

XXI FUNDAMENTAL RIGHTS OFFICER REPORT TO MANAGEMENT BOARD

Reporting period: 28 October 2017 - 26 February 2018

1. JOINT OPERATIONS

Pursuant to Article 34 (1) of the European Border and Coast Guard Regulation (EBCG) 2016/1624, the European Border and Coast Guard has the obligation to guarantee the protection of fundamental rights in all its activities. The Regulation further foresees that the Fundamental Rights Officer (FRO) has a task of monitoring the Agency's compliance with fundamental rights and of promoting its respect (Article 72 (1)). For this purposes, FRO regularly reports to the Management Board, and as such contributes to the mechanism for monitoring fundamental rights. Furthermore, FRO's role as part of the monitoring mechanism includes, *inter alia*, to act as a coordinator for Serious Incidents that involve alleged violations of fundamental rights as set by Frontex Standard Operating Procedure on Serious Incident Reporting (SIR).² To this end, FRO is deemed to provide and assessment and follow up the information received on the SIRs provided by the Agency and Member States.

Serious Incidents reported

During the reporting period, 2 SIRs pertaining allegations of violations of fundamental rights were received.

Greece:

On 09 December 2017, Turkish news magazine Milliet published an article on collective expulsions of intercepted migrants and refugees at the GR/TUR border. The persons in question crossed GR/TUR border at unspecified time and location in the Evros river region. Allegedly, the migrants and refugees when intercepted were beaten by the Greek police, and then sent back to Turkey in a boat across the river Evros. They recorded on a mobile their return to TUR stating they had been exposed to violence by the Greek police. As shown in video footage, the villagers in TUR helped them to reach the shore, and then they were taken into the custody by the TUR border patrol. Medical examination seemed to indicate confirmation of the alleged physical assault. The migrants and refugees were then handed over to Edirne Migration Management Directorate.

On 11 of December, the Press office shared information from the TUR newspaper Milliyet. The following day, FRO accepted to act as SIR coordinator of the case. A request for information was sent and no information has been received to date by FRO.

Poland:

On 4 January [REDACTED] submitted SIR to FSC containing testimonies of denial of access to asylum procedure at the Terespol rail border-crossing point, at the Polish-Belarussian border. The allegations took place in a location of deployment of ALDO in JO Focal Points 2017 Land and JO Flexible Operational Activities 2017 Land on border checks. FRO followed up directly with FSC and checked that national authorities had been informed on the incident. The

¹ Only for use within the European institutions, other offices and agencies established by virtue or on the basis of the Treaties, Member States and other public administrations. Distribution on a need to know basis. Not for publication. If sent by e-mail encryption must be used.
² ED Decision No 2014/55 on the adoption of the Frontex Standard Operating procedure on Serious Incident Reporting.

[REDACTED] the Border Guard Headquarters replied on 10 January explaining the case circumstances. The case is currently under assessment.

OPLANS & FRO Observations

Under Article 71(3) of the EBCG Regulation, FRO shall be consulted on the operational plans drawn up in accordance with Article 16, 17 and 28 and Article 33(4) of the Regulation. During the reporting period, the following operational plans were submitted for FRO's observations:

a) OPLANS received

- Operational Plan of JO Focal Points Air 2018;
- Flexible Operational Activities in Return 2018 (Return Related Activities);
- Operational Plan of JO Flexible Operational Activities 2018 Land on Border Surveillance;
- Operational Plan of JO Indalo 2018;
- Operational Plan of JO Themis (Triton) 2018;
- Operational Plan of JO Coordination Points Air 2018;
- Operational Plan of JO Pegasus 2018;
- Operational Plan of JO Alexis 2018;
- Operational Plan of JO Coordination Points 2018 Land.

b) Observations to OPLANS

- FRO provided **Observations** to the:
 - o Operational Plan of JO Focal Points Air 2018;
 - o Flexible Operational Activities in Return 2018 (Return Related Activities);
 - o Operational Plan of JO Flexible Operational Activities 2018 Land on Border Surveillance;
 - o Operational Plan of JO Indalo 2018;
 - o Operational Plan of JO Coordination Points Air 2018;

FRO notes that the Operational plans of JO Focal Points Land 2018 and JO Flexible Operational Activities 2018 land on border checks were not submitted for consultation as required by Article 71 (3) Regulation 2016/1624. Both operations started on 31 January 2018 and coincided with the restructuring of the Division. FRO received the Oplans immediately after raising the issue and will provide comments for the new amendments to the respective OPlans.

