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E2012-162527**MORAIS BISMARQUE GASPAR Ana Gloria**

From: KJAERUM Morten (FRA) [Morten.Kjaerum@fra.europa.eu]
Sent: 26 September 2012 12:54
To: DIAMANDOUROS Nikiforos
Subject: Ombudsman own initiative inquiry OI/5/2012/BEH-MHZ
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Dear Mr Diamandouros,

On behalf of Morten Kjaerum, please find attached a letter for your attention.

Yours sincerely,
Britta Zimmermann
Personal Assistant to the Director

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26/09/2012



EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Mr. Nikiforos Diamandouros
European Ombudsman
1 avenue du President Robert Schuman
CS 30403
67001 Strasbourg Cedex
FRANCE

Vienna, 26 September 2012

Ref: 2012-outgoing-001039

Subject: Ombudsman own initiative inquiry 01/5/2012/BEH-MHZ

Dear Mr. Diamandouros,

In your letter of 18 June 2012 on your own initiative inquiry concerning the implementation by Frontex of its fundamental rights obligations, you invited me to submit any comments on Frontex's opinion which I might wish to make.

The European Union Agency for Fundamental Rights (FRA) is regularly cooperating with and is providing assistance to Frontex in the field of fundamental rights and our comments on Frontex's opinion will therefore be focussing on these aspects.

Since 2010, the FRA has been involved in a number of Frontex-led initiatives, which directly or indirectly relate to fundamental rights. The basis for this involvement is the cooperation arrangement signed between the two agencies on 26 May 2010. The arrangement covers most of the areas of activities by Frontex, namely research, training and capacity building, risk analysis and operations and has the overall goal of mainstreaming fundamental rights in Frontex activities. At the end of 2012, an evaluation of the cooperation agreement is planned.

In addition, as part of its data collection and analysis task under Article 4(1) of Regulation 168/2007 (FRA Regulation), the FRA collects information and data in areas in which Frontex



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is also active, such as border management and return. For example, it is currently implementing a project on treatment of third country nationals at EU borders, some findings of which also relate to Frontex's joint operations. The research results will be published in 2013 and transmitted to Frontex.

Please find attached an overview of FRA activities relating to Frontex, related to the questions raised in your inquiry. We also annex a copy of the cooperation arrangement, the fundamental rights training concept and information concerning the FRA's project on third country nationals at EU borders.

Yours sincerely,



Morten Kjaerum
Director

Annexes:

- Annex 1: Overview of FRA activities relating to Frontex
- Annex 2: FRA- Frontex cooperation arrangement
- Annex 3: FRA – UNHCR – Frontex Fundamental rights training concept
- Annex 4: FRA project



Morten Kjaerum, Director

Annex 1: Overview of FRA activities relating to Frontex

Institutional

- The FRA provided comments concerning fundamental rights to Frontex' draft Annual Work Programmes and Frontex Multi-Annual Plan 2013-2016.
- Frontex involved the FRA in the drafting of the Frontex Fundamental Rights Strategy in 2011, which was endorsed by Frontex Management Board on 31 March 2011 as well as in the preparation of the implementing Action Plan.
- The amended Frontex regulation foresees the recruitment of a Fundamental Rights Officer (FRO) for Frontex. Upon Frontex' invitation the FRA participated as a voting member in the selection panel established to recruit the FRO.
- The amended Frontex regulation foresees the set-up of a Consultative Forum (CF), composed of relevant international organisations, EU institutions and NGOs. The aim of the CF is to advise the Frontex Executive Director and the Management Board on Fundamental Rights in Frontex activities. The FRA is a member of the CF together with the Council of Europe, the OSCE, UNHCR, EASO, IOM, the European Council for Refugees and Exiles (ECRE), the Red Cross EU Office, Amnesty International, the International Catholic Migration Commission (ICMC), Caritas Europa, the International Commission of Jurists, the Jesuit Refugee Service, the Churches' Commission for Migrants in Europe, and the Platform for International Cooperation on Undocumented Migrants (PICUM). The FRA actively participated in the drafting committee preparing the creation of the CF.

Training and capacity building

- In line with Article 8 of the co-operation arrangement, the FRA developed - in cooperation with UNHCR - a tailored fundamental rights training programme for Frontex staff. Based on a series of assessments of all Frontex departments and their key functions and tasks, a targeted and comprehensive fundamental rights training programme was developed in 2011. Its implementation has however been pending since the end of 2011.



Morten Kjaerum, Director

**FRA**

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- The FRA works with Frontex on the development of a fundamental rights training manual for national border guards. The working group is composed of national border training experts, UNHCR and the FRA. The purpose of the training manual is to help developing skills in the fields of: interception at sea, land and air borders; reception and assistance; interviewing; deprivation of liberty and the treatment of individuals requiring special attention. The FRA develops case studies and modules for this manual. There are as yet no plans for training implementation or any train the trainer's workshops in this project.
- The FRA started to cooperate with Frontex on its sectoral qualifications and border guards competences' frameworks by recommending the introduction of specific fundamental rights competences and skills as part of the overall qualifications of border staff at all levels working for national border services. The project is at an early stage and it is still unclear in which form fundamental rights will be incorporated.
- Following discussions on the weakness of fundamental rights in the common core curriculum (CCC) for border guards (which sets out the basic knowledge and skills that each border guards in Europe should have), Frontex established a working group to revise the CCC to which FRA, UNHCR and IOM were invited as members. Upon Frontex's request, the FRA drafted specific parts of the CCC (on children, victims in the context of trafficking in human beings and the handling of victims of crime) and proposed changes to operational parts of the CCC in order to mainstream fundamental rights. Virtually all suggestions made by the FRA were accepted and incorporated in the revised CCC.
- The FRA has shared its views and is currently providing guidance on how to enhance the fundamental rights component of the training offered by Frontex to Schengen evaluators.
- Frontex developed a trainer's manual for the training of border guards on anti-trafficking. The FRA contributed to this manual together with experts from Member States and other specialized organisations by framing the learning objectives and outcomes of the fundamental rights of victims in following areas: assistance and gender specific and appropriate support for victims, development of indicators to identify victims, interviewing of victims with a particular focus on child victims.



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- If requested, the FRA can review tools under development by Frontex and provide feedback and comments related to fundamental rights. In this regard, the FRA has assisted Frontex on questions relating, for example, to the use of dogs at borders or forced removals.

