



Report on the meeting of the European Ombudsman's inquiry team with FRONTEX representatives

Correspondence - 17/06/2021

Case OI/5/2020/MHZ - **Opened on** 10/11/2020 - **Decision on** 15/06/2021 - **Institutions concerned** European Border and Coast Guard Agency (Frontex) (No maladministration found) | European Border and Coast Guard Agency (Frontex) (No further inquiries justified) |

COMPLAINT : OI/5/2020/MHZ

Case title : The functioning of the European Border and Coast Guard Agency's (Frontex) Complaints Mechanism for alleged breaches of fundamental rights

Date : Friday, 05 February 2021

Remote inspection arrangements via WebEX meeting

Present

Representatives of Frontex :

Fundamental Right Officer ad interim

Technical Officer for Complaints

Senior Complaints Assistant

Representatives of the European Ombudsman:

Ms Marta Hirsch-Ziemińska, Principal Adviser on Charter compliance

Mihai Ioachimescu-Voinea, Inquiries trainee

Purpose of the inspection of documents / meeting

Verify the file of the Complaints Mechanism (CM) as from 2016 until present, discuss the role of the Fundamental Rights Officer (FRO) and the functioning of the CM



Introduction and procedural information

Before the meeting, Frontex transmitted securely to the European Ombudsman the documents requested in the context of the inquiry. After the meeting, Frontex sent additional documents by the same means. The European Ombudsman's representatives inspected all documents.

At the beginning of the meeting, the European Ombudsman's representative explained the procedure of virtual inspections of documents. She explained that all documents shared by Frontex with the Ombudsman are exclusively used for the purposes of the investigation. Once the investigation is closed, the documents are destroyed. During the investigation, they are kept in a secure digital safe to which there is restricted access.

Information exchanged / documents inspected

In reply to the questions put by the Ombudsman's representative, Frontex's representatives clarified the following issues concerning the inspected documents and the CM in general:

Number of complaints

1. Based on information in the FRO's reply (FRO/ANKO/409/2021) to the EO's letter dated 10 November 2020 and documents inspected during the inquiry, the Ombudsman understands that the FRO has received 69 complaints since 2016, of which 22 were admissible and 47 were inadmissible. Is it possible to explain this relatively low number?

Frontex's representatives gave three reasons for this low number of complaints:

(i) At the outset, the CM was not well-known among interested stakeholders and possible complainants.

(ii) Possible complainants, most of whom are migrants, might fear retaliation if they make use of the CM, especially with regard to their asylum applications.

(iii) The scope of the CM is limited to issues that might arise in the context of a Frontex operation. Thus, complaints falling outside the framework of Frontex operations (e.g. Croatian border with Bosnia and Herzegovina) are inadmissible.

2. However, the FRO considers that complaints are increasing as a result of different factors,



such as: better information material, which is increasingly translated into different languages; targeted briefings of the standing corps and Frontex deployed officers, which can further disseminate information about the CM, as well as awareness sessions with international organisations and NGOs that are on the ground. Information material is produced for display in the working spaces used for operational activities.

Access to the CM: dissemination of information about the CM and submission of complaints

3. The FRO CM Annual Report for 2019 states that the complaint form is available in 14 languages while the awareness-raising material (*i.e.* booklet on the complaints mechanism) is available in 12 languages. The difference is explained by the fact that the awareness-raising material is available in hard copy and in electronic copy format. The hard copy format is available in only 12 languages, but additional languages are available in pdf format. They are available to the public and to the operational units. The booklet is available in pdf format in 14 languages on Frontex's website.

4. Each operational plan (OPLAN) [1] must include information about the CM. As per Regulation 2019/1896 [2] , general instructions on how to ensure fundamental rights are safeguarded during operational activities were provided by the FRO to be integrated into operational plans. Standard templates for OPLANs have been created by Frontex and adjusted to the types of operations. The FRO provides an opinion on operational plans.

5. Fundamental Rights Monitors (the FROMs) will be recruited and assigned by the FRO to the operational activities. This will also help disseminate information about the CM and will improve the accessibility of the mechanism. Recruitment procedures for the FROMs are expected to be finalised between March and May 2021.