FRO received the operational plan of the new JO Themis the afternoon before the operation was due to start, on 1st February, so consultation as mandated by the EBCG with FRO was not effectively performed. FRO will provide Observations in the next amendment round to the operational plan.

FERs & FRO Observations

Pursuant to Article 26 of the EBCG Regulation, the Executive Director shall transmit detailed evaluation reports within 60 days following the end of the Agency's operational activities to the Management Board, together with the observations of the FRO. Hereby find enclosed an overview of the FERs received as well as the FRO recommendations and observations provided to OPLANS and FERs.

FRO and Associated FRO were actively engaged in the following Evaluation and Planning meetings:

- On **21-22 November**, Land Border Sector's "All operational activities" in Warsaw;
- On **17-18 January**, **JO Poseidon 2017/2018** in Athens;
- On **23-24 January**, **JO Triton** in Rome;
- On **23-25 January**, **Air Border Sector's "All-in-one meeting 2018"** in Sofia;
- On **29 January**, **JO Indalo 2017/2018** in Madrid.

All meetings provided in-depth insight into the operational activities in 2017 as well as planning for 2018. The information gathered were useful source to draft the FRO's observations on evaluations, as well as to provide recommendations on how to improve fundamental rights compliance and mainstreaming in the upcoming operational cycle.

a) FER JOs received

- FER Rapid Border Intervention Exercise (REX) 2017;
- FER JO Minerva 2017;
- FER JO Focal Points Sea 2017;
- FER JO Hera 2017;
- FER JO Alexis 2017;

- FER of the JO Coordination Points Land 2017;
- FER JO Focal Points Air 2017 Regular Officers,
- FER JO Focal Points Air 2017 Intermediate managers
- FER Return Operations 2nd Semester 2017

b) Observations provided to Evaluations of JOs

- FRO provided **Observations** to the:
 - o FER JO Minerva 2017;
 - o FER JO Focal Points Sea 2017;
 - o FER JO Hera 2017;
 - o FER JO Alexis 2017;
 - o FER JO VEGA Children 2017;

FRO has collected all monitoring reports to analyse and started the drafting of the FRO Observations on the Evaluation on Return operations conducted in the 2nd semester of 2017.

Overview FRO FER Recommendations and Observations

In general, FRO wishes to harmonize the inclusion of a fundamental rights support objective and some basic fundamental rights indicators that was proposed in the 2017 operational cycle. Several internal exchanges took place and the final version should be available in the upcoming reporting period.

Further, the responses to the questionnaire on referral mechanisms under Article 16.3. l) that Operations requested to fill in to MS in locations where Frontex operates have not been sufficiently tackled, and only 14 MS have provided the required information to date.

FRO addressed the Field Deployment Unit to ensure that FRO Observations to FERs are systematically uploaded in FOSS “together with “the evaluation of operations, in accordance with article 26 EBCG. This had been observed as a deficiency in the past that implies that the MB cannot access FRO Observations on the Evaluations.

Other support to Frontex operational activities

On 7 November 2017, a dedicated meeting on the **EUROSUR Evaluation** was organized by FRO together with FRA with the relevant business units. The EC requested FRA’s support to provide Fundamental rights observations on the EUROSUR system, together with FRO. They provided Observations related to the implementation of the EUROSUR Regulation covering the period from December 2015 to December 2017, that included, among others, the need to ensure clearer reporting on SAR incidents, better reporting on children related information, data protection matters, and avoidance of discrimination during vessel tracking activities. A large portion of the observations went on cooperation with third countries and risks associated suggesting preventive measures to avoid fundamental rights breaches and mitigating measures. The Observations were delivered to the EC by FRA and internally shared by the FRO.

Further, during the EUROSUR transfer of ICT environment to a restricted access network, FRO has suffered a discontinuation of her access to the EUROSUR application since November 2017. FRO used the system for monitoring purposes and requires access to the system in order to perform her functions in accordance to Article 71 EBCG and Art 22 of the EUROSUR Regulation, which requires monitoring of fundamental rights as the evaluation pointed out.

In December 2017, FRO received a request to support the baseline exercise of 2018 for the Vulnerability Assessment and provided information on fundamental rights related aspects of border management in some areas of concerns. The use of the information within the VA methodology is still to be assessed and further discussed.