Operations

- The FRA contributed to the briefings for officers deployed in the Minerva operation (sea borders) by providing a case study on non-discriminatory profiling in 2012 and by delivering a presentation on fundamental rights in 2011.
- As regards air border operations, the FRA (together with UNHCR and IOM) briefed officers to be deployed in the 2011 Hammer operation on child victim identification, interviewing and protection. Furthermore, brief presentations on key fundamental rights issues likely to emerge during air borders operations were shared with Frontex, which were included among the training package for participants of 2012 air operations.
- FRA was invited by Frontex to comment on the operational plan for the Hammer and Minerva operations and assisted Frontex in the finalisation of guidelines on how to deal with potential child victims of trafficking. The integration of a fundamental rights perspective was covered in the general parts but was not translated into operational details.
- In the context of operations, it might also be interesting that as part of the data collection for the project on the treatment of third-country nationals at external borders, the FRA was allowed to accompany maritime patrols carried out in the context of Frontex operations at sea. The findings will be used for the project report which will be released in 2013.

Research

FRA research products may relate directly or indirectly to activities carried out by Frontex. Where this is the case, FRA shares the findings of its research with Frontex. This was, for example, the case with the overview of the state of play as regards the creation of effective forced return monitoring systems by Member States included in the FRA Annual Report for 2011.



Morten Kjaerum, Director



COOPERATION ARRANGEMENT

BETWEEN

**THE EUROPEAN AGENCY FOR THE MANGEMENT OF OPERATIONAL
COOPERATION AT THE EXTERNAL BORDERS OF THE MEMBER STATES
OF THE EUROPEAN UNION**

AND

THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Preamble

The European Union Agency for Fundamental Rights (FRA) and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex),

Hereafter referred to individually as 'the Party' or collectively as 'the Parties',

Having regard to the Council Regulation¹ establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, of which its main task is to render more effective the application of existing and future Union measures relating to the management of external borders, while the responsibility for the control and surveillance of external borders remains with the Member States,

Considering that the Council in its recent Conclusions² with 29 measures for reinforcing the protection of the external borders and combating illegal immigration underlined that all measures and actions taken as a consequence of these conclusions shall fully respect human rights, the protection of persons in need of international protection and the principle of non-refoulement,

Recalling the provisions of the Schengen Borders Code,³ according to which border guards have to fully respect human dignity, protecting persons in need of international protection and respecting the principle of non-refoulement,

Taking note that the Stockholm Programme calls for an integrated management of the external borders, which should not prevent access to protection systems by those entitled to it and which highlights the need for special attention for people and groups, who are in a vulnerable situation, and unaccompanied minors⁴ in particular,

Considering that the Frontex Multiannual Plan 2010–2013 has identified 'humanity' as one of the core values which shall be endorsed, shared, lived and performed by each member of staff and which shall form the foundation of Frontex' activities at all levels,

Having regard to Article 4 of the Council Regulation⁵ establishing a European Union Agency for Fundamental Rights setting out the tasks of FRA,

¹ Council Regulation (EC) No. 2007/2004 of 26 October 2004.

² JHA Council, 25–26 February 2009.

³ Cf. Articles 3, 6 and recital 20 of Regulation (EC) No. 562/2006 of 15 March 2006.

⁴ The Stockholm Programme – An open and secure Europe serving and protecting the citizens, 10–11 December 2009.

⁵ Council Regulation (EC) No 168/2007 of 15 February 2007.

Considering the added value of inter-agency cooperation in order to foster a common understanding of fundamental rights, as well as to attain their respective objectives,

Have agreed as follows:

Article 1 Purpose

The purpose of this Cooperation Arrangement is to establish a cooperation framework between the FRA and Frontex with the overall objective of strengthening the respect of fundamental rights in the field of border management and in particular in Frontex activities, including, *inter alia*, those listed below in Articles 3–9.

Article 2 Common approach to fundamental rights

1. The Parties will cooperate to foster a common understanding of fundamental rights in the context of border management across the European Union and coordinate their actions, where appropriate.
2. To achieve this, the Parties will consider the development of appropriate tools to identify existing differences as regards fundamental rights issues at an operational or practical level, affecting Frontex activities. Where feasible, the Parties will consider the possibility and appropriateness to approximate existing practices. Where appropriate, the Parties will collaborate in the development of good practices, guidance notes, incident reporting mechanisms, and similar initiatives.

Article 3 Joint Operations

The FRA may offer on request its expertise to Frontex in the different phases of a joint operation. This may include advice on how to mainstream fundamental rights considerations in the design, implementation and evaluation of joint border operations, as well as other activities considered appropriate by the Parties.

Article 4 Risk Analysis

1. The Parties will hold consultations with a view to strengthening the capacity to collect data and information on the situation at the border, including an appreciation of the likely protection and assistance needs of vulnerable individuals and groups, particularly as regards unaccompanied minors and other children at risk, victims of trafficking and persons in need of international protection.
2. For this purpose, the FRA will offer, on request, methodological guidance to Frontex for relevant data collection and the development of related risk indicators.
3. The Parties will also consider the possibility for cooperating in the drafting of analytical reports on issues of mutual concern.

Article 5 Training on Fundamental Rights for border guards

1. The Parties shall cooperate in mainstreaming fundamental rights in the design, implementation and evaluation of training activities for national border guards when dealing with fundamental rights.
2. The Parties commit to share training plans and other information on a regular basis and may invite each other to attend training activities and workshops which are of mutual interest.
3. The FRA will offer its fundamental rights expertise to Frontex in the development and upgrading of Common Curricula. Frontex will inform the FRA about activities in this regard. When feasible, the Parties will strive to evaluate the impact on fundamental rights of such curricula. Any evaluation of this kind will be designed and implemented in close cooperation between the Parties.
4. The Parties shall join forces in the development of learning activities, tools and methodologies relating to fundamental rights for national border guards, including the identification and dissemination of good practices.
5. Frontex will consult with FRA when designing induction training for Frontex Joint Support Teams and other host or guest officers participating in joint operations in order to ensure a strong fundamental rights component in such trainings.

Article 6 Research

1. The Parties will exchange information on upcoming research activities of mutual concern.
2. The Parties will invite each other to relevant expert meetings and, where appropriate, collaborate in research activities or forthcoming publications. They may organise peer reviews in this respect.
3. The Parties will exchange information on current migration issues and related policy developments.

Article 7 Return

1. The Parties will collaborate with a view to ensuring that forced removals are carried out in full respect of fundamental rights, as well as in a humane and dignified manner.
2. The FRA will offer its expertise in the development and upgrading of good practices, codes of conducts and other guidance tools on the different operational aspects of removal operations that have a bearing on fundamental rights, such as the acquisition of travel documents or the standards of treatment during the removal by air, land or sea.
3. The Parties will collaborate in the creation or the reinforcement of independent return monitoring mechanisms, as an effective preventive guarantee to reduce the risk of fundamental rights violations during forced removals.

