

FRONTEX

Mr. [REDACTED]
[REDACTED]@ [REDACTED]

Your ref: CMP-2020-00022

Warsaw, 30 November 2020

Dear Mr. [REDACTED],

On 19 November 2020 Frontex received your complaint which was registered under the reference number CMP-2020-00022. In reference to it, the Frontex Fundamental Rights Officer (FRO) would like to inform you that based on Article 111 (4) of the Regulation 2019/1896 on European Border and Coast Guard¹ the FRO has reviewed the complaint. According to Article 8 of the Agency's Rules on the Complaints Mechanism² the complaint cannot be considered as admissible due to the following reason:

-The actions alleged are not performed by staff involved in a Frontex activity.

We kindly inform you that irrespective of this inadmissibility decision in relation to the European Border and Coast Guard Agency's involvement in your claim, you may wish to contact the following national institution and address your complaint to them:

Federal Police Headquarters
presse@polizei.bund.de
Tel: [REDACTED]

We of course remain at your disposal in case of any further needed clarification.

Yours sincerely,

[REDACTED]
Fundamental Rights Officer a.i.
European Border and Coast Guard Agency

¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1-131).

² ED Decision No R-ED-2016-106 on the Complaints Mechanism of 6 October 2016.

COMPLAINT FORM

for potential violations of fundamental rights

General guidance

Who can submit a complaint?

1. You, or a person or party acting on your behalf, may submit a complaint to Frontex, if you believe that you are directly affected by the actions of staff involved in a Frontex activity¹, and you consider that one or more of your fundamental rights have been violated due to those actions. *For a list of fundamental rights as per EU Charter see Appendix I.*
2. You can be represented by any party (e.g. another person, lawyer, organisations, family member, legal guardian, etc.). Any of these parties may file a complaint on your behalf.
3. Cases involving multiple complainants can also be submitted.

How do I submit a complaint?

4. Your complaint must be submitted **in writing**. Your complaint will be handled by the Frontex Fundamental Rights Officer (FRO), an independent expert who monitors and promotes fundamental rights within Frontex. Using this complaint form will help the FRO to process your complaint more efficiently, but you can submit a complaint by other written means of your choice. At any stage of the procedure, the FRO may request you to submit additional information, documentation or clarification to your complaint. For this reason, it is important you add your contact details.
5. Complaints may be submitted in any EU language, and also in Arabic, Pashto, Urdu and Tigrinya. Complaint forms are available in these languages.
6. There is no maximum length for your complaint, but it is preferable that all the information is contained in **no more than 15 pages**.
7. You should submit your complaint within a year from the date on which the alleged violation of your fundamental rights occurred or you were informed or learnt about it or otherwise were able to submit the complaint.

¹ Frontex activity means a: (i) Joint operation; (ii) pilot project; (iii) rapid border intervention, (iv) migration management support team deployment; (v) return operation or return intervention. For definitions of these activities please consult the Regulation (EU) 2016/1624 of 14 September 2016, on the European and Coast Guard Agency.



8. Your complaint can only refer to facts that occurred or whose effects continued after 6 October 2016², otherwise it will be inadmissible.
9. You do not need to go through national procedures before submitting your complaint.
10. If you submit a complaint to Frontex, this does not prevent you from accessing other forms of complaint, such as national or European courts.
11. You should explain the **detailed facts** of your complaint, **identifying the impact** of those actions had on your fundamental rights (see Appendix I), to the extent possible.
12. Filing a complaint is **free of charge**.

What happens after I submit my complaint?

13. Frontex and the FRO will treat all complaints as **confidential** unless you explicitly waive your right to confidentiality in this form or in any other written manner.
14. If your complaint refers to actions performed by a border guard participating or deployed in a Frontex activity, your complaint will be referred by the FRO to national authorities who handle individual complaints and to national fundamental rights institutions. The FRO will inform you about which authority(ies) have received your complaint and provide you with their contact details. You need to specifically consent in order for the FRO to forward your personal data to the relevant authorities (see Section 5 in the complaint form).
15. If your complaint is declared inadmissible, the FRO will inform you in writing about the reasons for the inadmissibility and, if possible, provide you with further options for addressing your concerns.
16. Any change of address, email or other contact details of the complainant should be notified as soon as possible to the FRO.