During the reporting period, FRO and the Team delivered presentations on fundamental rights as a part of operational briefings for:

- **Familiarization of a Frontex - Liaison Officer to NATO activity in the Aegean - on 08.01.2018;**
- **Briefing Meeting for Team Members to be deployed within the JO Focal Points 2018 Land and JO Coordination Points 2018- on 18.01.2018;**
- **Briefing for NON-EU country observers and Officers deployed in the JO Alexis 2017. Phase 4- on 31.10.2017;**
- **Joint Operation Focal Points Air 2018 - General Briefing for Deployed Officers and airport representatives- on 31.01.2018;**

- **Joint Operation Coordination Points Air 2018 - General Briefing for Deployed Officers/EU Advisers and airport representatives-** on 01.02.2018 ;

ACTION POINTS

- *Follow up on the inclusion of FRO Observations provided to OPlans.*
- *Ensure FRO Observations to FERS are uploaded to FOSS together with OPlans.*
- *Remind MS on the obligation to answer the referral questionnaire in all operational areas where the Agency operates, in order to comply with the obligation under Article 16.3.I)*

2. RETURN OPERATIONS

Consultations on Return matters & Return Interventions

In accordance to Articles 28 and 33 of the ECBG Regulation, the Agency shall provide the necessary assistance and, at the request of one or several participating Member States, ensure the coordination or the organisation of return operations and return interventions. The Agency shall perform return activities with respect for fundamental rights and general principles of Union law as well as for international law, including refugee protection and children's rights.

In this context, FRO contributes **to the establishment and selection of forced-return monitors for joint return operations. The selection procedure** is organized by Pooled Resources Unit, following an open call sent to relevant bodies in Member States. During the reporting period, FRO Team contributed to four (4) selection procedures, which resulted in nomination of 45 forced-return monitors for different return operations.

On 8 November 2017, FRO delivered a presentation during a training for return specialists, where the focus was fundamental rights on pre-return activities and risks associated to it. The matter needs to be further developed.

On 5 December, FRO provided Observations on Evaluation on Return operations conducted in the 1st semester of 2017 for the participants of the **46th Meeting with Direct Contact Points in Return Matters in Warsaw**. As previously reported, the main conclusions were to further increase the number of female participants in forced return operations, to improve the time-planning in order to shorten the duration of operations, the protection of data regarding returnees' health shall be further developed, the need to ensure that separated body search facilities are provided at the airport and the improvement of returnees' valuable personal belongings is improved. In operations where the presence of vulnerable persons is foreseen, the respective information should be passed on by PMS to the OMS in advance to ensure all necessary matters are fully considered.

On 30 January 2018, FRO attended the High Level Round Table on Return organized by the European Border and Coast Guard Agency. Heads of national Return Services were invited to Warsaw to a strategic discussion on how to enhance return activities at EU level. The discussions focused on identifying key priorities, maximizing the use of existing toolbox of support activities offered by the EU Agencies and exploring new possibilities in the main return-related processes to further increase the number of returns, including linkages with asylum authorities. The sensitivity of these operations require additional support to the FRO, which is currently facing challenges to cover all required support requested and the additional one that comes from FRO own initiative monitoring and assessment.

FRO received invitation for the Combined 47th DCP meeting and 6th PRAN meeting, 20-21 February 2018 in Sofia, Bulgaria. Due to other obligations (CF meeting) and the lack of available level of staff required for such a discussion, FRO has to postpone handling a request from RSU to exchange on the complaints mechanism in return and a presentation of the draft main findings of Observations to the 2nd semester 2017 for the DCP session in May.

FRO is also considering with RSU on measures that would ensure the reception of reports by the Agency and the FRO to those operations that are not monitored by members of the pool of forced return monitors. To date, these reports seldom reach the Agency, which is at odds with Article 28.8. FRO is only receiving systematically the reports from monitors in Frontex financed flights from Finland, Spain and the Netherlands. Sporadically, other reports from PMSs are also sent, such as Poland, or Greece. There is a very high number of JRO monitored flights for which no monitoring report reaches the FRO for further analysis.