Article 8 Training on fundamental rights for Frontex staff

1. The FRA shall assist Frontex in the assessment of training needs of Frontex staff in the area of fundamental rights and cooperate in the development of a specific fundamental rights training for Frontex staff. Such training shall take into account the different needs of Frontex operational units, with a mid-term view of establishing a sustainable mechanism for providing Frontex staff with the necessary fundamental rights knowledge required in their work.
2. The Parties will cooperate in the implementation of fundamental rights training for Frontex staff as well as in its evaluation.

Article 9
Work programmes and action plans

1. The Parties will consult on activities of common interest to be reflected in their annual work programmes.
2. This Cooperation Arrangement may be complemented by action plans which are subject to regular reviews listing the concrete activities as well as respective timeline for implementation, whenever this is deemed necessary.

Article 10
Mutual assistance

The Parties will assist each other, with a view to the implementation of their respective mandates and their annual work programmes, in establishing contacts and facilitate communication with the competent authorities of the Member States and other stakeholders, as appropriate.

Article 11
Contact Points

1. For the implementation of this Cooperation Arrangement, the Frontex contact is the Senior External Relations Officer responsible for EU bodies and International Organisations
2. For the implementation of this Cooperation Arrangement, the FRA contact is the Programme Manager.

Article 12
Evaluation of the cooperation

At least once a year, the Parties meet to evaluate the cooperation between them and propose ways for improvement.

Article 13 Expenses

The Parties bear their own expenses that arise in the course of the implementation of the present Cooperation Arrangement, unless otherwise agreed on a case-by-case basis.

Article 14 Confidentiality

1. Each Party undertakes to keep confidential any information, document or other material communicated to it as confidential by the other Party, not to disclose it to third parties without a prior written consent of the disclosing Party, and not to use any such information for any purpose other than the implementation of this Cooperation Arrangement.
2. For the purpose of this Arrangement, exchange of European Union (EU) classified information is limited up to the level RESTRICTED / RESTREINT UE. Each Party commits to respect all security measures related to the protection of EU classified information.
3. If, within the process of cooperation, the Parties agree that they need to exchange EU classified information above this level, a separate Memorandum of Understanding establishing detailed procedural rules has to be concluded.

Article 15 Settlement of disputes

All disputes which may emerge in connection with the interpretation or application of the present Cooperation Arrangement shall be settled by means of consultations and negotiations between representatives of the Parties.

Article 16 Amendments and supplements

1. This Cooperation Arrangement may be amended at any time by mutual consent between the Parties. All the amendments and supplements must be in writing.
2. The Parties enter into consultations with respect to the amendments of this Cooperation Arrangement at the request of either of them

**Article 17
Termination**

This Cooperation Arrangement may be terminated in writing by either of the Parties with a six-month notice.

**Article 18
Entry into force**

This Cooperation Arrangement enters into force on the day following its signature by both Parties.

FRA

Frontex

On the 26 May 2010

On the 26 May 2010



Morten KJAERUM

Director



Ilkka LAITINEN

Executive Director

Fundamental Rights Training for Frontex BRIDGING THEORY & PRACTICE



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Foreword

Dear colleagues,

The preamble of the Frontex Functional Strategy on Fundamental Rights proclaims that **“Frontex considers the respect and promotion of fundamental rights unconditional and integral components of effective integrated border management”**. This is also my personal conviction and one of the tangible outcomes of Frontex’s concerted efforts to streamline fundamental rights into all our activities is this Fundamental Rights training for its staff. At the same time, this Fundamental Rights Training is also a result of the excellent and close cooperation between the European Union Agency for Fundamental Rights Agency (FRA), UNHCR and Frontex.

It is in full compliance with Frontex’s aspiration and full commitment to developing and promoting a shared understanding of fundamental rights among the entire EU border guard community. We are starting this process right inside Frontex by training our staff from administrators to operational officers including all senior management colleagues. Tailor-made training sessions will be delivered to all staff members and newcomers according to their fields of work.

This training initiative will enable us to have the issue of fundamental rights present in our every day work. While every one of us is responsible for different tasks, delivers different products and implements different activities, fundamental rights concern us all. Whether it is a focus in risk analysis products, the way we implement Joint Operations or how we treat our colleagues, the issue should be of everyday concern.

I consider respect for fundamental rights an enabling factor for our work. To respect and to promote fundamental rights is a commitment to which, on behalf of Frontex, I fully subscribe.

Ilkka Laitinen
Executive Director, Frontex

BACKGROUND

POLICY CONTEXT – FUNDAMENTAL RIGHTS: AN INTEGRAL PART OF INTEGRATED BORDER MANAGEMENT

EU AND FUNDAMENTAL RIGHTS

The European Union (hereinafter EU) is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, (...) by creating an area of freedom, security and justice.¹

There is no doubt that fundamental rights are a key value of **European identity**. The Charter of Fundamental Rights in the EU is addressed to the institutions, bodies, offices and agencies of the Union and to the Member States, when implementing EU law. The Lisbon Treaty foresees the EU to become a formal party to the ECHR². The **Charter of Fundamental Rights** is taking this concept a step further: the Charter is giving the Member States and the institutions a **proactive role in the prevention of fundamental rights' violations** and further to form the EU with high protection standards.

Fundamental Rights demand a European perspective which has been declared in the Lisbon Treaty. In the supranational European Union the

responsibility for the protection of fundamental rights is a common responsibility of the Member States on the one hand and the EU with its institutions, bodies, offices and agencies on the other hand. Member States are obliged to interpret and implement existing EU law in line with fundamental rights. For EU institutions, bodies, offices and agencies, fundamental rights form the base and yardstick for their work. They form the base for legislation and all different kinds of activities like coordination, planning, analysis, training, operational duties and the cooperation with third countries.

BORDER MANAGEMENT AND FUNDAMENTAL RIGHTS

Member States have the responsibility to carry out control and surveillance of external borders in line with applicable international human rights law, international refugee law, EU law including Fundamental Rights and national legislation.

As a body created and governed by the *acquis communautaire*, Frontex has to carry out its activities consistently with Fundamental Rights that form part of the EU legal framework, including obligations on asylum deriving from the 1951 Geneva Convention relating to the

¹ Preamble (recital 2) of the Charter of Fundamental Rights of the European Union, (2000/C 364/01)

² Article 6 of the Treaty on European Union

Status of Refugees and its 1967 Protocol.

Any joint activities, coordinated, supported, prepared or planned by or with Frontex should not directly or indirectly hinder the enjoyment of Fundamental Rights. The human being is in the centre of all Frontex activities and therefore, respecting the Fundamental Rights of affected persons is paramount.

