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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Frontiers
Subject:	Establishing national independent mechanisms to monitor fundamental rights during screening and asylum procedures at borders

Delegations will find attached the presentation made by the Fundamental Rights Agency at the meeting of the Working Party on Frontiers of 06 June 2024 on the above-mentioned subject.

Establishing national independent mechanisms to monitor fundamental rights during screening and asylum procedures at borders

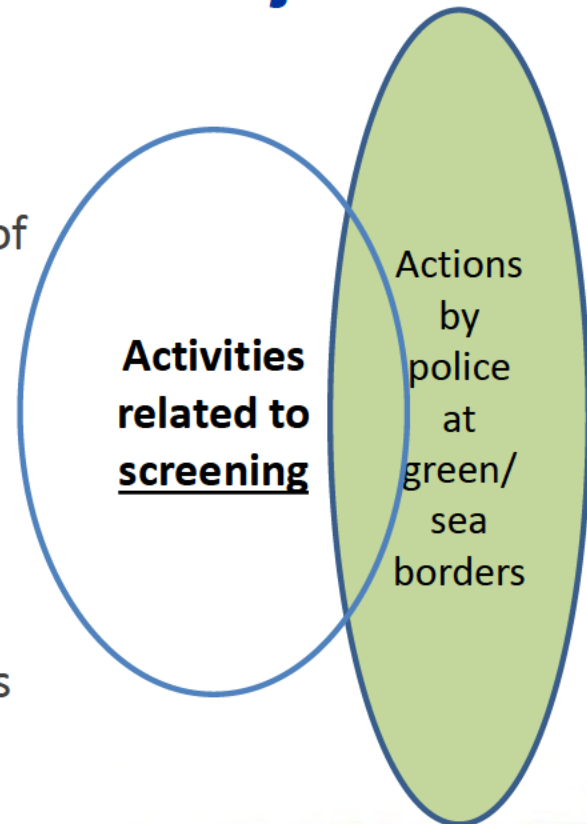


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Justice, Digital and Migration Unit
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Legal background & objectives

- ✓ Fundamental rights monitoring = core fundamental rights protection tool → preventative; enhances the protection of victims; supports domestic investigations; improves transparency and accountability
- ✓ When monitoring, attention should be paid to **all** fundamental rights (FR) guaranteed under the EU Charter
- ✓ FRA updated its [2022 guidance](#), following Art. 10 & recitals of the **Screening Reg.** and consulting various stakeholders



Elements for an independent national monitoring mechanism

Guidance covers **nine key aspects** (building blocks):

1. Independence and operational autonomy
2. Thematic coverage
3. Powers of the monitoring mechanism
4. Facilitating investigations
5. Staffing and expertise
6. Resources and funding
7. Reporting, transparency and accountability
8. Synergies with existing monitoring mechanisms
9. Cooperation with other authorities and actors

1. Independence and operational autonomy

Guaranteed in law

Ombuds institutions/NHRIs to be prioritised

Free of any institutional affiliation with the responsible authorities

Transparent recruitment of the staff of national monitoring mechanism

Operational autonomy & authority to take action on its own initiative

Periodically evaluated

2. Thematic coverage

Screening process &
asylum border
procedure

MSs may extend it to
border management &
return border
procedure

Monitoring the actual
implementation of FR
safeguards

3. Powers of the monitoring mechanism



4. Facilitating investigations

System to be in place to record all allegations of FR violations

Right to receive complaints

Direct communication with investigative authorities

Monitor and report on the progress of the investigations

In case of having own investigative powers, activate that internally

5. Staffing and expertise



Appropriately staffed & with relevant knowledge & experience



Multidisciplinary approach



Regular on-the-job training for the staff



To pool knowledge, close cooperation with other human rights monitoring mechanisms, NGOs, academia, experts in FR

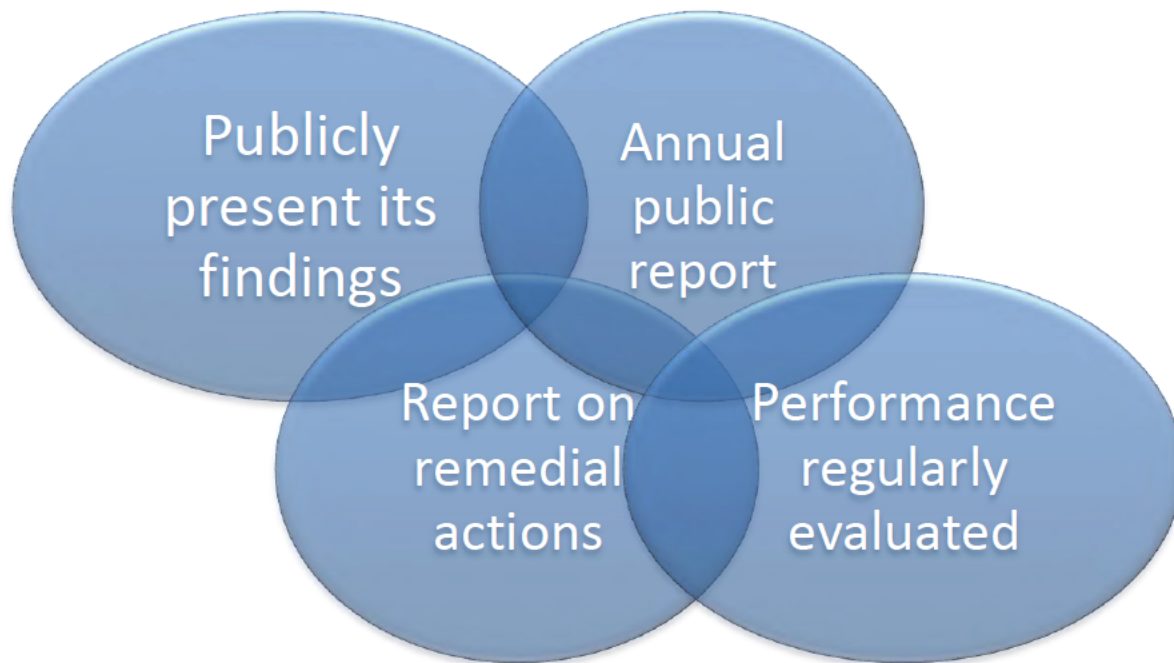
6. Resources and funding

Appropriate financial means & sufficient for its tasks

Compliance with principle of independence

Access EU funds for its activities

7. Reporting, transparency and accountability



8. Synergies with existing monitoring mechanisms

Coherence and
complementarity &
information sharing

Take into account
information from third
parties

Cooperation with national,
regional & international
bodies in charge of
protection of FR (NHRIs and
Ombuds institutions)

Build on existing monitoring
mandates

Communicate findings to
Sch-Eval, FX vulnerability
assessments, EUAA
monitoring mechanism, and
national monitoring
committees for EU funds

W/O prejudice to and
support activities of Frontex
FRM and EUAA monitoring
mechanism

9. Cooperation with other authorities and actors



Duty to cooperate through regular exchange of information and respecting the mechanism's mandate



National legislation stipulating such a duty



Annex I – Applicable standards: Fundamental and human rights framework

- Charter of Fundamental Rights of the EU (and CJEU case law)
- ECHR
- International legal instruments
- EU law instruments relevant at borders

Annex II – FRA guidance and other materials on applicable European standards at borders



Thank you for your
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attention

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? Questions ?

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