FERs & FRO Observations

In compliance with Article 28(8) of the ECBG Regulation, FRO observations are annexed to the Executive Director's evaluation report are transmitted to the Management Board every six months, covering all return operations conducted in the previous semester. During the reporting period, FRO received **50 monitoring reports**, which also serve to provide concrete recommendations as well as to adjust training needs of those organising the implementation

of return operations. FRO is preparing a draft of **Observations to Return operations conducted in the 2nd semester of 2017** for the Executive Director and the Management Board, pending the submission of the final version of the Executive Director's evaluation.

a) Monitoring reports received

- CRO by Germany to Georgia on 16.08.2017;
- NRO by Germany to Kosovo on 07.09.2017;
- NRO by Germany to Albania and Kosovo on 12.09.2017;
- NRO by Germany to FYROM and Serbia on 13.09.2017;
- NRO by Germany to Albania and Kosovo on 17.10.2017;
- JRO by Germany to Kosovo on 19.10.2017;
- JRO by Germany to Lebanon on 23.10.2017;
- CRO by France to Albania on 25.10.2017;
- NRO by Germany to Tunisia on 08.11.2017;
- CRO by France to Albania on 08.11.2017;
- CRO by Germany to Georgia on 14.11.2017;
- CRO by France to Albania on 15.11.2017;
- NRO by Germany to Moldova, Albania and Serbia on 16.11.2017;
- JRO by Hungary to Afghanistan on 20.11.2017;
- CRO by France to Albania on 22.11.2017;
- NRO by Spain to Colombia and Peru on 28-30.11.2017;
- NRO by Spain to Colombia and Dominican Republic;
- NRO by Germany to Serbia, Bosnia and Herzegovina and Kosovo on 28.11.2017;
- CRO by France to Ukraine on 28.11.2017;
- NRO by Germany to FYROM and Serbia on 28.11.2017;
- NRO by Germany to Albania and Kosovo on 29.11.2017;
- CRO by France to Albania on 30.11.2017;
- JRO by Germany to Pakistan on 06.12.2017;
- JRO by Germany to Pakistan on 06.12.2017;
- CRO by France to Albania on 06.12.2017;
- JRO by Germany to Serbia and FYROM on 12.12.2017;
- CRO by Germany to Georgia on 12.12.2017;
- CRO by France to Albania on 13.12.2017;
- NRO by Germany to Tunisia on 13.12.2017;
- NRO by Germany to Kosovo, Albania and Moldova on 15.12.2017;
- JRO by Sweden to Albania on 19.12.2017;
- CRO by France to Albania on 20.12.2017;
- NRO by Germany to FYROM and Serbia on 09.01.2018;
- NRO by Germany to FYROM and Serbia on 09.01.2018;
- NRO by Germany to Kosovo and Albania on 10.01.2018;
- CRO by France to Albania on 10.01.2018
- CRO by France to Albania on 17.01.2018;
- JRO by Germany to Pakistan on 17.01.2018;
- CRO by Germany to Georgia on 23.01.2018;
- NRO by Germany to Afghanistan on 23.01.2018;
- CRO by Germany to Serbia on 25.01.2018;
- NRO by Germany to Tunisia on 31.01.2018;
- CRO by France to Albania on 07.02.2018.
- JRO by Germany to Albania and Kosovo on 30.01.2018;
- NRO by Germany to Tunisia on 31.01.2018;
- CRO by France to Albania on 07.02.2018;
- NRO by Germany to FYROM and Serbia on 14.02.2018;
- CRO by France to Albania on 14.02.2018;
- NRO by Germany to Albania and Kosovo on 15.02.2018;
- NRO by Germany to Afghanistan on 20.02.2018;
- CRO by Germany to Georgia on 20.02.2018;
- CRO by Germany to Serbia on 22.02.2018

ACTION POINTS

- *Assess and suggest measures to ensure reception of monitoring reports from all Frontex financed return operations, including those not performed under the pool.*

3. CAPACITY BUILDING ACTIVITIES

The FRO's role in supporting the Agency's initiatives in ensuring that all border guards and other relevant staff of the European Border and Coast Guard teams receive training in relevant Union and international law, including on fundamental rights and access to international protection falls under Article 36(2) of the EBCG Regulation. During the reporting period, FRO continued to actively contribute and support the Agency's activities in the field of capacity building as explained below.

On 15 November 2017, FRO team supported the Annual Bilateral Negotiations 2018 with Cooperating Third Countries. FRO was also consulted in the development of the concept document on the training course "**Air Crew preparation for Joint Operations**", as it has similarities on challenges on fundamental rights at other borders.

FRO Team contributes to the development of the course manual "**child protection at borders**". While the participation in development meetings entails a great effort for the team due to limited available technical staff, FRO will provide written comments by mid-March 2018. FRO considers of utmost importance that the course manual and its further implementation via training tools provide sufficiently clear guidance for border guards in their role in ensuring the protection of children and children's rights, i.e. how border guards can practically integrate child-friendly processes and child protection into their daily work, and go beyond the mere law enforcement activities and identification of risks related to criminal activities around children, which was the primary focus of the well-known VEGA Handbooks.