6. The FRO CM Annual Report for 2019 states that the FRO's representative visited the hotspot in Moria and met there with the deployed officers. The deployed officers are supposed to help disseminate CM leaflets. It is difficult to reach out and speak to potential complainants themselves, notably if the officers do not speak their language. Furthermore, during field visits of FRO representatives, movements in operational areas also depend on the host Member State, as well as the situation on the ground. Direct interaction with migrants is not always possible.

7. In the Moria hotspot (and where possible other locations), the FRO also uses the European Asylum Support Office (EASO) facilities in order to make available booklets about the CM.

8. In addition, since the members of the Consultative Forum as well as other local civil society organisations have field offices, the FRO relies on them for logistical support to undertake briefings, disseminate leaflets and promote the CM.

9. The current rules allow for a complaint to be submitted directly to Frontex staff where the



Frontex activity takes place.

The officers should facilitate submission of a complaint and transmit it to the FRO, even if the complaint relates to the officers themselves. There is no registration mechanism on the spot; once received, the complaint is duly registered with the complaints team at the FRO office, following the communications channels foreseen. Discussions are ongoing on the possibility of introducing a system by which the complaints would be registered in the field, in order to eliminate the risk of a complaint being lost or going missing. The FROMs may assist in this procedure. However, it should be borne in mind that they are not present in every operation at all times.

10. In relation to the FRO CM Annual Reports (2017, 2019) and Frontex's reply CGO/LPU/FRO/ICO/2020 concerning the online system for submission of complaints, there are two systems that allow a complainant to submit a complaint electronically. In the first, which is in use since 2017, a complainant can upload the complaint form on Frontex's website and submit it online. The complaint is then automatically registered in the electronic database (or complaint management system).

11. Under Regulation 2019/1896, Frontex must provide for easier ways of submitting complaints, including via mobile devices. Frontex and the FRO joined forces with a view to creating a system that can be accessed from mobile devices. The new system will not require the complaint form to be uploaded, but will instead have an integrated form, which the complainant can use to submit the complaint directly. The complaint will then be automatically forwarded to the FRO complaints team's email address, which case handlers will use in order to create a case in the complaint management system. This mobile device system should be available soon.

12. Access to the complaint form under the current system is rather difficult, and requires a complainant to navigate through four webpages in order to reach it. The system is however much improved since its launch in 2017.

Language of a complaint

13. The FRO also deals with complaints received in a **language** other than the 14 languages available on the FRO's website. The FRO works together with the Translation Centre for the Bodies of the EU in Luxembourg. If complaints are in a language which the case-handler does not understand, the FRO sends the complaint to the Translation Centre or uses the translation tool provided on the Commission's website.

14. However, the current complaint form available on the website mentions (in point 5) that "*[C]omplaints may be submitted in any EU language, and also in Arabic, Pashto, Urdu and Tigrinya*". The FRO agreed that this formulation can be confusing and that the complaint form will be updated to state that a person can submit a complaint in any language. The leaflets already specify that a complaint can be submitted in any language.



CM implementing rules

15. The drafting of the Executive Director's Decision on CM Rules is at an advanced stage. The rules are currently being discussed with Frontex's Legal Services and relevant Frontex units. The draft rules take into account the FRO's CM Annual Report for 2018. The CM Rules should be ready in the 1st Quarter of 2021.

Violations of fundamental rights - Frontex mechanisms

16. Based on Regulation 2019/1896, the FRO has an independent role within Frontex to support Frontex's work from a fundamental rights perspective through monitoring its compliance with fundamental rights, including by conducting investigations into any of its activities. For this purpose, the FRO is developing its internal investigation procedures.

17. Frontex has three mechanisms for reporting violations of fundamental rights: the CM, the Serious Incident Report Mechanism and the supervisory mechanism on the use of force by statutory staff. The FRO is responsible for the CM and acts as a coordinator whenever there is an SIR related to potential violations of fundamental rights. The FRO also, within the framework established by Annex V to the Regulation, is supposed to ensure that incidents involving the use of force are thoroughly investigated and the results of those investigations are transmitted to the Consultative Forum.

