



**SECOND ANNUAL REPORT**  
**Frontex Consultative Forum**  
**on Fundamental Rights**

**2014**



# SECOND ANNUAL REPORT

## Frontex Consultative Forum on Fundamental Rights

### **Consultative Forum Members:**

- **Amnesty International European Institutions Office (AI EIO)**
- **Caritas Europa (CE)**
- **Churches' Commission for Migrants in Europe (CCME)**
- **Council of Europe (CoE)**
- **European Asylum Support Office (EASO)**
- **European Council on Refugees and Exiles (ECRE)**
- **European Union Agency for Fundamental Rights (FRA)**
- **International Catholic Migration Commission (ICMC)**
- **International Commission of Jurists (ICJ)**
- **International Organization for Migration (IOM)**
- **Jesuit Refugee Service Europe (JRS)**
- **Organisation for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR)**
- **Platform for International Cooperation on Undocumented Migrants (PICUM)**
- **Red Cross EU Office**
- **United Nations High Commissioner for Refugees (UNHCR)**

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Warsaw, 7 July 2015

### **Statement of the Management Board and Executive Director of Frontex on the Annual Report 2014 of the Consultative Forum**

The annual report 2014 of the Consultative Forum was presented to the Management Board of Frontex during its 53rd meeting on 25-26 March 2015. Following the discussion on the annual report, the Management Board requested the Consultative Forum, to re-draft and clarify certain misunderstandings contained in the report.

As the annual report was not subject to amendments, the Management Board and Executive Director of Frontex deem it necessary to make the following written statement and express diverging opinions concerning certain contents of the report:

- ***Content exceeding the mandate of Frontex:***

The Consultative Forum is a body of Frontex and subject to the provisions of the Frontex Regulation. This implies that the mandate of the Consultative Forum corresponds to the mandate and activities of Frontex. Accordingly the content of the report should reflect the activities of Frontex within its mandate.

However, under point 3.4.4 of the report, the Consultative Forum reports on the so-called **Farmakonisi incident**. This incident, whose tragic nature no one wishes to deny, did not occur within the framework of an operation coordinated by Frontex nor were Frontex coordinated assets involved. Therefore, it cannot be included in the report on the activities of the Consultative Forum.

In addition, under point 3.5 of the report the Consultative Forum calls for setting up an **individual complaint mechanism** (as recommended by the European Ombudsman) which is not possible according to the existing Frontex Regulation. Under its current mandate, Frontex does not have executive powers to investigate incidents involving allegations of violations of human rights. As part of its incident reporting system, Frontex informs the host Member State of any such allegations and it is the responsibility of the competent authorities of the Member States to investigate any such allegations. At the 53rd meeting of the Management Board, the Members of the Management Board representing the European Commission expressed their support for the view of the Management Board that this point should not be part of the annual report. The Management Board considers the call for setting up an individual complaint mechanism as a political demand that extends far beyond the mandate of the Consultative Forum given in Article 26a of the Frontex Regulation.

• *Content confusing the nature of the Agency's work:*

The Management Board regrets that, under point 3.4.5 of the report, the Consultative Forum confuses the **different natures of the national operation ("Mare Nostrum") and Frontex coordinated operation ("Triton")**. The Management Board regrets that a well-informed body such as the Consultative Forum could not contribute to a broader understanding of Frontex coordinated operations to the general public.

The Management Board and Executive Director of Frontex welcome any critical views on the activities performed by the Agency and are ready to constructively discuss such views with the Consultative Forum. However, such views should not be communicated within an official report, possibly leading to confusion for the general public about Frontex responsibilities.

# 1 INTRODUCTION





Pursuant to the Frontex regulation<sup>1</sup>, the Consultative Forum on Fundamental Rights (hereafter referred to as 'Consultative Forum' or 'CF') has to submit a publicly available annual report. The first such report was published in 2014 and covered the activities in 2013. It also explained at length the role and composition of the Consultative Forum and the norms governing its mandate and activities. In order to avoid unnecessary repetition, this report will only deal with these issues briefly.

The second annual report describes the activities of the Consultative Forum in 2014 and gives a short outlook for 2015. The report depicts the main activities of the Consultative Forum and the recommendations made to Frontex and its Management Board in 2014, as well as the impact of those on the work of the Agency.

The first annual report of the Consultative Forum was received positively by policy-makers and practitioners concerned with border management and human rights of migrants. The Consultative Forum hopes its second annual report will contribute to a useful discussion on how to ensure effective respect for fundamental rights in the context of border controls.

1 Article 26a(2), third subparagraph of Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex regulation) (OJ L 349, 25.11.2004, p. 1), as last amended. According to the working methods (Title I, Article 3.6) the annual report has to be presented to the Management Board before it is 'made publicly available'. This report was presented to the Management Board at its 53rd meeting on 25 and 26 March 2015.

# 2 COMPOSITION AND ROLE OF THE CONSULTATIVE FORUM



Provisions on the Consultative Forum were introduced in a revision of the Frontex regulation in October 2011, under the heading 'Fundamental rights strategy'.<sup>2</sup> The Consultative Forum was officially established in October 2012 and started its activities in January 2013. Its composition is partly prescribed by the Frontex regulation and partly decided by the Management Board of Frontex. EASO, FRA and UNHCR are mandatory members. 'Other relevant organisations' are invited by the Agency by decision of the Frontex Management Board, following a proposal by the Executive Director.<sup>3</sup>

Consequently, since 2012 the Consultative Forum has been composed of the following.

**(i) Two European Union agencies:**

- ♦ the European Union Agency for Fundamental Rights (**FRA**),
- ♦ the European Asylum Support Office (**EASO**).

**(ii) Four UN agencies and intergovernmental organisations:**

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

**(iii) Nine civil society organisations:**

- ♦ Amnesty International European Institutions Office (**AI EIO**),
- ♦ Caritas Europa (**CE**),
- ♦ Churches' Commission for Migrants in Europe (**CCME**),
- ♦ European Council on Refugees and Exiles (**ECRE**),
- ♦ International Commission of Jurists (**ICJ**),
- ♦ International Catholic Migration Commission (**ICMC**),

<sup>2</sup> Frontex regulation, Article 26a.

<sup>3</sup> Frontex regulation, Article 26a(2), first subparagraph.

- ♦ Jesuit Refugee Service Europe (**JRS**),
- ♦ Platform for International Cooperation on Undocumented Migrants (**PICUM**),
- ♦ Red Cross EU Office.