From **13 to 17 November 2017**, FRO Team actively participated in "**Frontex fundamental rights trainers: development meeting**" full week session organised by Frontex Training Unit. Furthermore, both FRO team and the Consultative Forum supported development of the "**Frontex fundamental rights trainers: course manual**" by in-depth revision of the content and providing the draft document with a number of important and substantive comments. The draft is currently with the CF for a final round of comments upon insertion of the previous FRO and CF observations and suggestions to enhance the text.

From **14-16 November 2017**, FRO took part in the **Forced-Return Monitoring II (FReM II) Training of trainers** organized by the ICMPD at the Academy of Disciplined Forces, Malta. A total of 8 monitors, and Operational Officers from RSU and TRU, as well as FRO participated in the activities. FRO finds this activity of utmost importance to guarantee sustainability of the activity and focus on the FRO related parts of the training. The General objectives of the training were to provide trainers with a comprehensive introduction to an overview of their role, mandate and responsibilities during the training processes of planning, organising, delivering and evaluating.

On **13 December**, FRO was consulted on the development of the Common Core Curriculum (CCC) mid-level development meeting in Warsaw. As previously, FRO team took part in some session to support the experts from the Member States in further development of fundamental rights as a part of learning units for the Common Core Curriculum for Border and Coast Guards Mid-Level Education and Training. Next sessions are scheduled in March, April and June 2018 and FRO team is scheduled to take part.

On **20 December 2017**, FRO supported the International and European Cooperation Unit during the study visit to Poland organised by EASO for Serbia and Former Yugoslav Republic of Macedonia Administrative Judges. The aim of the visit was to learn about the role of Frontex and its activities and included a dedicated session to the Fundamental Rights in Frontex activities in general, the FRO and its tasks.

FRO Team delivered the fundamental rights module during the first training of the **EBCGT Maritime Border Surveillance Officer Training (I)** in Warsaw on 10 January 2018. The FR session included the general framework of fundamental rights obligations for the Agency and participants in its operational activities (inter alia, FRS, CoC, SIR and complaints mechanisms) as well as fundamental rights aspects of the Regulation 656/2014 on sea border surveillance operations coordinated by Frontex, followed by some practical examples of protection sensitive situation that surveillance officer could encounter at sea.

From **8-9 February 2018**, FRO was engaged in the **workshop on the set up of the Swedish national monitoring system** in Stockholm, which intended to build up and strengthen the forced-return monitoring system in EU Member States. The workshop was attended by representatives from the International Affairs Department of the Swedish

Migration Agency, representatives from the Swedish Police, the Swedish Prison and Probation Service, Parliamentary Ombudsman and the Red Cross. The managers of the monitoring systems of Netherlands and Austria, as well as their colleague from Germany, also in the process of setting up the mechanism, joined the discussion. FRO attended in replacement of the FRA colleague initially scheduled to workshop with fundamental rights expertise.

FRO and the Team are continuously engaged in the **Induction trainings for new-comers**. Four (4) sessions were held during the reporting period, in November, December, January and February. The engagement in this activity is deemed as very important since the new Regulation has clearly stepped up the fundamental rights obligations of the European Border and Coast Guard. FRO team has jointly revised and reflected on the most efficient way to convey FR basic information and enhance the awareness of the Agency's staff on the matter, as the first step towards effective implementation of these obligations.

On 22 February, there was no possibility to attend the training on transparency and access to documents organised in house neither by FRO nor by Associated FRO due to unavailability. Further, FRO and the Complaints Assistant attended a training on data protection and the new GDPR on 26 February.

ACTION POINTS

- *Follow up on the approval of the Specialised Training for Agency staff (operations, returns and risk analysis).*
- *Ensure priority to CCC as mandated by EBCG Regulation.*

4. COOPERATION WITH THE CONSULTATIVE FORUM

In order to make the complementarity of their roles effective, the FRO continues supporting the work of the Consultative Forum. At the beginning of 2018, the FRO was invited to participate in a focus group meeting to discuss preliminary findings and recommendations from Consultative Forum **visits to return operations**. This exchange with the Forum, and representatives from the Management Board, including the European Commission, was key for the FRO to consider in full the practical implementation of the Frontex complaint mechanism in the area of returns, in particular with regards to the provision of information. The discussions also contributed to the establishment of synergies between the CF and FRO in the design and implementation of an awareness raising strategy which will be further discussed during 2018 together with the relevant Frontex units.