18. Frontex's Inspection and Control Office will be responsible for handling Frontex's disciplinary procedures related to Frontex staff. The reporting mechanism functions in parallel to the CM.

19. Reports of incidents involving the use of force are transmitted to the FRO. In case a Standing Corps staff member is prevented by their management from reporting incidents involving use of force, or has any concerns about whether their report was forwarded through the correct channels, there is a dedicated email address to which they can report whistleblowing complaints. Relevant complaints are transmitted to the FRO.

Handling of complaints through the CM procedure

General procedural issues

20. The FRO does not have a handbook on the CM at present. The FRO's complaints team consists of only two persons. The FRO produced some internal position papers on specific CM issues, which provide guidelines on procedural matters. If the FRO were to receive a large number of complaints, a FROM could support the complaints team to manage the additional work.



21 . In relation to Frontex's Reply CGO/LPU/FRO/ICO/2020 on the capacity of the FRO to conduct thorough and prompt investigations based on evidence , the FRO specified that she can address questions back to the complainant. This includes on issues such as whether the officers had Frontex insignia or wore Frontex uniforms. The FRO can also request from the Operational Team more detailed information regarding alleged abuses or incidents. The FRO further clarified that the office examines facts to decide on admissibility, such as whether the allegations indeed relate to an activity of Frontex. The merits of a complaint are examined by the relevant national authorities if the complaint is against a national authority from a specific member state.

22. However, the FRO said that access to the investigation cases of MSs or detailed information on an event is difficult to access or cannot always be provided which makes it difficult for the FRO's office to assess evidence related to the substance of the case. The FRO's view is that it is entitled to access such information (obtain and assess certain documents) under the investigation prerogatives. The FRO further noted that the follow ups received from national authorities so far did not include the evidence on the substance of the case, even in cases where the FRO asked for evidence.

Admissibility

23. According to Art. 111(2) of Regulation 2019/1896, a fundamental rights violation can be the result of actions taken but also result from a failure to act. This includes, for instance, in the case of pushbacks, or where Frontex staff fail to refer migrants who asked for international protection to competent authorities. To date, the FRO has not received complaints concerning a failure to act.

24. Complaints are deemed admissible only if they are filed by a person directly affected by a Frontex activity/failure to act or by their representative. Under the existing rules, a complainant has to divulge their contact details and **anonymous complaints** are not admissible. The FRO was informed by some NGOs that complainants may fear reprisals for lodging complaints, and that anonymous complaints should be accepted; however the existing provisions do not allow for anonymous complaints.

25. Under the rules in force, complaints brought by non-affected parties seeking to defend the public interest (*actio popularis*) are inadmissible. However, even if the FRO does not deal with an inadmissible complaint, she can issue an '**Expression of Concern**' to the Member State concerned, to the Management Board or the Executive Director, in relation to the matters raised in that complaint.

Forwarding complaints to the MSs and their follow-up

26. The FRO has an updated list of institutions that can deal with complaints at national level. The list was created in 2016, after the CM was established. In some cases, the national body informs the FRO about any changes, however, this is not always the case. The FRO uses



the National Frontex Point of Contact (NFPoC) (a Frontex communications channel) to inform national authorities about complaints and contact the appropriate national body.

27. As to the content of the FRO`s annual reports (2017, 2018, 2019) the FRO specified that admissible complaints are always sent in copy to the national human rights institutions, such as the ombudsmen. The FRO is obliged by law to forward admissible complaints to the national human rights bodies. However, the FRO does not always receive a reply or an acknowledgment of receipt from national bodies.

28. All the correspondence with national authorities (including follow-ups) is stored in the complaint management system database. However, no statistical data exists at this moment with respect to the number of follow-ups made and whether replies by the MS contain sufficient information about the findings.