Further information on the rules of the Frontex complaint mechanism can be found in the Agency's webpage: www.frontex.europa.eu/complaints

1. Information on the complainant(s)

*You are submitting the complaint as:
(please select appropriate)*

Party Representing Affected Person(s)

Representative:

² Date of the entry into force of the Regulation (EU) 2016/1624 on the European Border and Coast Guard.

DIRECTLY AFFECTED PERSON(S):

Last name(s):

First name(s):

Age over 18 years old: Yes

Nationality(ies) (if known):

If stateless, please specify the last place of residence:

Address for correspondence:

Postcode:

City:

Country:

E-mail:

Tel (please indicate country and area code):

Fax:

Other relevant information:

For cases that involve more than one complainant, please add personal data for each individual.

ANY PARTY REPRESENTATIVE:

Last name(s):

First name(s):

Relationship to the complainant:

Name of the Organisation, where applicable:

Address for correspondence:

Postcode:

City:

Country:

E-mail:

Tel (please indicate country and area code):

Fax:

Other relevant information:

Note: The affected person must sign at the end of the complaint form to demonstrate her/his consent to being represented. If the complainant is unable to sign the complaint form due to justified reasons (e.g., deceased, missing, detention incommunicado, health reasons, illiteracy, etc.) or there are other compelling reasons for the complainant not to give a written authorization for your representation, please explain the reasons:



DEUTSCH POLICE FOUND ME IN MY RESIDENCE
WITH TWO ITALIAN PASSPORTS AND RESIDENCE PERMIT
THEY CONFISCATED FROM ME DURING THE STRUGGLE
I SUSTAINED INJURIES ON MY FOUR FINGERS

2. Information on the potential violation(s) of fundamental rights

Please provide information on the potential violation(s) of fundamental rights including dates, places, a description of the action(s) or failures to act and staff involved. Please explain how you believe these actions affect your fundamental rights or those of the person(s) you are representing:

a) Approximate date and time of the event(s): NIGHT 16TH-11-2020

b) Location/country: GERMANY

In case the exact location is unknown, please provide a detailed description of the location where the event took place:

[Empty box for detailed location description]

c) Detailed description of the person(s) you are complaining against. Describe, to the best of your knowledge, whether the complaint refers to actions performed by (tick all that apply):

- a. Person(s) with a light blue Frontex armband
- b. Person(s) with Frontex identification cards
- c. Person(s) wearing national uniforms of the location where the activity takes place
- d. Other persons, such as interpreters, drivers, etc

Provide information about the person(s) involved (e.g., name, clothing description, language spoken, physical appearance, what job or functions she/he was doing, etc.):

SIX POLICE PERSONNEL OF THE FEDERAL
REPUBLIC OF GERMANY AND WERE
SPEAKING DEUTSCH AND ALL DRESSED
IN POLICE UNIFORM

[Redacted signature]

- d) Detailed description of the event, in a chronological order if possible (attach additional pages if necessary). If the potential violation is still ongoing, please specify:

ASSAULT TO MY RESIDENCE
ASSAULT CAUSING ACTUALLY PHYSICAL
HARM
CONFISCATION OF TRAVELLING DOCUMENT

- e) Detailed description of how the event described above has affected you and how you consider that it violates your fundamental rights (for a list of fundamental rights see Appendix 1):

BECAUSE I WAS ASSAULTED IN MY
OWN RESIDENT WHERE I SUSTAINED
SERIOUS INJURED ON MY FINGERS

3. Submission of your complaint to other authorities

Note: You do not need to complete national procedures of any kind before submitting your complaint to Frontex.

- 1) Have you already submitted your complaint to any court (e.g., national, European, etc.)? Please specify which court, the current status and the outcome of the procedure, if known:

NIL

- 2) Have you submitted your complaint to any other institution (e.g., a national ombudsman, a national human rights institution, etc.)? Please specify which institution, the current status and the outcome of the procedure, if known:

NO



4. Copies of supporting documents

- 1) Please provide **copies** of all available supporting documents related to your complaint. **Examples** of these documents could be:
- a copy of your ID, passport or other form of identification;
 - copies of any documentation, pictures, videos, reports, certificates, witness statements or other supporting documents relevant to your complaint;
 - if you have submitted your complaint to other courts or institutions (see Section 3), copies of complaint forms, pleadings, or decisions related to these procedures.
- 2) If you cannot provide supporting documentation, please explain:

ALL MY DOCUMENTS WERE CONFISCATED FROM ME AND MY INQUIRY WAS NOT TAKEN CARE OF.