According to the Frontex regulation the key role of the Consultative Forum is ‘... to assist the Executive Director and the Management Board in fundamental rights matters’.<sup>4</sup> The core areas on which the Consultative Forum has to be consulted are ‘the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula’.<sup>5</sup> The working methods of the Consultative Forum<sup>6</sup> specify that the Consultative Forum ‘is a knowledge and expertise resource to enable Frontex and its Management Board to gain information and advice relevant to the aim of developing and promoting the respect of fundamental rights in all Frontex activities’. The Consultative Forum ‘offers strategic opinions, recommendations and a pool of information on how Frontex can structurally improve the respect and promotion of fundamental rights in its various activities’.<sup>7</sup>

Consequently, the Consultative Forum can neither handle individual complaints, because this is outside its mandate, nor systematically assess fundamental rights compliance in all Frontex activities, because it does not have the resources to systematically screen all Frontex activities and documents for fundamental rights issues and, even less, compliance. The oversight by the European Par-

4 Frontex regulation, Article 26a(2), first subparagraph.

5 Frontex regulation, Article 26a(2), second subparagraph.

6 Management Board Decision No 18/2012 of 26 September 2012, as revised by Management Board Decision No 19/2014 of 24 September 2014 on the working methods of the Frontex Consultative Forum and modalities of the transmission of information to the Frontex Consultative Forum (hereafter ‘the working methods’). Available at: [http://frontex.europa.eu/assets/Partners/Consultative\\_Forum\\_files/Revised\\_Working\\_Methods\\_and\\_Modalities\\_for\\_the\\_Transmission\\_of\\_Information.pdf](http://frontex.europa.eu/assets/Partners/Consultative_Forum_files/Revised_Working_Methods_and_Modalities_for_the_Transmission_of_Information.pdf)

7 Working methods, Introduction.

liament, national parliaments, civil society and, where necessary, the judiciary, thus remains important.

The Consultative Forum holds formal and informal meetings at the Frontex Headquarters in Warsaw.<sup>8</sup> In 2014 three meetings took place, in February, May and October. Formal meetings are attended by the Management Board Chair or the Deputy Chair, the Executive Director or the Deputy Executive Director and the Fundamental Rights Officer, as well as senior Frontex staff.<sup>9</sup>

The Consultative Forum plans its work to the greatest extent possible, by way of an annual work programme adopted at the beginning of each year. But it remains flexible so as to react to issues and requests that may come up during the year.

In order to be able to cover more ground, the Consultative Forum has decided to work not only in plenary but also in thematic working groups. Four working groups were set up in 2013 and were confirmed in 2014:

- ♦ Working Group on Frontex Joint Operations (chaired by UNHCR),
- ♦ Working Group on Return Operations (chaired by CCME),
- ♦ Working Group on Risk Analysis (chaired by AI EIO),
- ♦ Working Group on Training (chaired by Caritas-Europa and EASO).

On average, each member of the Consultative Forum takes part in two working groups.

The Consultative Forum acts either in the form of an opinion at the initiative of the Management Board or the Executive Director or in the form of a recommendation at the initiative of the Consultative

<sup>8</sup> In future, these meetings may also be held in Brussels.

<sup>9</sup> Working methods, Title I, Article 2.3.

Forum members.<sup>10</sup> However, in 2014 all formal Forum acts were taken in form of recommendations. These recommendations were addressed to the Frontex Management Board and/or the Executive Director. The working methods bar the Consultative Forum from addressing opinions and recommendations to Member States or EU bodies and rule out direct transmission of its opinions and recommendations to the media. However, access to Consultative Forum documents has to be granted by Frontex, as by other EU agencies.<sup>11</sup>

Between its meetings the Consultative Forum interacts on a regular basis with the abovementioned interlocutors, as well as with stakeholders such as the European Commission, the European Parliament and others. There also is, of course, ongoing interaction between the members of the Consultative Forum.

The Agency may invite members of the Consultative Forum to visit a Frontex-coordinated joint operation as observers. The approval of the Member States concerned with that activity is required, as well as the agreement of the Member State that hosts the operation.<sup>12</sup> This means that Consultative Forum members can visit Frontex-coordinated joint operations, but not by unilateral decision, randomly or at short notice, nor is there a right to such visits.

Referring to the provision that it ‘shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency’,<sup>13</sup> the Consultative Forum has asked to be invited to send members on occasional visits to Frontex-coordinated

10 Working methods, Title I, Article 3.5, first paragraph (emphasis added).

11 Working methods, Title I, Article 3.6: ‘Public access to the opinions and recommendations of the Consultative Forum is to be provided in accordance with the Regulation (EC) No 1049/2001 and Title II of [the working methods]’.

12 Frontex regulation, Article 13.

13 Frontex regulation, Article 26a, paragraph 4.

joint operations. In line with the mandate of the Consultative Forum, the aim of such visits is not to monitor, but to learn and to be in a position to issue recommendations on joint land or sea border operations that are based on observations of how things work in practice instead of only on the examination of rules, instructions and reports.



# 3 WORK DONE IN 2014





The Consultative Forum's work programme for 2014 was adopted by written procedure at the beginning of 2014.<sup>14</sup>

#### **Main elements of the Consultative Forum's work in 2014**

- ♦ Cooperation with and support of the Frontex Fundamental Rights Officer.
- ♦ Discussions with Management Board and Frontex staff in 'Focus Group' meetings.
- ♦ A follow-up to a Consultative Forum visit conducted in 2013 to the 'Poseidon (Land)' and 'Poseidon (Sea)' joint operations.
- ♦ A new Consultative Forum visit in 2014 to joint operations 'Poseidon' and 'Attica'.
- ♦ Reaction to the tragedy off Farmakonisi (Greece) in January 2014.
- ♦ Contributions to the initiative 'VEGA Children'.
- ♦ Analysis of screening and debriefing activities at the borders.
- ♦ Discussion on the European Ombudsman's recommendation to set up a mechanism for dealing properly with complaints brought forward by individual persons.
- ♦ Contribution to Frontex's key training activities.

### **3.1. Cooperation with the Fundamental Rights Officer**

Cooperation with the Fundamental Rights Officer is crucial for the effectiveness and success of the work of the Consultative Forum because their respective roles are understood as complementary.

Unlike the Consultative Forum, the Fundamental Rights Officer has a clear monitoring role that covers all Frontex-coordinated joint operations and activities. She receives all incident reports and has un-

<sup>14</sup> The Consultative Forum's work programme 2014 is available at: [http://frontex.europa.eu/assets/Partners/Consultative\\_Forum\\_files/CF\\_work\\_programme\\_2014.pdf](http://frontex.europa.eu/assets/Partners/Consultative_Forum_files/CF_work_programme_2014.pdf)

fettered access to documents and officials. She can also observe Frontex-coordinated joint operations *in situ* and participate in internal Frontex briefings, debriefings and discussions.