29. In one case, where the MS did not provide the FRO with a reply, the Executive Director set up a meeting with the respective MS representative in the margins of a Management Board meeting in order to facilitate the follow up. The Executive Director explained the issues and presented to the Management Board representative the complaints case. As a result, the MS provided additional information on the case.

30. To date, no national team member has been removed based on a complaint to the CM. Removal is possible on the basis of Art. 111(8) of Regulation 2019/1896. It could take place in the future in relation to Frontex staff, in the framework of the procedure relating to the use of force. National authorities conduct their own investigations. If these investigations result in a finding of a serious infringement of fundamental rights, the relevant national authorities are supposed to have a procedure in place that leads to sanctions against individuals.

Forwarding to Frontex and follow-up

31. To date, no complaint has been filed against a Frontex statutory staff member. The follow-up procedure with the Executive Director was therefore never used. The FRO had some exchanges with the Executive Director concerning the deployment information needed for the admissibility and follow-up procedures for certain complaints.

32. Under Regulation 2019/1896 the Executive Director has to report to the Consultative Forum on the follow up given to FRO recommendations. The FRO usually brings recommendations to the Management Board requesting that the Executive Director and/or Management Board take action.

Closure

33. The FRO closes a complaint once a reply with an appropriate follow-up has been received by competent authorities, informing the FRO that the investigation has been closed (there have been no cases yet concerning Frontex statutory staff). The FRO also closes a



complaint where an inconclusive reply has been received from the competent authorities but, based on their replies to the FRO, no further information can be expected from them.

The case is closed by means of a letter signed by the FRO and addressed to competent authorities and the complainant, explaining the facts and the findings made. In the letter, the FRO also makes recommendations on the complaint that should be addressed by the Executive Director or the competent national authorities. Similarly, the FRO issues a final report on the complaint addressed to the Frontex Executive Director and the Management Board chair .

34. The FRO CM Annual Report for 2019 mentions that a complaint concerning Greece (2019-00016) is pending before the Hellenic authorities since Nov 2019. This case will be mentioned as closed in the FRO CM Annual Report for 2020. When a case is pending for a long time, the FRO notifies the issue to the Management Board, which then reminds the MS concerned to provide the required information. If following several reminders over a 2-3 year period the MS does not provide a follow up, the FRO closes the case addressing in the letter the lack of response.

35. As stated in the FRO CM Annual Reports for 2017, 2018 and 2019, all FRO's letters of inadmissibility and the final reports contain information regarding contact details of national bodies, the UNHCR or other bodies that may assist the person in question.

36. In a FRO Annual Report (the CM section, about inadmissible complaints), the FRO explained that it is sometimes difficult to communicate the outcome of the complaint to a person who has in the meantime been returned to a country outside the EU. She mentioned one case in which a person was represented by a lawyer, but neither the lawyer nor the FRO could identify the person's actual contact data. However, if that person approaches the FRO later on, the FRO will be able to share the decision on the case, which is saved in the system for the statutory retention period.

Complaints in relation to the operations in non-EU countries

37. Frontex may carry out operations in non-EU countries if the latter signed a Status Agreement with the European Commission. That country then also signs the OPLAN with Frontex, which includes safeguards regarding respect for fundamental rights. If deemed necessary, the FRO may assess the fundamental rights situation in a specific non-EU country also by liaising with the national ombudspersons, NGOs and other actors in the field.

38. There will be two Memoranda of Understanding (the MoUs) concerning the CM concluded by Frontex with Albania; one with the Albanian People's Advocate and one with the Albanian Ministry of Interior (a department dealing with complaints against the border police). The MoU with both institutions will be signed soon. The Albanian authorities will deal with complaints against the Albanian members of the teams participating in Frontex operations, while the FRO will deal with complaints regarding Frontex staff.



39. A similar MoU with Montenegro is at an initial stage, and the FRO is in contact with the Montenegrin authorities to this end.

Reporting by the FRO

40. The FRO issues the following reports: periodical reports to MB on CM and other FRO activities as well as the annual CM reports. The CM reports contains an overview of all complaints, with a detailed description of the FRO actions, findings and recommendations. As of 2020, the annual CM report will be included as an annex to the Annual FRO report as per Regulation 2019/1896 and made public.