Note: Please do not submit originals as they will not be returned to you

5. Confidentiality and personal data

By submitting this complaint, you consent to the processing of your personal data by Frontex and FRO³. Further information on processing of personal data is defined in the respective privacy statement.

Complaints are dealt with confidentially by Frontex and the FRO. If your complaint is declared admissible, it will be referred to national authorities for follow up, including those competent to deal with violations of fundamental rights. Please confirm that **you explicitly authorise the FRO to disclose your identity and personal data included in Section 1 with the relevant national authorities and fundamental rights institutions.** If you decide not to share your personal data, the complaint might be rejected by the competent national authorities and human rights institutions.

I hereby consent to the sending of my personal data to the national authorities, including those competent for fundamental rights in the relevant authorities of the State concerned (please tick):

³ Within the meaning of point (d) of Article 5 of Regulation (EC) No 45/2001

Yes

No

6. Redress

If your complaint is substantiated, what in your view could Frontex or other institutions do to address the harm caused?

YES.

7. Submission of your complaint

You can submit your complaint and the necessary attachments via email (complaints@frontex.europa.eu); the Frontex website; directly to Frontex staff where the activity takes places; or by post:

Frontex Fundamental Rights Officer, Complaints
Frontex
Plac Europejski 6
00-844 Warsaw
Poland

In case of submission of this electronic form, kindly write your full name below:

Date:

Complainant

Date:

Party Representative



Frontex complaints mechanism PRIVACY STATEMENT

Your complaint contains personal data such as your name and contact details and may contain copies of supporting documents related to your complaint (for example, photos that document physical injuries, police reports, etc.). The Frontex Fundamental Rights Officer is the data controller for the Frontex complaints mechanism.

In the handling of your complaint, your data will be processed. Processing data can include its recording, organisation, storage by the Frontex Fundamental Rights Officer and his/her staff specifically tasked to handle complaints. Where applicable, data processing may also include disclosure to the Frontex Executive Director, the Frontex Data Protection Officer, the Member State(s) authority(ies) in charge of dealing with such complaints and the national fundamental rights institutions in the relevant Member State(s). The recipients of your data will vary depending on the persons that you consider have violated your fundamental rights and the rights that may have been violated.

For the Fundamental Rights Officer and his/her staff to be able to disclose your personal data to the relevant national authority(ies) in charge of dealing with such complaints and the national fundamental rights institutions, you need to explicitly waive your right to confidentiality in the complaint form or in any other written form. If you do not waive your right to confidentiality, the Fundamental Rights Officer will only send the facts and not your personal data to the relevant national authorities the national fundamental rights institutions. It is important for you to know that if you do not waive your right to confidentiality, your complaint might be rejected by the national authority(ies) in charge of dealing with complaints or the national fundamental rights institutions if they do not accept anonymous complaints.

The purpose of processing your personal data is to enable all relevant authorities to assess, handle and investigate your complaint in the most meaningful way, as they will be able to verify facts and be in contact where necessary. You can read about the different stages of the complaints mechanism in Article 72 of Regulation 2016/1624 on the European Border and Coast Guard as well as in the Agency's rules on the Complaints Mechanism adopted by the Decision of the Executive Director No. R-ED-2016-106 on the Complaints Mechanism of 6 October 2016 and published on the Frontex website.

Your data will be retained no longer than three (3) years from the acknowledgment of receipt of your complaint by the Fundamental Rights Officer. In this moment, you will be informed about the data retention period. After three (3) years, your data will be deleted. The data retention period may be extended for six (6) months only in justified cases. In this case, the Fundamental Rights Officer will contact you to ask for your permission to extend the data retention period by six (6) months.

According to the EU Charter of Fundamental Rights, Regulation 45/2001 and Directive 95/46/EC, you have the right to access your own data, the right to rectification of your data, the right to withdraw your consent to the processing of your data, the right to block the processing of your data, the right to erasure, as well as the right to recourse with the European Data Protection Supervisor (www.edps.europa.eu).

When handling the complaint, the Fundamental Rights Officer or his/her staff will also process the personal data of witnesses, persons accused, and other third parties that is contained in the complaint. They will be informed of the processing of their personal data where relevant and feasible.