In recognition of the fact that respect for Fundamental Rights and international protection obligations are an essential component of effective border management, Frontex has developed a Fundamental Rights Strategy³ in order to streamline the respect and promotion of Fundamental Rights into all its activities. The given training concept is thus essential towards the implementation of this strategy.

By introducing the code of conduct⁴, Frontex promotes professional values based on the principles of the rule of law and the respect of fundamental rights. All participants in Frontex activities shall promote and respect human dignity and the Fundamental Rights of each individual, in compliance with international and European instruments regarding fundamental rights protection.

Procedural safeguards as well as the right to an effective legal remedy need to be guaranteed to each individual regardless of the question around the

lead on responsibility of Member States or Frontex in joint operations.

The management of the EU's external borders touches upon a series of fundamental rights, that are to be respected and protected i.e.: the dignity of migrants; the right to life and integrity of the person as well as the prohibition of torture and degrading treatment; the principle of *non-refoulement* and the right to asylum and receive international protection as core fundamental rights guiding the EU'S objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the EU.⁵

At sea borders the compliance with search and rescue obligations deriving from the international law of the sea is closely related to the protection of fundamental rights.

Border controls and interception and rescue at sea require sensitivity for the principle of non-discrimination and the fundamental right to the protection of personal data.⁶

Border surveillance activities might result in the deprivation of liberty of migrants. The right to liberty and security, to humane conditions of detention, to health care and to privacy and family life are only a few of the rights to be respected in this specific context.

Persons belonging to groups at risk, including but not limited to

³ Frontex Fundamental Rights Strategy: http://www.frontex.europa.eu/newsroom/news_releases/art105.html

⁴ Frontex Code of conduct for all participants in Frontex activities (ED Decision 2011/24 of 21 March 2011)

⁵ Council Regulation 343/2003 ("Dublin regulation"), Preamble (recital)

⁶ Article 8 of the Charter of Fundamental Rights in the European Union

unaccompanied or separated asylum seeking children and survivors of torture need special treatment and enjoy special rights under EU and international law.

Procedural and substantial safeguards need to be in place in order to guarantee the protection of these Fundamental Rights.

LEGAL and POLITICAL FRAMEWORK

The legal framework governing border management is also constituted by the applicable international law, including on human rights and refugee protection, EU law, comprising Fundamental Rights, and related *acquis*, and national legislation.

To bridge the gap between theory and practice, standards set by the European Court of Human Rights and the Court of Justice of the European Union as well as standards and guidelines established by international bodies⁷ serve as the principle guiding tools.

EU legislation including the Schengen and asylum *acquis*⁸ need to be translated into operational guidelines to facilitate its implementation in practice, calling upon border guards to fully respect human dignity, the principle of *non-refoulement* and the rights of persons seeking international protection. One such an example is the

⁷ European Committee for the prevention of torture (CPT), the UNHCR Executive Committee (ExCom), the Human Rights Committee (CCPR) or the Maritime Safety Committee (MSC)

⁸ The Schengen *acquis* includes the Schengen Agreement of 1985, the Schengen Convention of 1990 and other documents adopted in Schengen's implementation.

Council Decision⁹ concerning the surveillance of the sea external border, providing guidance on surveillance and search and rescue in the context of sea borders.

EU programmes and strategies such as the Stockholm Programme¹⁰ form the background on the political level. The Stockholm Programme recalls: "(...) obligation of the Union, including its institutions, to ensure that in all its areas of activity fundamental rights are actively promoted." It further states that the relevant policies must be implemented with a respect for Fundamental Rights.

SETTING FUNDAMENTAL RIGHTS STANDARDS

Within a European understanding of Fundamental Rights it is important to move towards setting common standards in the management of external borders. Fundamental Rights training must be an integral safeguard towards these standards. The implementation of these standards in all Frontex' actions at the external borders is key, in order to reflect that Fundamental Rights are a key value of the EU.

If the EU's external borders can be considered the showcase for the EU, it is exactly the most vital point of

⁹ Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 2010/252/EU <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=C ELEX:32010D0252:EN:NOT>

¹⁰ The Stockholm Programme – An open and secure Europe serving and protecting citizens, 2010/C 115/01

contact with the outer world **to display the commitment to Fundamental Rights** as part of European identity and self understanding.

Frontex's necessary proactive role in the protection of Fundamental Rights is growing with the move towards a more holistic view of the external borders context and an understanding of integrated border management, going far beyond mere technical border management.

The increasing role of Frontex in the EU's concept of integrated border management, the European security model and the enhanced role of border management in the external dimension of EU migration policy have broad Fundamental Rights implications. The European Commission's proposal¹¹ for the revision of the Frontex Regulation¹² foresees expanded tasks for Frontex e.g. concerning the planning and termination of operations, risk analysis, joint return operations, information systems or the cooperation with third countries – all these areas will further require to be translated into Fundamental Rights training content and standards need to be developed.

Having in mind the future legal basis of Frontex, which will give a prominent role to Fundamental Rights, a

¹¹ Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, COM (2010) 61 final, Brussels, 24 February 2010.

¹² Council Regulation of 26 October establishing a European Agency for the management of the operational cooperation at the external borders of the Member States of the European Union, (EC) No 2007/2004

Cooperation Arrangement between Frontex and the European Union Agency for Fundamental Rights (FRA) was set-up.¹³ This cooperation arrangement followed the already existing working collaboration between Frontex and UNHCR that was formally concluded in 2008 under Art. 13 of the Frontex Regulation.

The present Fundamental Rights training concept should be considered towards better compliance with the new Frontex Regulation. In this context a certain degree of change in processes and actions as a potential result of the training concept is justified.

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

The FRA is an advisory body of the European Union and provides evidence-based advice to EU institutions and Member States. Based on its data collection and analysis capacities, objective information on the status of fundamental rights in the EU is provided. Recommendations, advice and opinions are drawn from the key findings accompanied by examples of good practices in the protection of fundamental rights.

The relevant thematic areas of the FRA besides others are:

- Asylum and immigration
- Visa and border control
- Data protection and the right to privacy

Furthermore the FRA has a mandate to raise awareness and to inform people

¹³

http://fra.europa.eu/fraWebsite/attachments/Cooperation-Agreement-FRA-Frontex_en.pdf

about their Fundamental Rights, aiming at making Fundamental Rights a reality for everyone in the European Union. Cooperation with civil society organisations is anchored in the FRA's founding regulation¹⁴. To ensure engagement with civil society in a structured way, the FRA has established the Fundamental Rights Platform, which is a network of more than 300 civil society organisations, working in the field of Fundamental Rights across the EU.