The Consultative Forum is glad to underline that the close and trusting cooperation that had been established in 2013 with the Fundamental Rights Officer continued in the course of 2014.

This cooperation mainly takes place in the following three forms.

- According to the Frontex regulation, the Fundamental Rights Officer ‘report[s] directly’ to the Consultative Forum.<sup>15</sup> Actually, the Fundamental Rights Officer does not only participate regularly in the meetings of the Consultative Forum but is in regular contact with its Chair, Co-Chair and members, namely to exchange information and discuss issues unofficially as they arrive.
- Also, the field visits of members of the Consultative Forum to Frontex-coordinated joint operations are organised and carried out together with the Fundamental Rights Officer.
- The assistant to the Fundamental Rights Officer also serves as the Secretary for the Consultative Forum. The Consultative Forum wishes to thank her for her administrative support.

On the other hand, the Fundamental Rights Officer is considerably understaffed: with just one assistant (partly acting as the Secretary of the Consultative Forum) and a trainee assigned annually, she is not able to fulfil her supporting and monitoring roles to the full extent. The Consultative Forum therefore reiterates its recommendation to allocate more resources to the Fundamental Rights Officer. This concern and recommendation has also been raised by other relevant EU actors in the field of migration and fundamental rights.

<sup>15</sup> Frontex regulation, Article 26a(3).

### **3.2. Communication with Management Board and Frontex Headquarters**

The year 2014 was one of consolidation of the cooperation between the Consultative Forum, Frontex Headquarters and the Management Board in a spirit of open and constructive dialogue and mutual support on fundamental rights matters. A new format to improve the communication between the three entities and informally called a 'Focus Group' was piloted in the framework of the drafting process of the very first Consultative Forum annual report.

Additionally, Frontex staff members were in regular contact with the Consultative Forum over several issues. They not only participated at workshop meetings with members of the Consultative Forum but were also in electronic and other forms of communication between meetings to provide relevant follow-up on recommendations and commitments.

### **3.3. Frontex programme of work 2015**

In the area of strategic planning, the Consultative Forum provided recommendations to the Frontex preliminary draft programme of work 2015.

A preliminary draft of the Frontex programme of work 2015 without its annexes was shared by the Executive Director of Frontex with the Consultative Forum on 27 May 2014 for comments by 24 June 2014, prior to submission of the draft to the Management Board. In reply, the Consultative Forum made a number of suggestions of a rather general and strategic nature, while others were more detailed and addressed specific points in the draft.

Among the general comments were the following.

1. In the view of the Consultative Forum the draft programme of work lacks precision. The text is too generic and not really understandable to outsiders. The reader does not know exactly what Frontex will do in 2015. The lack of precision also concerns the activities in the field of fundamental rights. Additionally, the use of unexplained acronyms (e.g. FTE) or concepts (e.g. Pulsar Concept, Big Dipper Concept) was considered not to be user friendly.

**Results** *The final text of the programme of work as published on 18 December 2014<sup>16</sup> took some of these points on and at least tried to explain the different concepts.*

2. The Consultative Forum believes the operation of an efficient system to monitor fundamental rights compliance and to react effectively and adequately in case of alleged violations, as required by the Frontex regulation, has to be singled out as a top priority for Frontex in 2015. This priority needs to be reflected by the allocation of additional human and financial resources to the Fundamental Rights Officer for this purpose.

**Results** *This proposal has not been taken on. Instead, priority No 2 under 'Goal 1 — Strategic awareness' — is worded: 'To perform reporting, analysis and evaluations **including fundamental rights monitoring** for joint operations and other purposes' (emphasis added).*

16 See: [http://frontex.europa.eu/assets/About\\_Frontex/Governance\\_documents/Work\\_programme/2015/PoW\\_2015\\_EN.pdf](http://frontex.europa.eu/assets/About_Frontex/Governance_documents/Work_programme/2015/PoW_2015_EN.pdf)

3. Another priority for 2015 with regard to fundamental rights should be the implementation of the Eurosur regulation in such a way that one of the regulation's explicit purposes — to contribute to ensuring the protection and saving the lives of migrants — is met in practice. The programme of work should clearly state this and explain what will be done to reach this objective.

**Results** *While the final version of the programme of work contains several references to Eurosur (most prominently on pages 21–22), it does not explain how Frontex will use the Eurosur technology for saving lives.*

4. In the context of fundamental rights protection, the third priority for 2015 should be to implement the Frontex maritime borders surveillance regulation (MBSR).<sup>17</sup> The programme of work needs to explain what will be done so that operational plans comply with fundamental rights obligations, and how they will provide 'details on cases of disembarkation in third countries and how each element of the procedures [...] was applied by the participating units to ensure compliance with the principle of non-refoulement' (see Article 4(3) MBSR).

**Results** *This proposal has not been taken on in the final version of the programme of work.*

<sup>17</sup> Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea 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.

5. Data protection is increasingly becoming an issue in the eyes of the Consultative Forum, especially as situations of data sharing with third countries may arise. Frontex needs to demonstrate that it is aware of this and gives adequate assurances of protection.

**Results** *The final version of the programme of work, on page 57, shows the following objective: 'Further development and implementation of Frontex business strategy for operational information exchange including the necessary data protection safeguards and safeguards as regards the exchange of information with third countries'.*

6. Increased cooperation with third countries like Libya, Morocco and Tunisia is announced in the programme of work. The Consultative Forum is concerned that this does not go with prerequisites or safeguards as concerns the respect of fundamental rights by these countries.

**Results** *The concern remains.*

7. The term 'illegal migration' should be replaced by 'irregular migration' throughout the text because irregular border crossing is not illegal in case of an asylum seeker.

**Results** *The final version of the programme of work does indeed refer throughout the text to 'irregular migration'. However, with regard to border crossing, it still uses the term 'illegal'.*

8. Fundamental rights issues, including training on fundamental rights, should be listed among the 'Priorities and trends' (section 2.1).

**Results** *This proposal has not been taken on.*

9. Budgets for operations and training could single out the cost of the fundamental rights components and, thus, make it visible that this aspect is duly covered in all these activities and is not a separate and stand-alone activity.

**Results** *Under 'Activities and detailed allocation of financial resources per business area' (pp. 97–111) the programme of work refers to fundamental rights in the context of training (page 103) and with regard to the Fundamental Rights Officer and the Consultative Forum (page 111).*

The Agency proposed to address other Consultative Forum recommendations, more specific to certain focus areas, in the framework of technical cooperation and discussions with the respective Frontex units.