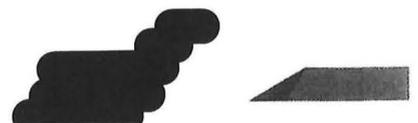
Information
on the potential violation(s) of fundamental rights

General guidance

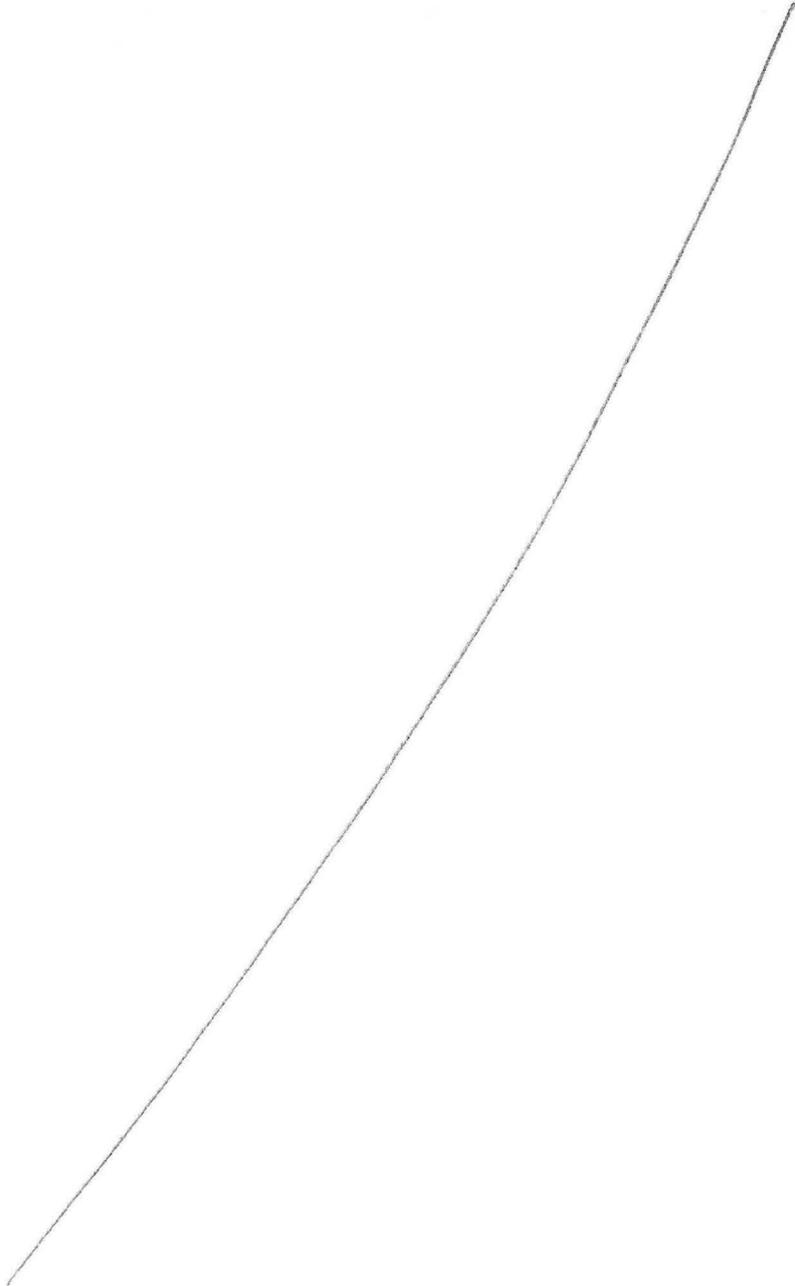
Who can submit a complaint?

Please use this pages to provide additional information if needed on the following matters as in complaint form:

1. Location of the event;
2. Detailed description of the person(s) you are complaining against;
3. Detailed description of the event, in a chronological order if possible;
4. Detailed description of how the event described above has affected you and how you consider that it violates your fundamental rights.



1. Location of the event



2. Detailed description of the person(s) you are complaining against

It all happened on the 16th day of November 2020 at my resident in [REDACTED] in Germany around 21:00hrs when six police officers dressed in police uniform, who assaulted me and confiscated my Italian passport with resident. During the struggle I sustained serious injuries on my left fingers and I was seriously malbeated and tortured by the police officers.

Complainant signature → [REDACTED]

Email address →

3. Detailed description of the event, in a chronological order if possible

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4. Detailed description of how the event described above has affected you and how you consider that it violates your fundamental rights

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