The United Nations High Commissioner for Refugees (UNHCR)

The UNHCR is the UN Refugee Agency entrusted by the UN General Assembly with the mandate to provide international protection to refugees and, together with governments, to seek solutions to their problems. Its Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees, whereas the 1951 Refugee Convention and its 1967 Protocol oblige States Parties to cooperate with UNHCR in the exercise of its mandate. UNHCR's supervisory responsibility extends to each EU Member State, all of whom are States Parties to these instruments. UNHCR's supervisory responsibility is also reflected in EU Law.¹⁵

UNHCR's working arrangement with Frontex aims to contribute to the establishment of a protection-sensitive EU integrated border management system, one that incorporates safeguards to guarantee that persons seeking international protection are identified and given access to EU territory, as well as to fair and effective asylum procedures. It does so by providing for regular consultations, exchange of information, expertise and experience, and inputs into border officials' training, particularly on fundamental rights and refugee law.

¹⁴ Council Regulation of 15 February 2007 establishing the European Union Agency for Fundamental Rights (EC) No 168/2007 http://fra.europa.eu/fraWebsite/attachments/reg_168-2007_en.pdf

¹⁵ For instance pursuant to Article 78 (1) of the Treaty of the Functioning of the European Union, which stipulates that a common policy on asylum, subsidiary protection and temporary protection must be in accordance with the 1951 Refugee Convention

MISSION STATEMENT – OVERALL OBJECTIVES FOR FUNDAMENTAL RIGHTS TRAINING OF FRONTEX

FUNDAMENTAL RIGHTS TRAINING - BRIDGING THE GAP BETWEEN THEORY AND PRACTICE

The Fundamental Rights Training concept for Frontex is based on the principle understanding that contemporary border management and the respect of fundamental rights are not incompatible but, on the contrary, the respect for fundamental rights, including the right to seek asylum and receive protection, is an essential component of modern and high quality border management. Therefore an increased understanding and implementation of fundamental rights shall help Frontex staff members to enhance professionalism when carrying out their duties by focusing on the practical relevance of fundamental rights for their daily work. Participation in the basic training will be compulsory for all Frontex staff and will be included in each staff member's professional development plan.

Bridging the gap between theory and practice is the key objective of this fundamental rights training concept. The relationship between security and fundamental rights unfortunately remains largely framed in negative terms, understanding fundamental rights as an obstacle to effective performance. Acknowledging that at national and at EU level fundamental rights training is applied, likely varying in nature and extend, the core aim is to equip Frontex staff members with the relevant specific fundamental rights

knowledge and the skills to be able to deal with the daily challenges when carrying out various activities, where decisions often are taken within a few minutes.

Confronted with mixed migration flows, one of the biggest challenges is to ensure that border personnel actually have the means to identify and respond effectively to people in need of international protection. With the aim of enhancing the capacity of Frontex, UNHCR's engagement within the given training concept is part of its broader activities to assist Frontex and EU Member States establishing protection-sensitive entry systems, thus complementing its ongoing involvement in training of border officials at many levels, including at national level and regionally through Frontex' FJST and RABIT pools.

The starting base will be the existing practice. Based on the practice the delivered fundamental rights training modalities shall serve towards bridging the theory with the practice and aim at enhancing the performance of Frontex staff. The principal aim in this is to reflect how fundamental rights relate to the overall objectives of Frontex and also on how they relate to each individual staff within Frontex, highlighting that a Fundamental Rights based approach is serving the overall objectives of Frontex.

Acknowledging that the respect for fundamental rights is an important component of the management of external borders, it is now our task to look at ways to translate international human rights standards into practice in this specific context. Building up on a series of basic fundamental rights normative training modules, far more attention and time should be allocated to the requirements linked to the operations. Roles and responsibilities of Frontex staff will be reviewed closely, a series of exchange sessions with the different units are taking place and will need further attention after the final adoption of revised Frontex Regulation, as new or different duties will likely be the consequence.

In order to allow this process to ensure a change, a gradual implementation in four phases is proposed. This will enable the integration of fundamental rights provisions into processes and actions, without running the risk that fundamental rights training is understood as an external project with a beginning and an end. The training

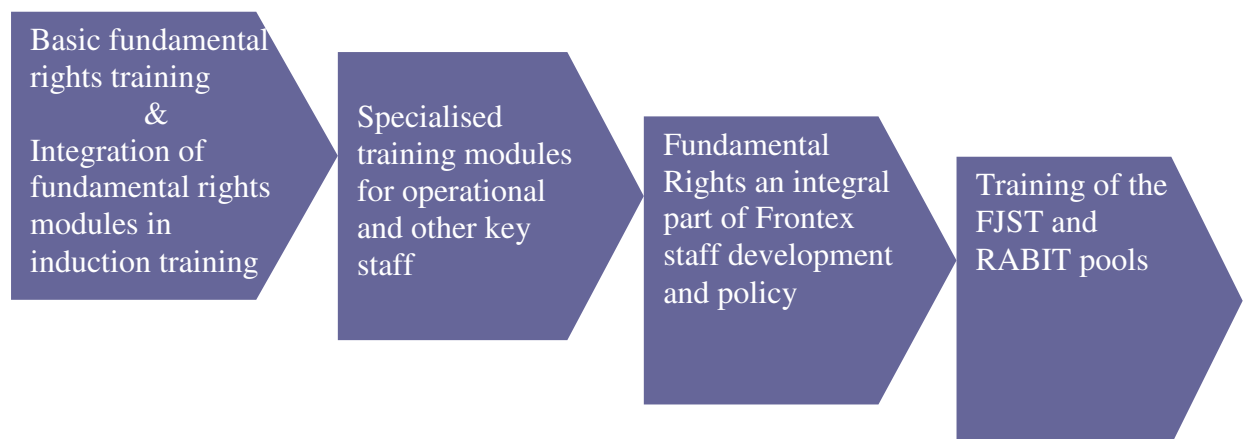
aims to provide a practical approach regarding the respect for Fundamental Rights within the border management process.

COOPERATION WITH CIVIL SOCIETY

Civil society organisations across the EU at local, national and international level have accumulated considerable expertise in specific areas of Fundamental Rights. Cooperation of civil society organisations with governmental authorities at national/local level takes place occasionally. In this sense, Frontex has shown openness to dialog with civil society and the academia when participating in conferences, seminars and other events. Moreover, Frontex regularly reports to the European Parliament, in particular the Committee on Civil Liberties, Justice and Home Affairs (LIBE) and is attentive to the MEPs remarks.

An integrated and inter-disciplinary approach of the thematic environment should fully be reflected in the training implementation.

Four phases of implementation:



BASIC FUNDAMENTAL RIGHTS TRAINING & INTEGRATION OF FUNDAMENTAL RIGHTS MODULES IN INDUCTION TRAINING

Based on Frontex staff's functions fundamental rights training modules will be developed. These basic fundamental rights training modules will be applied organisation-wide, the target groups can be clustered based on functions, an interdepartmental mix will be valuable.