41. The Periodical Reports on FRO activities including on CM are presented three to four times per year to the Management Board; FRO also reports regularly on its activities to the Consultative Forum.

42. The reports are divided into several sections, one of which is the Complaints Section. This section details the number of complaints received, the number of admissible/inadmissible complaints and the type of activity performed by Frontex in relation to the complaints. It also describes how the CM materials are disseminated, which trainings are delivered, and refers to the FRO missions.
Documents inspected

General Folder “EU Ombudsman Inquiry Nov 2020 to share with EO”

- i. Contacts table of MS's Police and FRs institutions
- ii. Frontex Consolidated annual activity report 2019 (27 May 2020)
- iii. Operational Plan - General Plan (14.01.2021)
- iv. List of admissible cases 2017-2020
- v. MB Decision 6/ 2021 on the independence of FRO (20 January 2021)
- vi. MB Decision 7/ 2021 establishing a supervisory mechanism to monitor the application of the provisions on the use of force by statutory staff (20 January 2021)
- vii. Draft MoU Frontex and People's Advocate Office in the Republic of Albania
- viii. Sharepoint Task Organizer

1. Folder “ CF Annual Reports 2017-18 ”



- i. 6th Annual Report - Frontex Consultative Forum on Fundamental Rights (2019)
- ii. 5th Annual Report - Frontex Consultative Forum on Fundamental Rights (2018)

2. Folder "Cs follow up "

2.1 Folder "CMP-2017-00001 & CMP-2018-00005"

- i. Example of decision to close complaint sent to complainant (6 October 2020)
- ii. Example of decision to close complaint sent to ED and MB (6 October 2020)
- iii. Example of decision to close complaint sent to NFOPC (6 October 2020)
- iv. Complaint (4 January 2017)
- v. FRO Final Report on the complaint (6 October 2020)

2.1.1 Folder "CMP-2018-00005 "

- i. Admissibility decision send to complainant (9 August 2018)
- ii. Admissibility decision send to ED (9 August 2018)
- iii. Admissibility decision send to NFOPC (9 August 2018)
- iv. Complaint on lack of response (17 July 2018)

2.1.2 Folder "Complainant "

- i. Admissibility decision send to complainant (15 February 2017)
- ii. Reply to request for info (25 July 2018)
- iii. Reply to request for info (25 November 2019)
- iv. Reply to request for info (07 June 2017)

2.1.3 Folder "Frontex ED "

- i. Letter of ED to FRO on measures undertaken in relation to FR (16 March 2018)
- ii. Communication of admissibility to ED (15 February 2017)
- iii. ED follow up (13 February 2018)
- iv. FRO update to ED (07 February 2018)

2.1.4 Folder "MS authorities "

- i. 2nd Reminder to NFOPC (12 October 2017)
- ii. Request for documents to Greek Ombudsman (15 February 2017)



- iii. FRO communication to NFOPC (2 May 2017)
- iv. Greek Ombudsman reply to FRO (13.03.2017)
- v. Forward of information from FRO to Greek Ombudsman (25 November 2019)
- vi. Additional reminder to NFOPC (25 November 2019)
- vii. 2nd letter from Greek Ombudsman to FRO (13 August 2018)

2.2 Folder "CMP-2017-00003"

- i. Admissibility decision to representatives (02 May 2017)
- ii. Admissibility decision to ED (18 May 2017)
- iii. Admissibility decision to NFOPC (2 May 2017)
- iv. Complaint II (28.04.2017)
- v. Complaint I (27.04.2017)
- vi. FRO Final Report on the complaint (16 March 2018)
- vii. FRO information to representatives on findings and closure (10 November 2017)
- viii. FRO information to Greek Ombudsman (10 November 2017)
- ix. FRO letter to ED on closure (26 April 2018)
- x. FRO letter to NFOPC on findings and closure (10 November 2017)

2.3 Folder "CMP-2017-00014"

- i. FRO Final report on the complaint (19 October 2020)