### 3.4. Frontex joint operations

#### 3.4.1. Recommendations of the Consultative Forum following a visit in 2013 to joint operations 'Poseidon (Land)' and 'Poseidon (Sea)'

Frontex-coordinated joint operations are undertaken based on risk analysis and following the request of the host Member State. The authorities of the host Member State remain responsible for border operations, including the granting and denying of access to the territory and the provision of protection to those in need. Frontex coordinates and supplies equipment and deploys guest officers, interpreters and other experts from other Member States and provides training for national border guards and deployed guest officers.

As mentioned in the annual report 2014, the Bulgarian and Greek authorities had agreed to a visit by a delegation of the Consultative Forum to the 'Poseidon (Land)' and 'Poseidon (Sea)' joint operations at the Greek–Turkish sea/land borders and at the Bulgarian–Turkish land border in July 2013. These joint operations were selected because they are two of the main operations coordinated by Frontex and because they cover areas where an increasing number of Syrians seeking protection try to enter Europe.

Based on the observations made during the visit, the Consultative Forum identified concerns and communicated recommendations to the Executive Director and the Management Board <sup>(18)</sup>. These recommendations were discussed intensively with Frontex Headquarters and members of the Management Board throughout the year.

<sup>18</sup> Letter of the Co-Chair of the Consultative Forum to the Chair of the Management Board and the Executive Director, 8 August 2014.



## Recommendations to the Executive Director and the Management Board

1. During the visit it was observed that border guards deployed to the joint operations would benefit from more efficient and focused training on fundamental rights and international law principles, as well as on how to effectively guarantee them. It is important to distinguish between the different steps in border procedures, such as registration and identification (to establish the identity of a person), screening (establish the country of origin of the person) and debriefing (voluntary interview on the travel route aiming at gathering intelligence). Some of these procedures, notably screening and debriefing, are performed with Frontex support. There is also a need to ensure that the procedure is conveyed clearly to asylum seekers, refugees, migrants, NGOs or the media, especially where registration/identification, screening and debriefing take place in different sequences in different locations. The visit revealed that there were a number of interviews in place that could potentially be joined. This procedure should include information on where and how applicants can lodge an asylum application, in accordance with the provisions of the recast EU asylum procedures directive.<sup>19</sup> If the procedural steps are not followed correctly, the risk increases that the identification of vulnerable persons like unaccompanied minors and pregnant women and the protection of the humanitarian needs of a person become secondary to the investigation of smuggling routes, if not invisible. A good practice was observed in the detention centre in Samos, where UNHCR, IOM and NGOs provide more detailed information to apprehended persons. This good practice and coordination system should be replicated in other operational areas.

<sup>19</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

**Results** *The Management Board expressed the willingness to further discuss this recommendation and details of its implementation with the Consultative Forum.*

2. The respect and promotion of fundamental rights<sup>20</sup>, besides the fundamental rights compliance of all Frontex activities<sup>21</sup> should have a particular focus on the principle of non-refoulement.<sup>22</sup> Frontex, with the support of UNHCR, must explore how to better inform the concerned local authorities on compliance with and the practical implications of the principle of non-refoulement based on international and EU law, and must make clear reference to this obligation in the operational plans of all coordinated joint operations. All the steps that lead to the preparation of deployed officers, such as training, operational briefings, guidelines and suchlike, should particularly highlight fundamental rights, including the substantive provisions of the Schengen borders code on the right to asylum, non-refoulement and fundamental rights of undocumented migrants.

**Results** *According to information provided by Frontex, enhanced pre-deployment briefings for participating border guards now include a new module, which was tested during 2014.*

*Changes were introduced in the handbook attached to Frontex operational plans, which also contain a dedicated section on fundamental rights and reporting potential fundamental rights violations.*

3. Frontex conducts specific training courses and supports national border guards on screening and debriefing activities. The checklists guiding such interviews should equip officers with the adequate knowledge and skills to identify and properly address vulnerabilities. Frontex also needs to ensure that the purpose of such inter-

<sup>20</sup> Articles 1 and 4 of the 'Frontex code of conduct for all persons participating in Frontex activities' (CoC).

<sup>21</sup> Article 1(2) of the Frontex regulation.

<sup>22</sup> Article 5 of the CoC.

views is clearly explained to the migrants at the beginning of the interviews in a language that they can understand.

**Results** *Frontex debriefing guidelines were reviewed and amended with the support of the Fundamental Rights Officer and the Consultative Forum. However, some of the concerns addressed in the recommendation (e.g. in relation to screening activities) still remain and will be further discussed with the respective Frontex units in 2015.*

4. Frontex should consider prioritising fundamental rights training for border personnel deployed in operational areas. The Consultative Forum stands ready to pool its training and trainers' expertise and assist Frontex in such an effort.

**Results** *The Frontex Fundamental Rights Officer developed a general 5-minute video on relevant fundamental rights issues from a border guard perspective. The Consultative Forum has also been invited to contribute to the operational briefings. Consultative Forum members can complement the general briefing with a focus on fundamental rights challenges observed in the respective operational areas.*

*In discussions with the Consultative Forum, the Greek authorities noted the regular participation of the Hellenic border guard officers in Frontex training on fundamental rights (training of trainers). Training courses are now being replicated and delivered to national trainers and border guards, with a strong focus placed on the principle of non-refoulement. All national training activities are based on the Frontex fundamental rights training manual. A checklist on fundamental rights issues, based on the Frontex manual and national legislation, is being developed. The Bulgarian authorities have highlighted Bulgaria's engagement in the area of fundamental rights training for border guards. Topics of training include access to territory, the principle of non-refoulement and information on how to deal with vulnerable groups.*

5. Frontex, in cooperation with the national authorities, should look carefully into allegations by migrants of possible breaches of the principle of non-refoulement, keep a record of such allegations and follow up with Member States on the investigation of such cases. The Consultative Forum recommends that information on alleged and investigated cases should be made publicly available on an annual basis.

**Results** *The Greek authorities informed the Consultative Forum that in the event of incidents, the fundamental rights contact point of the Hellenic Police will liaise with the Frontex Fundamental Rights Officer and other relevant Frontex staff and seek guidance on how to better react. Information on follow-up measures and investigations will also be provided: focus on procedural investigations to verify allegations and assessment on sanctions to be imposed.*

6. Frontex operational plans should always include clear information on the referral mechanisms available in the hosting Member State of a joint operation and how these mechanisms are activated, including relevant contact points. This information should also indicate the authority responsible for the identification and consideration of vulnerable groups and people with specific needs (children, asylum seekers, persons with disabilities, victims of trafficking, etc.) and the contact details, if available. The consolidation of this information in a single document would also improve the national authorities' ability to respond in a more effective way to vulnerabilities identified during border control.