FRO welcomes the initiative of Frontex land borders sector to include a presentation on **“Children on the move at risk”** in the context of their general operational briefings and, in particular, Frontex interest to involve an expert on child protection from the Forum. On 18th January, a representative from Save the Children participated in the “Briefing Meeting for Team Members to be deployed within the JO Focal Points 2018 Land and JO Coordination Points 2018”, following the general presentation of the FRO on fundamental rights at land borders presented by the FRO team on the same day (see operational briefings section).

On 16 February, the CF presented key findings and recommendations of a study on **gender mainstreaming in Frontex** activities to Frontex Executive Director, Deputy Executive Director and some business units. This study is the result of an outstanding cooperation between the FRO and the CF in which great efforts were dedicated to look at the extent of gender mainstreaming in Frontex activities. During 2018, FRO and the CF will support Frontex in achieving this goal by working on specific objectives which were agreed upon during the meeting. Cooperation with EIGE (European Institute for gender Equality) was recommended to be strengthened and the Fundamental Rights Strategy and its Action Plan will be gender-mainstreamed (with the support of external experts). Also, the FRO and the CF will deliver a similar presentation to Senior Management. To continue raising awareness, Frontex will explore the possibility of providing tailored trainings to Frontex staff and to nominate gender focal-points. Finally, given the lack of safety and security of women and girls at the hotspots, Frontex strives to ensure that operational documents include a gender perspective and impact assessment.

In the framework of the Consultative Forum's work on Frontex Fundamental Rights Accountability, FRO participated in a meeting with Legal Affairs Unit and Consultative Forum members on 19 February. The meeting aimed at gaining a better understanding of activities coordinated by Frontex which could pose risks in terms of EU and international law, in particular human rights law, and identifying ways to mitigate them. FRO welcomed the Forum's initiative to work on this important issue and to invite two external experts from the University of Leiden who have been

extensively researching on the topic. During 2018, the work on fundamental rights accountability of the CF will focus on Frontex engagement with third countries as per CF Program of Work.

On 20-21 February, FRO presented her regular report in the framework of the 15th Consultative Forum meeting. The Forum reaffirmed its support to the revision of the Fundamental Rights strategy, to which they contributed in 2016. Furthermore, FRO presented a revised rules of the Frontex complaint mechanism. The draft includes an obligation of the investigative body to provide a final decision on the complaint; the need to specify means of appeal; an obligation for Frontex deployed officers to provide information about the mechanism or the possibility for the complainant to remain anonymous, among others. As part of its Program of Work, the Forum will further contribute to the revision of the Fundamental Rights Strategy and further support the establishment of the complaints mechanism during 2018. Further, CF requested an update on the FRO staffing and plans of the Agency in this regard.

5. INDIVIDUAL COMPLAINTS MECHANISM

Under Article 72 of the EBCG Regulation, FRO is responsible for handling complaints in writing received by the Agency from individuals directly affected by activities of the Agency or their representatives. FRO is in charge of performing an admissibility check and referring the admissible complaints for follow up and findings to the relevant MS authorities and the Agency's Executive Director, as applicable.

During the reporting period, FRO has received four (4) complaints (two (2) of them at the end of 2017 and two (2) at the beginning of 2018), out of which one (1) admissible complaint has been forwarded to the relevant MS and the Executive Director.

In 2017, the Fundamental Rights Officer received a total of fifteen complaints (15). The FRO performed admissibility review and 5 (five) complaints were declared admissible. Two (2) of these admissible complaints have been already reviewed by the competent authorities of the Member State. National authorities took appropriate follow-up, decided on findings and reported back to the FRO as to the measures taken in response of the complaints. The FRO has proceed to close the two (2) complaints and is currently drafting the final reports for closure. In relation to the other three (3) pending admissible cases, national procedures are currently ongoing and FRO is consolidating information on the findings when required. In relation to complaints declared inadmissible, FRO responds individually, and provides information on other remedies available, when known, in case complainants wish to address their complaints or concerns to other institutions or authorities, in accordance to the principle of good administration and the information provided by MS themselves.

The FRO team has increasingly received queries and requests for information from institutions, organizations and individuals about the complaints mechanism. Notably, in January 2018, the European Ombudsman addressed FRO on behalf of the Spanish Ombudsman highlighting the need of having the complaint form and the information material available in Spanish. In the response, and with regards to the question of languages, the FRO informed that the Agency determines the need to have the complaint form available in a specific language after collecting data from the relevant operational units.