2.3.1 Folder "Complainant "

- i. Admissibility decision sent to complainant (06 December 2017)

- ii. Letter on closure of case (19 October 2020)

2.3.2 Folder "Frontex ED "

- i. FRO decision on admissibility to ED (6 December 2017)

- ii. FRO communication to ED on closure of case (19 October 2020)



2.3.3 Folder "MS "

- i. Admissibility decision sent to Hungarian NFPOC (6 December 2017)
- ii. Forward of complaint to Hungarian Ombudsman (7 December 2017)
- iii. Communication of closure of case to NFPOC (19 October 2020)
- iv. FRO communication to NFPOC (27 September 2018)
- v. Request for info reply from MS (27 March 2018)
- vi. Request for info reply 2 from MS (10 November 2021)

2.4 Folder "CMP-2019-00015"

- i. Admissibility decision sent to complainant (14 November 2019)
- ii. Admissibility decision sent to ED (14 November 2019)
- iii. Admissibility decision & forward of complaint to NFPOC (14 November 2019)
- iv. Final letter sent to complainant's representative (14 December 2019)
- v. FRO Final report on the complaint (4 December 2020)
- vi. Communication to national Ombudsman (14 November 2019)
- vii. Reply of MS sent to FRO (16 November 2019)

2.5 Folder "Examples inadmissibility"

- i. Decision of inadmissibility CMP-2017-00013 (8 September 2017)
- ii. Decision of inadmissibility CMP-2018-00010 (21 January 2019)
- iii. Decision of inadmissibility CMP-2019-00017 (13 January 2020)
- iv. Decision of inadmissibility CMP-2020-00004 (7 February 2020)
- v. Decision of inadmissibility CMP-2020-00011 (30 April 2020)

2.6 Folder "Final Reports"



- i. Final report CMP-2018-00008 (11 June 2019)
- ii. Final report CMP-2018-00009 (1 July 2019)
- iii. Final report CMP-2019-00004 (31 May 2020)
- iv. Final report CMP-2019-00016 (19 November 2020)
- v. Final report CMP-2019-00018 (26 March 2020)

2.7 Folder "Mails to Ombudspersons"

- i. Email CMP-2017-00011 + attached docs (25 July 2018)
- ii. Email CMP-2018-00008 + attached docs (23 November 2018)
- iii. Email CMP-2018-00009 + attached docs (17 January 2019)
- iv. Email CMP-2019-00004 + attached docs (16 May 2019)
- v. Email CMP-2019-00014 + attached docs (27 November 2019)
- vi. Email CMP-2019-00015 + attached docs (14 November 2019)
- vii. Email CMP-2019-00015+ attached docs (14 November 2019)
- viii. Email CMP-2019-00016+ attached docs (20 November 2020)
- ix. Email CMP-2019-00016+ attached docs (14 November 2019)
- x. Email CMP-2019-00018+ attached docs (5 March 2020)
- xi. Email CMP-2020-00013+ attached docs (6 July 2020)
- xii. Email CMP-2020-00019+ attached docs (9 September 2020)

2.8 Folder "Replies from Ombudspersons"

- i. Email CMP-2017-00001 & CMP 2018-00005+ attached docs (8 December 2020)
- ii. Email CMP-2019-00016+ attached docs (8 December 2020)
- iii. Email CMP-2020-00003+ attached docs (8 December 2020)



- iv. Email CMP-2020-00005+ attached docs (8 December 2020)
- v. Email CMP-2020-00006+ attached docs (8 December 2020)
- vi. Email CMP 2020-00017+ attached docs (10 December 2020)
- vii. Email CMP-2017-00011+ attached docs (12 September 2018)
- viii. Email CMP-2019-00004+ attached docs (5 September 2019)
- ix. Email CMP-2019-00015+ attached docs (14 November 2019)
- x. Email CMP-2019-00018+ attached docs (5 Mars 2020)
- xi. Email CMP-2020-00024+ attached docs (15 December 2020)
- xii. Consultation email on competence (19 March 2018)
- xiii. Consultation email on competence (15 January 2018)