**Results** *According to Frontex, steps have been taken to ensure that operational plans include specific provisions on referrals in the respective operational areas as part of the rules of engagement.*

## Recommendations to the Frontex Management Board

- 7.** Civil society organisations often provide assistance to the local authorities of the Member States to meet the basic needs of intercepted persons (food, clothing, health, etc.), including the key issue of legal assistance. At the points of disembarkation the early identification of protection needs and vulnerabilities is crucial. Such mechanisms of information sharing between local authorities, NGOs and international organisations could also be set up for arrivals in other areas where the coverage of basic needs, information and legal aid is not ensured. Several Consultative Forum members with a local presence could support coordination in this respect. Frontex could facilitate the establishment of such information sharing and coordination mechanisms, in recognition of the positive contribution and mutual benefits that working in partnership would make to the further implementation of the Poseidon joint operation.
- 8.** The visit highlighted the need for developing knowledge and capacity of the system that is established at a certain border point in order to enable proper consideration of vulnerable groups (unaccompanied minors, victims of human trafficking, war and torture, minors, pregnant women, persons with disabilities, etc.). Effective mechanisms and qualified staff must be in place to ensure proper and prompt identification of humanitarian and/or protection needs upon arrival in line with Frontex's provisions on prioritising human needs over any other action at the borders as a standard rule in operational plans. The individual needs appeared to be detected in the course of subsequent interviews conducted by the local police (with support and coordination by Frontex at times). These interviews mainly sought to ascertain the migrants' country of origin, but should also be crucial for the identification of their specific protection needs.

9. Referral mechanisms are an essential tool to guarantee fundamental rights protection and provide appropriate assistance to persons with specific needs; such referral mechanisms were unfortunately not in place in all visited locations. If at all, current referral mechanisms seemed to focus on asylum seekers only, thus not sufficiently and properly covering other vulnerable categories such as victims of trafficking or torture, minors, pregnant women, persons with disabilities, etc. It is therefore recommended that the level of awareness on the other specific protection needs and obligations be raised.

**Results** *The Management Board has expressed its willingness to further discuss the details of these recommendations with the Consultative Forum throughout 2015.*

### **3.4.2. Follow up visit to the operational areas of joint operations 'Poseidon (Land)' and 'Attica' in September 2014**

A delegation of the Consultative Forum undertook a follow-up visit to the operational areas of the joint operations 'Poseidon (Land)' and 'Attica' in September 2014. In view of the positive experience in 2013, the Consultative Forum invited the Frontex Fundamental Rights Officer to accompany the delegation.

The visit was undertaken within the mandate of the Consultative Forum as established in Article 26a of the Frontex regulation, with the overall aim of supporting Frontex in establishing and ensuring compliance with fundamental rights standards in its coordinated joint operations.

Contrary to the plans outlined in the Consultative Forum's work programme for 2014, adopted in coordination with Frontex and its Management Board, which featured a visit to Frontex operational areas in Bulgaria and Greece, the Consultative Forum was compelled to reduce the scope of the visit to Frontex operational areas in Bulgaria due to the fact that the Greek authorities were unwilling to receive a second visit to the operation in Greece.

During the visit, the Consultative Forum delegates gained a better understanding of the roles and responsibilities of Frontex and the Member States in Frontex-coordinated joint operations, as well as a better understanding of the fundamental rights aspects and implications of those operations on the ground.

In the course of the fifth Consultative Forum meeting in October 2014, the delegation presented its preliminary observations, which will be discussed in detail with Frontex and the Management Board at a Focus Group meeting in 2015.

The preliminary observations related to: the general purpose and organisation of Consultative Forum visits and access to Frontex operational areas; deployment of guest officers and equipment contributed to Frontex-coordinated joint operations in areas where respect for fundamental rights is particularly crucial; Frontex screening activities and cooperation with third countries at the external borders of the EU.

The Consultative Forum also clarified that these preliminary observations, while resulting from the visit to the operation carried out at the Bulgarian border with Turkey, do not primarily relate to the Bulgarian authorities, but rather aim to address general patterns observed in Frontex-coordinated joint operations and the work of the Agency in the area of fundamental rights, in accordance with the Consultative Forum's mandate.

The Consultative Forum remains grateful to Frontex colleagues who contributed to the organisation of the visit, including the Fundamental Rights Officer, and particularly to the Bulgarian authorities for their time and support on the ground.



### 3.4.3. VEGA Children

'VEGA Children' is an initiative aimed at improving the identification and protection of children at risk (e.g. potential victims of trafficking) while crossing the external borders of the European Union.

Throughout 2014, the Consultative Forum increased its cooperation with the Frontex Joint Operations Unit through its involvement and active contribution to the drafting of the 'VEGA Children' handbook, followed by the Consultative Forum's contribution to the homonymous Frontex-coordinated joint operation. This operation, led by the Frontex air border sector, aimed at testing and evaluating the potential suitability of the handbook recommendations. The Joint Operation was implemented at nine EU airports.

#### **'VEGA Children' handbook**

The 'VEGA Children' handbook was drafted in 2013–14 by the Frontex Air Border Sector with input from the Consultative Forum. Its goal is to provide the essential information needed to ensure the best interests of the child when seeking to identify children at risk and potential victims of trafficking at the air borders of the European Union. The handbook provides recommendations and operational guidelines to border guards stationed at the EU air borders on how to give careful consideration to the best interests of the child when identifying and approaching children at risk at external air borders.

## Recommendations made by the Consultative Forum

In its contributions to the drafting of the 'VEGA Children' handbook, the Consultative Forum stressed the importance of a child-sensitive approach to be adopted by border guards and other relevant actors at external air borders when approaching accompanied and unaccompanied children as part of the various stages of border control (first- and second-line controls, transit areas and gate checks and assessing the needs for protection and referral). The Consultative Forum members stressed that, in all decisions, the best interests of the child must be a primary consideration, and the principle of non-refoulement respected. Although several contributions from the Frontex Consultative Forum were taken into account as part of the final draft of the handbook, the key recommendation to make a more systematic and explicit reference to the legal definitions and substantial rights established within the United Nations Convention on the Rights of the Child was not always followed.

The joint operation 'VEGA Children', carried out from 17 September to 18 November 2014, enabled the exchange of practice and experience between civil society, Frontex and national border guard authorities to enhance the identification of children at risk and the prompt assessment of their protection needs. In particular, the joint operation sought to test and refine the operational guidelines outlined in the 'VEGA Children' handbook at selected Member States' airports: Amsterdam (AMS), Brussels (BRU), Bucharest (OTP), Frankfurt (FRA), Geneva (GVA), Lisbon (LIS), Madrid (MAD), Porto (OPO) and Zurich (ZRH).

