Publication of the Consultative Forum's Eleventh Annual Report	EUR 1,168	

FRONTEX

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