A separate module for senior management will focus on awareness raising and on Fundamental Rights management. The results of this training should subsequently be reported to Frontex management board in order to streamline future training activities, based on the results.

Key objectives:

- ✓ Provision of knowledge on the normative framework of fundamental rights;
- ✓ Minimum level of knowledge of the staff on fundamental rights is achieved;
- ✓ Newly arrived staff receive a first overview of the fundamental rights context of the Agency and its environment;
- ✓ Support of senior management – leading by example is the guiding principle here – is ensured. Senior management's commitment to this process will foster staff's commitment as well;
- ✓ Triggering reflections amongst staff beyond the training.

SPECIALISED TRAINING MODULES FOR OPERATIONAL AND OTHER KEY STAFF

These modules will highlight the specific fundamental rights issues relating to specific groups or themes such as unaccompanied or separated asylum seeking children, victims of trafficking, international protection standards, data protection etc - see *training components*. The specific functions/ tasks of Frontex units will be addressed in relation to this (e.g. the Risk Analysis Unit has a mandate in the evaluation of joint operations – it will be closely looked at how this duty can be conducted with a fundamental rights based approach).

The Operational and Legal units will be the core target group of the specialised training modules. Part of these training modules should likely be conducted after the final adoption of the new Frontex Regulation and the change in responsibilities is clear.

The dilemma of upholding Fundamental Rights as being contrary to efficient and effective border control needs to be overcome in the attitudes and the overall organisational culture.

Key objectives:

- ✓ The quality of performance of concerned Frontex staff is increased through acquired knowledge and enhanced skills;

FUNDAMENTAL RIGHTS: AN INTEGRAL PART OF FRONTEX STRATEGIES, POLICIES, PROGRAMMING AND STAFF DEVELOPMENT

The mid-term objective of this concept is that Frontex internalises the initiated process and builds in-house expertise. Fundamental rights capacities cannot be achieved without integrating Fundamental Rights provisions in staff development and recruitment policies.

Key objectives:

- ✓ Fundamental rights training as part of staff development and continuous efforts to keep up the level of commitment and to respond to staff fluctuation;
- ✓ Mainstreaming of fundamental rights provisions to be reflected in strategy papers, vacancy notices, reporting procedures etc.;
- ✓ Training Unit to mainstream fundamental rights in all applied training activities rather than having separate fundamental rights training modules;
- ✓ The fluctuation of staff has two dimensions: i) potential that the gained Fundamental Rights knowledge within Frontex are fed back to the national level after return ii) an ongoing need for Frontex to deal with the matter of fundamental rights training in a programmatic manner in order to guarantee the same level of knowledge of old and new staff;
- ✓ Building up internal capacity to meet fundamental rights challenges and needs;
- ✓ Visible changes of attitudes and culture: e.g. gender mainstreaming in the recruitment processes.

ORGANSIATION & STAFF

Training on fundamental rights has two specific aims in an organisation. One aim is linked to the knowledge, skills and attitudes of staff. Respecting, protecting and promoting the fundamental rights of all human beings should be a consequence stemming from the achieved knowledge and reflected in the attitudes and actions. The second aim is linked to the organisation and the organisational culture. A certain degree of change in actions, processes, decisions, reporting etc. should be a consequence reflected in the culture of the organisation. These two streams are complementing each other and cannot be successful when singled out.

CHANGE INDICATORS

As the overall aim is to achieve change in knowledge, attitudes, actions and processes, the concept of change indicators should be introduced. The simple question of 'why Frontex has decided to conduct training on fundamental rights' can serve to help defining these indicators. Frontex needs to take the lead in defining these change indicators in the preparatory phase. They shall serve to measure the achieved changes and the impact at a later stage. A shared level of knowledge on the normative framework and the development of linked competences and skills to integrate this achieved knowledge into the standard working processes of Frontex is the ultimate aim, which will be laid down in the change indicators.

TRAINING MODULES

Module 1: Preparation phase

Description:

Prior to the actual implementation of the training a set of preparatory measures are foreseen. Both the trainers and target audience need to be prepared and have sufficient possibility for reflections, questions and likewise. The preparatory workshop for the pool of trainers needs to focus on Frontex and border specific information. The training material to be used should be defined cordially. An information session for Frontex staff might be helpful to integrate staff at an early stage into the process. On this occasion the mutual benefits of the training for the organisation needs to be emphasized by the management, in order to guarantee a high level of acceptance.

A separate session should be dedicated to the definition of the change indicators, which need to be set-up prior to the implementing of the sessions. These indicators shall serve as a measurement tool throughout the process and have a specific focus in the evaluations and the impact assessment.

A dedicated session with the senior management is essential to convey the message on commitment at this level.

Audience:	all Frontex staff
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Activity 1.1	Preparatory workshop for the pool of trainers
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Activity 1.2	Awareness raising & Fundamental Rights management session to senior management
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Activity 1.3	Defining change indicators
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Activity 1.4	Info session to Frontex staff, training concept to be introduced to staff
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Activity 1.5	Final revision of the training concept based on the feedback received
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Activity 1.6	Training material, videos and docs to be compiled
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Activity 1.7	set-up of time-tables for i) basic training ii) induction
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Module 2: Basic training

Description:	<p>The basic training component aims at providing the overall normative legal background and the political environment knowledge within which Frontex is acting. The identification of challenges and revision of actions and operations shall facilitate the practice orientation. A general understanding of fundamental rights as a horizontal cross-cutting issue and the need for a specific fundamental rights approach in the different activities of Frontex shall be transported. EU and MS protection and monitoring mechanisms will be highlighted. An introduction to the landscape of IGOs (international monitoring and protection mechanisms) and NGOs, which are active in this field, should serve to complete the overall picture of actors.</p> <p>The feedback of the basic training component will help to further determine the requirements of the specialised modules.</p>
Audience:	all Frontex staff
Activity 2.1:	<ul style="list-style-type: none"> • Determination of inter-departmental staff clusters • set-up of timelines for ~ 15 training sessions • determination of trainers and co-trainers • Fine-tuning of content and format.
Activity 2.2	<ul style="list-style-type: none"> • Mid-term evaluation by the steering group (after 2-3 sessions) • Evaluation report will inform the formulation of recommendations for revisions, based on the analysis and delivery of the upcoming basic training sessions and the existing induction module
Activity 2.3	Current induction training to be revised and supplemented with a fundamental rights training module.
Activity 2.4	Set-up of time-table for the specialised modules
Learning objectives	<ol style="list-style-type: none"> 1. Integrated border management strategy and the European security model: The role of Frontex 2. Migration, free movement and fundamental rights: rights of the individuals concerned: <ul style="list-style-type: none"> • The right to leave a country • The right to seek asylum and receive protection