As part of the joint operation 'VEGA Children', representatives of the Consultative Forum and other civil society organisations<sup>23</sup> were deployed at all participating airports, with the role of observing, advising and assisting Frontex's deployed officers in cooperation with the hosting airport border guard authorities, during the application of the 'VEGA Children' operational guidelines for the identification of children at risk at external air borders.

Participating civil-society experts engaged with border guard authorities and actively contributed to testing the relevance of handbook recommendations in the context of:

- ♦ first-line activities (passport and document control);
- ♦ second-line activities (enhanced checks on passengers after first-line controls) with the aim of assisting in identifying protection needs and access to child protection services and referral mechanisms;
- ♦ referral activities.

The joint operation enabled the mutual exchange of professional knowledge from a multidisciplinary perspective between civil society, international organisations, Frontex and national officers. The joint operation also enabled the collection of good practices in the process of identifying children at risk at external borders and served as a basis for the refinement of the operational guidelines included in the 'VEGA Children' handbook.

23 Participating organisations included: UNHCR, IOM, Terre des Hommes and Caritas Austria.

## **Recommendations made by the Consultative Forum**

The Consultative Forum recommends exploring the possibility of strengthening cooperation with civil society and international organisations and introducing common guidelines on ensuring protection of children's rights at all EU external borders (including land and sea borders).

The successful implementation of this joint operation provided a unique opportunity for the hosting authorities, deployed officers and experts to observe, learn and understand each other's role, mandate and responsibility in a spirit of transparency and mutual cooperation.

### **3.4.4. Reaction to the incident off Farmakonisi (Greece) in January 2014**

In the early hours of 20 January 2014, a fishing boat carrying 28 migrants and refugees including many small children capsized and sank near the island of Farmakonisi, in the Aegean Sea at the border between Greece and Turkey. The group consisted of 25 Afghans, including 10 children aged between 1 and 9 years old, and three Syrians.

Sixteen individuals, including a child, were rescued by the Greek coastguard. However, the bodies of a mother and a child belonging to the group were found by the Turkish authorities the next day. According to news reports, the bodies of two more women and two children washed up a few days later on Turkish shores, leaving six children missing. Testimonies of survivors provided to UNHCR alleged their boat was being towed by the Greek coastguard

with great speed towards Turkey when it capsized. The coastguard, however, denied these allegations.

Following the tragedy, the Consultative Forum approached the Fundamental Rights Officer and the Management Board Chair for more detailed information, also concerning the involvement of Frontex assets and/or personnel. Following internal consultations within Frontex, the Fundamental Rights Officer informed the Consultative Forum that there was no involvement of any Frontex-deployed staff and assets in this particular incident. Nevertheless, in an attempt to address accountability concerns, a group of Consultative Forum members took the initiative of discussing the possible recommendations that the Consultative Forum could address to the Executive Director and the Management Board. These would suggest measures to be taken following persistent allegations of serious violations of fundamental rights occurring in the operational area of a Frontex-coordinated joint operation. The discussion on this issue is still ongoing: in 2015, the Consultative Forum will focus on, inter alia, the debate on Frontex's accountability in general (see the preview for 2015 below).

At their meeting on 5 and 6 February 2014, the Consultative Forum members discussed the Farmakonisi incident and its implications at length and addressed the Management Board Chair and the Acting Executive Director on the status of the investigations and Frontex's follow-up actions undertaken in this regard. The Management Board Chair assured Consultative Forum members that this question would be considered as a discussion point with the other Management Board members.

In a letter to the Management Board Chair and the Executive Director,<sup>24</sup> the Consultative Forum later expressed concerns about reports that the Prosecutor of Piraeus' Marine Court decided to archive the case and essentially close the judicial investigation into the responsibility of Hellenic Coastguard staff for the Farmakonisi incident. The Consultative Forum shared the opinion of the Council of Europe's Commissioner for Human Rights, who said 'that impunity risks covering these serious human rights violations. This would be a grave mistake. Greek authorities have to take more resolute efforts to ensure accountability for this tragedy.' There has been no official reply from either the Executive Director or the Management Board on this issue.

#### **3.4.5. 'Mare Nostrum', 'Frontex Plus' and 'Triton'**

The Consultative Forum closely followed the discussions in the second quarter of 2014 in response to the discontinuation of the Italian search and rescue operation 'Mare Nostrum' and the announcement by the Commission on the development of an enhanced Frontex-coordinated operation that was initially dubbed in the media 'Frontex Plus'.

In practice, Frontex merged two operations that were already being implemented in Italy (joint operations 'Hermes' and 'Aeneas') into a new joint operation named 'Triton', which started on 1 November 2014. In line with Frontex's mandate, joint operation 'Triton' aims at supporting Italy's border surveillance capacity. Its operational area is smaller than the one previously covered by 'Mare Nostrum' and its resources more limited. Since then, the Italian authorities have continued to coordinate search and rescue activities in the area,

<sup>24</sup> Letter of the Co-Chair of the Consultative Forum to the Chair of the Management Board and the Executive Director ad interim, dated 8 August 2014.



often with the contribution of the assets deployed by Frontex under joint operation 'Triton'.

However, the Consultative Forum remained concerned about the obvious lack of a responsible and effective EU response in the Mediterranean, and highlighted its concerns regarding the limitations of joint operation 'Triton' in the field of search and rescue at its meeting in October 2014. The Consultative Forum started discussing this issue with a view to making concrete recommendations in 2015, most notably in the context of the application of the MBSR.

### **3.5. European Ombudsman's recommendation for an individual complaints mechanism**

As described in the annual report 2013, the EU Ombudsman, as a result of an own-initiative inquiry, had made several recommendations to Frontex in 2013. The Consultative Forum was consulted in the process of drafting the Agency's reply. Contrary to the Consultative Forum's proposal, Frontex had rejected the Ombudsman's recommendation to set up a mechanism that would allow for the re-

ception and follow-up of individual complaints about human rights violations in the context of Frontex-coordinated joint operations.

The Consultative Forum, however, remained supportive of the Ombudsman's idea and discussed it at several meetings with Frontex's staff and Management Board, as well as with the Head of the European Ombudsman's Complaints and Inquiries Unit. At a hearing of the Civil Liberties, Justice and Home Affairs (LIBE) Committee of the European Parliament on 13 February 2014, the Chairs of the Consultative Forum welcomed the fact that the Ombudsman had made a clear distinction between monitoring procedures and complaints mechanisms. The former cannot substitute the latter. While, thanks to the Fundamental Rights Officer's efforts, the monitoring mechanism is already under construction, Frontex should meet its responsibilities to provide access to justice and an effective remedy by setting up a mechanism to follow up on individual complaints. As a word of caution, the Chairs added that if the Fundamental Rights Officer was mandated to receive and follow up on complaints in view of her independent role within Frontex, it is essential that adequate human and other resources be allocated to her.