The FRO team has had several meetings with the operational units of the Agency to collect information from the operations in progress and assess the needs of material in operational areas. In January, a request to translate the complaint forms into Spanish, Russian, Serbian and Albanian, the most common language of return operations aside English and French (already available) was put forward. These languages will become available on the website and in printed form at the beginning of March, together with additional information material, which can be printed out and available for distribution during the Agency's operations and included in FAR. In total, the FRO is glad to inform that there are complaints forms and information material about the complaints mechanism already available in ten (10) languages. In addition to the booklet explaining the complaints mechanism already printed in six (6) languages (English, French, Tigrinya, Pashtu, Urdu and Arabic), the FRO team and communications team have designed a poster on the complaints mechanism for display that is currently under production. The booklet and the poster will be distributed in the operational areas of the Agency in collaboration with the relevant units. The printable version of the above mentioned material information in the ten (10) languages available will be soon uploaded in FOSS to be at hand for all deployed officers. Further discussions about external dissemination are ongoing.

The FRO team has also supported the drafting of a new annex on the complaints mechanism to be included in the Operational Plans both for operations and return activities. This exercise has been done in close collaboration with the relevant operational units of the Agency.

FRO complaints also strives to have an online system for submission of complaints directly from mobile devices and is working in cooperation with the ICT unit to develop it. Also, it is important to highlight the improvement made to facilitate the submission of complaints through the launching of a microsite located in the website of the Agency (<https://microsite.frontex.europa.eu/en/Complaints>) that requires safety features as required to ensure safety of the information and confidentiality.

The FRO team has performed two rounds of revisions of the current Rules of the Complaints Mechanism based on the experience gained since the establishment of the mechanism, and already reported about the sharing of an initial draft for comments for a comprehensive set of Rules with the Agency's management in August 2017. In November 2017, the FRO sent the same proposed rules for the consideration of the Consultative Forum, and after analysis and consideration of the proposals, a new draft has been forwarded to ED and MB Chair to replace the current Rules in accordance to Article 72 (10) in February. The new rules include the necessary data protection aspects and reinforces some important provisions proposed by the Consultative Forum and/ or by FRO that are not included in the current rules.

ACTION POINTs

- *Follow up on the distribution of the information booklet and poster to operational areas*
- *Start developing training material for the CM and reformulate awareness pre deployment briefing.*

6. RELATIONS WITH EXTERNAL ACTORS

On **20 November 2017**, FRO team participated in the **Expert Workshop -Complaint mechanisms for human rights violations in the context of border controls and expulsions** at the Council of Europe organized by Centre for European Policy Studies (CEPS). During this closed-door meeting, a selection of national and European legal experts, scholars and practitioners operating in 11 Council of Europe State Parties had the opportunity to present their experiences and exchange knowledge on the accountability regimes of national border and coast guards, the accessibility in practice of existing complaint mechanisms and the added value of the new European Border and Coast Guard (EBCG). FRO was a key note speaker providing some context on the latest developments and current state of play in the implementation of the complaint mechanism and the development of the Frontex Fundamental Rights Strategy.

From **27-28 November 2017**, FRO was invited to Athens as a speaker to the international conference on **“Returns of third country nationals and the Rule of Law”**. The conference was organized by the Greek Ombudsman Office, with the support of the Asylum, Migration and Integration Fund. The aim of the conference was to address the major challenges arising from return/readmission procedures and to analyse the role of the respective institutions in protecting fundamental rights of the people involved, both from EU and national perspectives.

FRO team participated in the Roundtable **“Child-friendly information for children in migration”** on **29-30 November 2017** in Strasbourg. The Roundtable collected experiences from Member States, IOs and NGOs in the development and implementation of child and gender sensitive information packages and campaigns. The knowledge gathered during the meeting enhances FRO's work in making effective children's right to information in the context of border procedures, in light of the scattered age and gender sensitive information within the Agency and to raise awareness about the different border procedures and for the implementation of child-friendly complaints form an overall mechanism.

On **1 December 2017**, FRO took part in a **joint migration and rights of the child expert meeting on the protection of children in migration**, organized by the European Commission- DG JUSTICE and DG HOME. The meeting aimed to bring together migration and rights of the child experts from the Member States, the European Commission and EU Agencies (EASO, FRA, FRONTEX) and to discuss the state of play in implementing the recommendations made by the European Commission in the Communication on the protection of children in migration of 12 April 2017.