3. Folder "CsM Annual Reports "

- i. FRO report on CM to ED and MB (28 May 2018)
- ii. FRO Individual Complaints Mechanism Annual Report 2018 (February 2019)
- iii. FRO Individual Complaints Mechanism Annual Report 2019 (March 2020)

4. Folder "CsM processes and policies "

- i. ED Decision Complaint Form - Annex 2
- ii. Agency Rules on the CM - Annex 1
- iii. Chart of CM procedure
- iv. ED Decision R-ED-2016-106 on CM (6 October 2016)
- v. FRO request for additional staff (7 July 2016)
- vi. MoU between FRO and DPO (18 October 2016)
- vii. New draft of Complaint Form
- viii. New draft of Privacy statement



5. Folder "FRO reports to MB 2020 "

- i. FRO Periodical Report to MB 1 November 2019 –29 February2020 (6 March 2020)
- ii. FRO Periodical Report to MB 1 March 2020 –31 August 2020 (31 August 2020)
- iii. FRO Periodical Report to MB 1 September 2020 –5 January 2021 (5 January 2021)

6. Folder "Information materials "

- i. Additional Information Form on the potential violations of fundamental rights
- ii. New draft of Complaint Form
- iii. Communication Plan for the CM 2020-2021 (June 2020)
- iv. Poster on submitting complaints
- v. Booklet 2019 12 languages
- vi. Webinar 1 Complaints
- vii. Webinar 2 Complaints

7. Folder "Updating process Cs Rules "

- i. Letter to ED on draft rules for CM (26 September 2016)
- ii. CM record of FRO proposal - FRO recommendations that have not been included in the rules of the CM by ED (18 October 2016)
- iii. FRO proposal draft on CM
- iv. FRO draft on Guidance on the CM procedure (1 April 2019)
- v. Minutes and conclusions of the meeting FRO/CAB on complaints (23 September 2018)

7.1 Folder "First Revision"

- i. CM Rules FRO agreed with LPU (25 May 2018)
- ii. Follow up meeting FRO/CAB/LPU on complaints - minutes (12 September 2018)
- iii. CM draft Rules with CF comments



7.2 Folder "Second Revision"

- i. CM Rules 2.0 final draft (FRO-LPU meeting, January 2020)

8. Folder "Emails FRO-ED"

- i. Series of emails from FRO to ED dated 14 November and 19 December 2019, and 20 January 2020 (with 11 attachments)
- ii. Letter of ED to FRO dated 27 November 2019
- iii. Emails of FRO to ED dated 14, 18 and 28 November 2019
- iv. Email of ED to FRO dated 18 November
- v. Letter FRO to ED dated 14 November 2019
- vi. Letter ED to FRO dated 30 January 2020
- vii. Letter FRO to ED dated 19 December 2019
- viii. Email FRO to ED dated 14 November 2019

8. Folder "FRO Positions papers"

- i. "Complaints within the Frontex CM"**
- ii. "Correspondence received by Frontex involving alleged fundamental rights violations"**
- iii. "Interpretation of Art. 72(2) and 72(7) of the EBCG Regulation"**
- iv. "Complaints relating to Frontex return operations"**

Frontex informed the Ombudsman's inquiry team that all documents listed above, except those which are in bold and underlined, are confidential. In accordance with Articles 4.8, 9.3 and 9.4 of the Implementing Provisions of the European Ombudsman, the Ombudsman's inspection will not result in any other person obtaining access to these documents.

Strasbourg, 24/03/2021

Marta Hirsch-Ziembinska

Principal adviser on Charter compliance



[1] For each specific operational activity, Frontex drafts operational plans, referred to in Article 38 of Regulation 2019/1896 (operational plans for joint operations), and in Article 74(3) of Regulation 2019/1896 (operational plans for operations on the territory of a third country).

[2] 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, OJ L 295, 14.11.2019, p.1-125 (<https://eur-lex.europa.eu/eli/reg/2019/1896/oj>)