In 2015, the Consultative Forum will continue discussing the issue with Frontex.

### **3.6. Risk analysis**

Risk analysis provides the basis for the decisions on Frontex-coordinated operations. The Risk Analysis Unit (RAU) provides analysis at a strategic and operational level. Based on the strategic analysis, the RAU issues recommendations for joint operations to be launched or continued. This also informs the operational plans of all joint operations. Evaluations of joint operations then feed into further analysis of risks.



### 3.6.1. Tactical meeting on Syria

The RAU regularly organises risk analysis technical expert meetings together with representatives of Member States and third countries, of the European Commission and of other European and international cooperation partners. In this context, the Consultative Forum members, JRS Europe and UNHCR, were invited to a 'tactical' meeting on 27 May 2014 that discussed the impact of the war in Syria on migration and refugee movements. The aim of this meeting was to exchange information and increase awareness on the situation in Syria and its neighbouring countries (like Jordan, Lebanon and Turkey), as well as on the situation of protection seekers and on the 'foreign fighters' issue.

### 3.6.2. Screening and debriefing

As stated in the previous annual report, screening is a mandatory part of the registration process and seeks to establish the nationality of undocumented persons who are intercepted at the borders. It is mandatory for the concerned persons and done as a rule by officers of the host Member State who can be assisted by guest officers.

Debriefing, by contrast, is voluntary for the person and seeks to gather intelligence about countries of origin, reasons for travelling, routes and involvement and the *modus operandi* of facilitators. Debriefings are done by national border guards with or without experts deployed by Frontex, during more in depth interviews that are distinct from the screening interviews. Debriefings provide the Frontex RAU with intelligence that is essential for its analysis of the situation at the EU's external borders.

Guidelines for debriefing activities were developed by the RAU in 2013 and are now part of the operational plans. As described in the previous annual report, the Consultative Forum still has some

concerns regarding the debriefing procedure, as shown below, and continues to discuss them with Frontex and the Management Board.

- ♦ There is still some lack of clarity on whether (and how) information concerning protection needs is recorded and processed in the debriefing process. Fundamental rights violations which may have occurred during travel, including trafficking, or other protection-relevant information can come up in debriefings. For such cases, appropriate follow-up procedures, including referral mechanisms, need to be established.
- ♦ The recording of the actual number of referrals is still to be regulated.
- ♦ While the debriefing guidelines state that the person concerned should not face negative legal consequences as a result of the debriefing, there are no sufficient guarantees to ensure this is the case in practice.
- ♦ There is still a need for clearly defined procedures and mechanisms that would regulate how Frontex takes follow-up action with the respective Member State in cases where migrants complain about fundamental rights violations that have allegedly occurred under the jurisdiction of this Member State.
- ♦ Safeguards should be developed in order to ensure that European data protection standards are properly applied to data collected through these activities.

Also, the following recommendations that had already been submitted in 2013 are still to be discussed with Frontex.

- ♦ The debriefing guidelines should be further developed in order to ensure that disclosing information about smugglers, other migrants, etc. does not put the interviewees at risk of retaliation.
- ♦ The Consultative Forum recommends that Frontex or the Fundamental Rights Officer assess the use of the debriefing guidelines on the ground.

### 3.7. Training

In 2014, the Frontex Training Unit (TRU) developed a joint master's programme on strategic border management. The master's programme will be run by five European universities and the first enrolment shall start as of September 2015. The Consultative Forum was asked to comment on the master's programme curriculum.

The Consultative Forum made several suggestions on fundamental rights issues. Some of the recommendations were accepted by Frontex, and the master's curriculum or the lecture notes were amended accordingly.

## Recommendations of the Consultative Forum

1. **Usage of correct terminology:** The Consultative Forum recommended putting more emphasis on the use of correct terminology in general and in some specific cases, such as ‘international protection’ instead of ‘asylum’, and including in the curriculum information on the right to make an application for international protection.

**Results** *Learning outcome 2 has been amended and the clarification ‘including the right to make an application for international protection’ has been added to the session plans and other module documentation.*

2. **Inclusion of other fundamental rights issues:** The Consultative Forum suggested including in the master’s curriculum references to the Dublin III regulation<sup>25</sup> and the reception conditions directive,<sup>26</sup> especially with regard to the treatment of persons seeking international protection at the external borders, as well as references to additional safeguards regarding vulnerable groups such as unaccompanied minors; to include explanations of the influence of the 1951 Refugee Convention, the European Convention on Human Rights and other international law instruments on the interpretation of the Common European Asylum System.

**Results** *The title of the respective session 5 has been changed to ‘Right to international protection’. The session learning outcome has been changed to ‘Identify the influence of the Geneva Refugee Convention and other fundamental rights instruments on the*

<sup>25</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

<sup>26</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

*development of the Common European Asylum System'; references to the Dublin III regulation and the reception conditions directive are included in lecture materials. The specific needs of vulnerable groups have been added to the discussion points of the session.*

- 3. Separate themes:** The Consultative Forum recommended adding the issues of 'subsidiary protection', the 'non-refoulement principle' and the identification of vulnerable groups as separate themes to the curriculum.

**Results** *While 'subsidiary protection' has indeed been added as a separate theme, the non-refoulement principle is included in the discussion points and will be part of the lecture notes. Also, the identification of groups at risk (women, unaccompanied minors, etc.) will be dealt with in the lecture notes.*

# 4 EVALUATION OF FRONTEX



Article 33 of the Frontex regulation provides for an independent external evaluation to be commissioned that examines how effectively the Agency fulfils its mission and assesses the impact of the Agency and its working practices. Paragraph 2b of this article specifically calls for the evaluation to include an 'analysis on the way the Charter of Fundamental Rights was complied with' in the work of the Agency.

In 2014, Frontex prepared the second evaluation of this type. It shall be conducted in 2015. Since fundamental rights are clearly a horizontal element in the Agency's activities, the Consultative Forum expressed its expectation to be consulted as a body in the course of the evaluation. However, by the end of 2014, neither the Consultative Forum nor the Fundamental Rights Officer had been consulted in a meaningful manner nor otherwise involved in drafting the terms of reference for the evaluation and in their implementation. Also, from the Consultative Forum's point of view, the methodology lacked a sufficiently qualitative approach.

Nevertheless, the Consultative Forum hopes that in 2015 it will be involved as a body (and not only some of its individual members) in the evaluation process.