	<ul style="list-style-type: none"> • The principle of <i>non-refoulement</i> • Right to good administration • Right to effective legal remedies and procedural safeguards • Respect and protection of human dignity • Humane detention conditions • Prohibition of torture and inhuman and degrading treatment and punishment • The principle of non-discrimination • Social rights: Access to health care, food, housing • Right to the protection of personal data • The respect for private and family life • Specific needs of groups at risk <p>3. Common external borders and a common responsibility for the protection of fundamental rights: The EU, MS and Frontex</p> <ul style="list-style-type: none"> • Legal obligations and applicability of Fundamental Rights at borders • Overview of legal instruments and procedures • Fundamental rights in the external dimension of border management <p>The roles of IGOs and NGOs vis-à-vis fundamental rights in border management contexts</p>
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Module 3: Specialised training on specific fundamental rights subjects or for specific target groups

Description:

This module will provide knowledge about specific fundamental rights questions, the treatment of groups at risk (such as victims of trafficking, unaccompanied asylum seeking children, gender etc.). Selected Fundamental Rights will be highlighted by equally focusing on the core functions of Frontex staff. In-depth information will be supplemented by practice oriented guidance and discussion with focus on operations and frontline officers.

This module aims at identifying challenges and areas for improvement with respect to the implementation and observance of fundamental rights.

Border guards are confronted with mixed migration flows. Sovereign States have the right to control access to territory. This right is limited by the *non-refoulement*-principle, valid at the border and for any person regardless of status or security considerations.

Basic preconditions for a fair procedure including provision of interpretation, adequate interviewing techniques, social and medical assistance, the coordination and cooperation with relevant governmental and non-governmental actors to adequately identify those with specific needs and/or in need of international protection or identify the relevant applicable procedures form the base for Module 3.

Frontex does have a central role not only with regard to the fight against illegal migration but also with regard to the fight against organised crime and terrorism in the EU's security model. Data collection, analysis and dissemination is part of the present mandate and has potential to be broadened, therefore the areas of protection and unauthorised processing of personal data will be addressed.

Audience:	<ul style="list-style-type: none"> • Operations Division (Risk Analysis Unit, Joint Operations Unit, Operational Sectors, Frontex Situation Centre) • Legal Affairs Unit • Pooled resources (in the fourth phase)
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Activity 3.1	Preparatory workshop for the pool of trainers
Activity 3.2	Training material, videos and docs to be compiled
Activity 3.3	The principle of <i>non-refoulement</i> and access to asylum procedures, the right to good administration and effective legal remedies
Activity 3.4	The principle of profiling and non-discrimination in border management (land, air and sea)
Activity 3.5	Specific needs of groups at risk

Activity 3.6	Deprivation of liberty and fundamental rights
Activity 3.7	The right to protection of personal data in the border management context
Activity 3.8	Fundamental Rights at interception/ rescue at sea
Activity 3.9	Interviewing techniques, procedures and safeguards
Activity 3.10	Fundamental Rights situation in third countries
Activity 3.11	Removal of third country nationals found not to be in need of international protection, including forced removal
Activity 3.12	Evaluation by the steering group
Activity 3.13	Briefing to senior management on process and developments
Learning objectives	<ul style="list-style-type: none"> • Absolute nature and content of the principle of <i>non-refoulement</i> • Identification of persons in need of protection and those facing serious harm if returned • Right to access to territory and to fair and effective asylum procedures, and to remain in the country pending the administrative procedure • Adequate interviewing techniques, provision of information (via translation) • Channelling towards the relevant national procedures • Identification of persons with specific needs (children, survivors of torture, victims of trafficking, elderly, persons with disabilities) • Social rights: Access to health care, food, housing • Right to effective legal remedies • Status of human rights in non EU countries • Skills in intercultural communication • Principle of non-discrimination • Data protection as a fundamental right and safeguards to processing data • Risks for asylum seekers and victims of trafficking following non-confidential treatment of their personal data • Search and rescue obligations under the international law of the sea, rescue as a pre-condition for fundamental rights protection; "safe place" for disembarkation and the meaning of the terminus in the law of the sea • Fundamental rights/ human rights liability in cooperation with 3rd countries

TRAINING METHODOLOGY & TARGET GROUP

Methodology

The success of training in terms of how much awareness, knowledge and behavioural change will be achieved very much depends on the training methodologies. Experiential learning, based on action, interaction and continuous reflection has a greater potential to be absorbed.

The standard narrative of human rights training in particular in the context of Justice and Freedoms with professions such as police and/or border guards is framed in a negative way. This means that such a human rights training methodology would usually only focus on the human rights violation potential of police and/or border guards when performing their duties. Human rights training experience with these target groups has shown that this causes a defensive mode with target group. Therefore this training concept is focusing on fundamental rights as an empowering element in the fulfilment of Frontex staff's duties. This training concept is further focusing on contextualising fundamental rights within the specific sphere of Frontex.

This should also be done by considering staff not only as duty bearers but also as holders of rights. The aim is to convey the message of **effective border management based on fundamental rights**, shifting away from the 'protection versus fundamental rights' or 'security versus fundamental rights thinking.

A blended methodology with a tailored package of normative legal background information together with experiential learning based on case studies, scenarios, seeking to model the real working environment of the staff will be applied.

Furthermore sessions based on interaction with different relevant audiences (such as monitoring and/ or protection NGOs, health care workers) will allow to reflect on other actors' work in the same domain. This methodology of interaction is highly suitable to broaden the scope and to see the bigger picture, by focusing on the human dimension. As all professionals tend to be highly specialised experts in their respective micro area, contact and exchange outside the organisation is vital for a proper reality check.

The overall aim is to provide knowledge on the legal structure (theory), equip sufficiently with skills to achieve behavioural change and to come to a common understanding on fundamental rights.

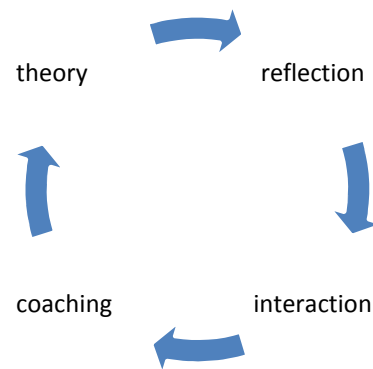
Mixed methodology and blended, action oriented training based on:

- ✓ Case studies of the working environment;
- ✓ Interactive role plays, scenarios with simulations and role plays;
- ✓ Blended groups of professionals that need to cooperate in 'real life'

(e.g. health care or social workers or other groups of interaction at joint operations) to strengthen inter-agency cooperation and to fully reflect the requirements of interaction in the training environment;

- ✓ Interactive monitoring exercises: joining a monitoring and protection NGO in their daily activities and conducting study visits.
- ✓ Application of practical methods in delivering the training, in particular through the use of situational judgement exercises.
- ✓ Provision of facilitated distance learning models and an e-learning platform allowing newcomers and existing Frontex staff to access training material on-line and to have interaction on fundamental rights with peers. This will be an additional skills' development model complementing physical training.