On **5 December 2017**, FRO provided an overview of fundamental rights matters in Frontex during the visit of a Judge from the Administrative Court of Lille - France to Frontex. The purpose of the visit was to exchange programme of European Judicial Training Network EJTN. FRO delivered a presentation on practical aspects of fundamental rights in Frontex activities, access to asylum and the complaints mechanism.

From **5-6 December 2017**, FRO team took part in the Annual Conference on EASO Activities on Children in Malta. One of the key conclusions from the meeting was the urgent need for guidelines for border guards on how to deal with married children as well as further support through training courses or other tools on communicating with

children. FRO considers that Frontex would benefit from stronger links/synergies with the EASO vulnerable groups team within the Asylum Support Unit, e.g. with regards to available relevant tools and training.

On 15 December 2017, and following previous years 'practice, FRO was invited by the Head of Sector Asylum, Migration and Borders at FRA for their annual coordination meeting. The purpose of the meeting is to discuss the FRA activities in 2018 ensuring complementarity with the work of the FRO.

On 22 February, FRO was invited to the Peer-review meeting- FRA Guide on Preventing Unlawful Profiling in Vienna together with a representative from ABS. The aim of the meeting was to discuss the Guide's outputs, methodology and principles, as well as its relevance and potential dissemination plans, before its publication scheduled for the second half of 2018. FRO shared her expertise at the final stage of the Guide update, which covered: unlawful profiling, methods of lawful profiling, profiling in the context of police and border controls, profiling in the context of technical tools in law enforcement, and profiling in the context of IT databases. The need to develop specific practical tools was highlighted by both Frontex and several other participants.

ACTION POINTS

- *Careful selection of external activities continues to be applied by FRO when considering external engagements, which are only undertaken when focused specifically on fundamental rights and border management activities. Priority is always given to EU institutions and Agencies as well as events organised by members of the CF.*

7. IMPLEMENTATION OF THE FUNDAMENTAL RIGHTS STRATEGY

After extensive discussions within the FRO team, and in line with FRO's mandate to contribute to the Agency's Fundamental Rights Strategy (Art 71(1)), a first draft of the FRS was submitted to Senior management at the end of 2017. In order to commence further technical, internal and external consultations, an updated list of tentative internal and external focal points (following the new internal structure within the different units and among external partners) was suggested to Senior Management at the end of October. The Action plan is currently being drafted.

ACTION POINTS

- *Follow up on possible comments from Senior Management*
- *Follow up on the updated roadmap proposed by FRO in October for internal and external consultations on the Strategy with Senior Management*

8. MISCELLANEOUS

During 2017, FRO received a total number of 337 requests for support and advice. The current level of requests is exceeding the capacity of the team by all means. The current support staff of the FRO Office consists of:

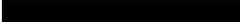
1. Associated FRO (on prolonged leave since 2 February), AD 7, focused exclusively on operational matters.
2. An Advisor (on maternity leave since August 2016) currently replaced by an interim -with no travel insurance or security clearance-, in charge of overall legal support to all FRO tasks.
3. A Complaints Assistant, since May 2017, with exclusive focus on complaints matters.
4. The CF Secretariat, that serves exclusively the work of the CF, ad its communication and support to MB and FRO, and as such, does not support directly the FRO tasks.
5. An administrative assistant, supporting admin issues for the entire team since November 2017.

FRO has learnt with regret that only two assistants of grade FG IV were allocated to the FRO team in 2018. Hence, there are three FG IV assistant positions, currently vacant to be recruited. This implies no possibility to delegate tasks and more supervision required from the FRO than it was initially requested in October 2017. The FRO requested the formation of 3 distinct teams (operations, complaints and other FRO tasks) to allow more cascade management and more experienced staff running each of the teams, under with the overall supervision of the FRO.

9. UPCOMING ACTIVITIES

- **27-28 February:** FReM II Workshop on good practices in forced-return monitoring/operation, Riga;

- **04-09 March:** FReM II - 3rd Training for Forced-Return Monitors, Prague;
- **26 March:** visit to Frontex of the Special Rapporteur on trafficking in persons, Warsaw;
- **09-13 April:** IPA II monitors training; Belgrade, Serbia
- **18 April:** FReM II - 4th project steering group (PSG) meeting;
- **16-17 May:** 16th Consultative Forum meeting, Brussels;
- **24 May:** ED4BG, Sopot;
- **25 May,** CDP for return, Sopot;
- **09-13 July:** 5th PSG meeting & FReM II final conference, Stockholm.


Fundamental Rights Officer