Based on its first year of existence and work, the Consultative Forum presented to the Management Board a proposal for a revision of the Consultative Forum working methods.



# 5 CHANGES TO THE 'WORKING METHODS OF THE CONSULTATIVE FORUM' AND ELECTION OF CHAIRS





## Recommendations of the Consultative Forum

The Consultative Forum proposed the following changes to the working methods.

### 3.1. Chair

#### Previous wording

The CF will have a Chair and Co-Chair elected among and by its members following the candidatures proposed by the CF members themselves.

The CF Chair shall be elected among the three organisations explicitly mentioned in Article 26a(2) of the Frontex regulation and shall rotate among them afterwards.

The Co-Chair shall be elected among the remaining CF members.

The duration of the mandate of the Chair and Co-Chair is 1 year.

#### Proposed wording

The CF will have a Chair and Co-Chair elected among and by its members following the candidatures proposed by the own CF members.

*The CF Chair and Co-Chair shall be elected among all CF members.*

The duration of the mandate of the Chair and Co-Chair is 1 year *and can be renewed based on re-election.*

**Results** *The Management Board accepted the idea of the mandate of Chair and Co-Chair being renewable based on re-election. Additionally, the duration of the mandate was extended from 1 to 2 years. However, the Management Board did not take on the proposal that both Chair and Co-Chair should be elected among all Consultative Forum members. Hence the Chair is still to be elected among the three organisations mentioned in the Frontex regulation and the Co-Chair among all members.*

### 3.2. Convening a meeting

#### Previous wording

The CF meetings are convened in consultation with the Chair and Co-Chair at the initiative of the ED and the Chairperson of the MB or at the initiative of a majority of CF members.

The CF members may informally discuss or exchange views and information in any other way outside the CF meetings.

#### Proposed wording

The CF meetings are convened in consultation with the Chair and Co-Chair at the initiative of the ED and the Chairperson of the MB or at the initiative of a majority of CF members.

The CF members may informally discuss or exchange views and information in any other way outside the CF meetings.

*Focus Group meetings with the Frontex Management Board shall be convened at the initiative of the CF or the MB on a need basis.*

**Results** *This proposal was accepted by the Management Board.*

### 4.2. Frequency and location of the meetings:

#### Previous wording

The CF meetings shall take place at the Frontex Headquarters in Warsaw, Poland, in principle twice a year.

#### Proposed wording

The *formal* CF meetings shall take place at the Frontex Headquarters in Warsaw, Poland, *or at the Frontex liaison office in Brussels*, in principle three times a year *based on the needs and requests*.

*Additional working meetings should be conveyed in line with the CF's annual work programmes and according to the needs at the initiative of the CF and Frontex and should comprise CF members and Frontex staff.*

**Results** *This proposal was accepted by the Management Board with the proviso that the Chair of the Management Board should be informed of such additional working meetings.*

The text of the revised Consultative Forum working methods is available online ([http://frontex.europa.eu/assets/Partners/Consultative\\_Forum\\_files/Revised\\_Working\\_Methods\\_and\\_Modalities\\_for\\_the\\_Transmission\\_of\\_Information.pdf](http://frontex.europa.eu/assets/Partners/Consultative_Forum_files/Revised_Working_Methods_and_Modalities_for_the_Transmission_of_Information.pdf)).

After the Chair had been held for a 2-year term by the FRA, represented by Ms Aydan İyigüngör, at the fifth meeting in October 2014 the Consultative Forum unanimously elected the UNHCR, represented by Ms Marta Ballesteró, as the new Chair, effective from 1 January 2015, for a period of 2 years. Also, the Consultative Forum members unanimously re-elected the JRS, represented by Mr Stefan Keßler, as Co-Chair of the Forum for the same 2-year period.

The Consultative Forum expresses its warm thanks to Ms İyigüngör for the dedication and effectiveness with which she guided the Consultative Forum through its first 2 years.

# 6 CONCLUSIONS FOR 2014



With the death of more than 3 500 people in the Mediterranean, and the arrival of up to 216 000 (compared to the 60 000 that had arrived in 2013), 2014 was a painful confirmation that no matter how dangerous the journey, or how strict the border controls imposed, an increasing number of people are compelled to risk everything to seek refuge in Europe. The number of arrivals is not likely to decrease in the coming year as more than half of these people are fleeing war, conflict or serious fundamental rights violations in countries like Eritrea or Syria.

The year 2014 also confirmed that the current challenges can only be addressed through the concerted effort of all relevant EU actors. Frontex operates in a wider EU context. Its mandate and responsibilities are increasingly difficult to discern from those of the individual Member States, as they are strongly interlinked. For instance, the intelligence provided by the RAU and the financial support from the Agency's budget have become essential for effective border control operations. Although Member States still remain responsible for the actual conduct of border controls.

The Consultative Forum is responsible for advising the Executive Director of Frontex and its Management Board on fundamental rights issues. In 2014, the Consultative Forum has taken important steps to increase the dialogue with Frontex and with Management Board representatives. The new Executive Director, Mr Fabrice Leggeri, confirmed to the LIBE Committee of the European Parliament in December 2014 that fundamental rights are an essential part of his mission and highlighted his commitment to applying and promoting the EU Charter on Fundamental Rights in Frontex's activities. This is certainly a good basis for the continuation of the Consultative Forum's work and its commitment to supporting the further development of fundamental rights matters within the Agency.

There is still a need to ensure that standards and procedures effectively ensure proper protection of human rights of those arriving at the European Union's external borders because substantiated allegations continue to be made about refoulement incidents and other human rights violations in the operational areas of Frontex-coordinated joint operations, including failures to conduct proper search and rescue leading to people's deaths.





7

PREVIEW OF 2015





In 2015 the Consultative Forum will focus on:

- ♦ a more structured engagement in Frontex-coordinated joint operations with the adoption of common terms of reference for the Consultative Forum's visits, the enhancement of fundamental rights and procedural standards in Frontex's screening and debriefing activities, the continuation of fruitful Focus Group discussions with Frontex and the Management Board and the continued participation in initiatives such as the joint operation 'VEGA Children';
- ♦ the application of the MBSR by the Agency, most notably in the context of Frontex's operational plans;
- ♦ input into the revision of the Frontex fundamental rights strategy and the discussion on Frontex's accountability;
- ♦ the provision of input into key Frontex training activities;
- ♦ endeavours to make a meaningful contribution to the evaluation of Frontex;
- ♦ the strengthening of the Consultative Forum's structure and effectiveness.

The Consultative Forum will also work on:

- ♦ initial assessment and recommendations on gender mainstreaming in Frontex activities;
- ♦ Frontex's cooperation with third countries and its impact on the protection of fundamental rights.