After the phases of the basic and specialised training components a series of on-the-spot coaching sessions will be offered, when required and specifically requested for. Recent experiences clearly show the value and the direct benefits of this highly individualised training option. On-the-spot coaching sessions for operational staff will serve to review and optimise - as relevant - processes, decisions, actions and reporting. These sessions are suitable to build in-house expertise (peer to peer) in the long term so that the latter can be recurred to when providing training to incoming staff.



TRAINERS

A co-training model, also known as 'tandem model' seems to be the most suitable format in the given institutional context. A trainer, belonging to the organisation will perform as a co-trainer together with an external trainer throughout the phases of implementation. The pool of trainers consists of experienced trainers in the field of law enforcement and fundamental rights with relevant pedagogical skills and the knowledge of the subjects.

This model has several advantages:

- ✓ Showing strong ownership by the organisation;
- ✓ Trained staff establishes a closer relationship and has a greater acceptance as the training is not conducted by an external trainer;
- ✓ Staff has the possibility to address a person in-house beyond the training event.

Maximum use of visual material, documentaries and movies is envisaged and shall be selected at the trainers' workshop. Controversial material and reporting and reflection of Frontex

activities could help to understand the external view onto the organisation's activities. This will further enable to see the individual stories, which is a significant step of rethinking in the context of attributing some assumptions to certain groups. The individualizing will i) enable for empathy ii) will better reflect that each decision needs to be taken, based on the individuals specific circumstances.

Possible activities:

- ✓ screening of a movie or documentary with an interview session with the actors afterwards
- ✓ inviting an author to present a book in the related area

TARGET GROUP:

The basic training components shall address all Frontex staff. The fundamental rights module within the induction training will address new incoming staff. Specialised training modules will be unit- and operation specific. Due to the fact that a certain degree of staff fluctuation is given, a fundamental rights training approach should be integrated into the staff development plan and should be an integral part of all future training.

ASSESSMENT, EVALUATION & IMPACT ASSESSMENT

ASSESSMENT

After the clusters of groups for the first phase of the basic training modules have been identified, an assessment prior to the training sessions will allow aligning the content with the expectations of the participants. It is highly beneficial to engage with the participants in this way prior to the training to increase the quality of the content and to increase the level of acceptance. An online questionnaire with a set of questions would serve this purpose.

EVALUATION

A mid-term review (after the first sessions of the basic training modules) will allow carrying out

revisions to the content, based on the feedback of the participants. To continuously guarantee the quality of the training it is of utmost importance to conduct evaluations of the training sessions and further to conduct an evaluation of the whole concept and training programme at an advanced stage. For objectivity purposes an external evaluation is advisable.

IMPACT ASSESSMENT

As the core motivation of this broad training concept is to achieve a certain degree of change in the processes, an impact assessment should be envisaged. A set of change indicators for the departments should be identified prior to the training and the impact assessment can be carried out

against the achievement of these indicators.

TREATMENT OF THIRD-COUNTRY NATIONALS AT THE EXTERNAL BORDERS OF THE EUROPEAN UNION

BACKGROUND

The 2010-2012 Work Programmes of the FRA envisage a project on the fundamental rights situation of third country nationals at external EU borders. Given the vast area that such a project could potentially cover, following consultations with stakeholders, the FRA concluded that the project should focus on two issues: (i) interception and rescue at sea and (ii) quality of border checks at large border crossing points.

COMPONENT ON MARITIME BORDERS

The first component of the project focuses on the Southern maritime borders of the European Union. More specifically, it examines the fundamental rights challenges faced by authorities in charge of border surveillance in Cyprus, Greece, Italy, Malta, and Spain.

The project analyses the treatment of migrants at sea and immediately after their arrival in the EU. It covers a wide range of rights, both civil (e.g. right to life, principle of non-refoulement, access to justice) and social, such as access to food, water or emergency health care.

The overall objective of this component is to contribute to enhancing the protection of fundamental rights during interception or rescue at sea operations and immediately following their disembarkation. It is envisaged to do this by providing policy makers as well as practitioners in charge of border management with opinions and promising practices based on data and information collected by the Agency.

Research activities

The primary data collection consisted of 280 in depth interviews with migrants, national authorities, fisherman, shipmasters as well as civil society organisations dealing with arrivals by sea. In addition, the FRA carried out non-participant observations in two selected Frontex co-ordinated sea operations. Preliminary results of the research were presented to national authorities and other stakeholders during four meetings organised in Athens, Malta, Madrid and Rome in November and December 2011.

Review of national training on fundamental rights

The project also focused on whether the existing training curricula of national border academies adequately prepare border guards for the fundamental rights challenges they are likely to encounter when controlling maritime borders. Finding of the review will also serve to inform the development of common curricula under the auspices of Frontex.

COMPONENT ON LARGE BORDER CROSSING POINT

The Schengen Borders Code emphasises that border checks should be carried out in full respect of human dignity and in line with the Charter of Fundamental Rights, and the principle of non-refoulement. The second component of the project aims at reviewing whether these commitments are respected during the first and second line checks as well as in facilities used for persons who were refused admission. It covers eleven large border crossing points, six land crossing points (respectively at the external borders of Bulgaria, Greece, Hungary, Poland, Slovakia and Spain) and five airports (Paris, Frankfurt, Rome, Amsterdam and one airport in the UK).

Existing procedures and practices are being reviewed in order to identify whether third-country nationals are treated in accordance with applicable fundamental rights standards. With this project, the FRA intends to complement the Schengen evaluation system, which is confidential in nature and does not have a fundamental rights focus.

Research activities

Primary data is being collected through on-site observations at border crossing points as well as interviews with third-country nationals, responsible authorities and other informed persons. In addition, the FRA has administered a questionnaire for first and second line border guards working in the border crossing points covered by the research.

Planned project outcomes (to be released in 2013)

- comparative report on the treatment of third country nationals at the EU Southern sea borders, including promising practices to promote respect for fundamental rights;
- comparative report on the treatment of third country nationals during border checks at large border crossing points, including documented promising practices.

FRA
August 2012