

Annex

Report on the questions received following the Extraordinary MB

Following allegations of the push backs in the Eastern Mediterranean as reported by several media outlets, the Agency has launched an internal inquiry to provide adequate information on the incidents in a transparent manner.

Taking into account the complexity and the scope of the process it has been divided into three stages.

The first stage included the comprehensive overview of the incidents as reported by the media as provided by the Executive Director during the Extraordinary Management Board meeting on 10 November, where representatives of the European Parliament were also invited.

The second stage has been based on the follow-up questions received by the Agency from the Commission as well as Germany and Switzerland which are answered by this report and will be explained during the 82nd Management Board meeting to take place on 25 - 26 November 2020.

The third stage of the process will be a further inquiry conducted by the MB Working Group which is planned to be established during the 82nd MB meeting.

Switzerland

1. How does the Executive Director intend to clarify where such Serious Incident Reports should have been filed?

The Operational Plan (OPLAN) defines the tasks and responsibilities of all participants in the Operational Activities which need to be respected, including regular incident reporting and reporting of cases of alleged violations of Fundamental Rights which could be assigned as SIRs.

2. How will the Executive Director ensure that the internal reporting system is solid and effective in order to allow for an immediate follow-up in case of incidents?

As soon as a SIR is initiated, such as in cases of alleged violation of Fundamental Rights, a Serious Incident Coordinator is assigned. This ensures the proper follow-up of the cases escalated as SIRs. An exceptional reporting mechanism (as defined in the SIR Standard Operating Procedure) can be applied, for example when the reporting person has concerns that the disclosure of sensitive information on possible violation of Fundamental Rights or the Code of Conduct via the SIR mechanism could have consequences on their or others' integrity, reputation or deployment. After acknowledgement of such information, the participant shall immediately report such incidents to the Frontex Situation Center (FSC).

3. How will the Executive Director ensure that the evaluation committee to be tasked with investigating all aspects regarding the possible pushback incidents and in particular legal issues related to the management of the external borders and operations at sea is adequately independent?

The Management Board is proposed to decide on the establishment of the Working Group on Legal and Operational aspects of Maritime Operations (WG LOMO), on its composition and its mandate. The Management Board shall also decide on the spokesperson of this working group. The objective of the WG LOMO will be to conduct further inquiries on the alleged push backs in the Eastern Mediterranean, as well as to provide the interpretation of EU regulations' provisions related to operational activities at sea and "hybrid threats" to Member States national security at external borders.

4. How will the Executive Director ensure a proactive and comprehensive information of the public on its activities and challenges?

The Agency has constantly ensured a full transparency in regards to its activities using all the available channels, including but not limited to Frontex website as well as Frontex various Social Media accounts. On average the Executive Director participates every year in five hearings in the European Parliament, namely in the LIBE Committee where I have regularly reported on the Agency's activities in different domains, including on JO Poseidon/RBI Aegean.

Germany

1. The preliminary report was very informative to us. If you have any information regarding other incidents which might be relevant in this context, I would be grateful if you could complete the report to that effect.

Background information:

Incident Reporting:

The reporting line, structure and the procedure in JORA2 are defined in the OPLAN and the Specific Activity Plan (SAP) that are shared and formally accepted by the host Member State (MS) and (where applicable) by participating Member States as well. This reporting line has specific structure (per operational activity) and timeline. The information is collected within the Activity via JORA2 by officers assigned by the host MS. After the incidents are validated at different levels (LCC, ICC), all the reported incidents undergo the final JORA validation step executed by Frontex Situation Centre (FSC). In case there are any issues with the reported incidents these are not validated until all information and data is clarified/confirmed by all the stakeholders (reporting entity and the various entities that have a role in incident validation e.g. LCC, ICC, FSC).

There are specific JORA Guidelines, Handbook and reporting templates. Frontex reports and reporting lines applicable for each operational activity are defined in the respective Annex/ SAP.

Serious incident Reporting:

The reporting of serious incidents (SI) are in line with the reporting structure of the operational activities. A Serious Incident Report is an alert message that shall be reported in case an event or occurrence, natural or caused by human action, may negatively affect, or be relevant to a particular Frontex activity, the safety and security of participants in Frontex activities, the Agency's mission and reputation, or any combination thereof.

Serious Incidents also include situations of possible violations of European Union (EU) acquis or international law, in particular related to Fundamental Rights (FR) and international protection obligations. Finally, SIs include any violation of the Frontex Code of Conduct (CoC) applicable to all persons participating in Frontex operational activities.

A Standard Operating Procedure consists of the details of the process, followed by its integration in the provisions of the OPLANS. The Serious Incidents Reporting procedure including Serious Incidents Catalogue is available in the General part of the Operational Plan and Handbook that are shared and formally accepted by the host Member State and applicable to all participants in the activities.

A SIR aims to inform the Frontex Executive and Senior Management, the Member States, the Frontex Management Board (MB) and other relevant stakeholders, as soon as possible, about the occurrence of a SI as defined in the "Frontex Serious Incident Catalogue". The production and timely dissemination of a SIR contribute towards enhancing situational awareness and increasing Frontex reaction capabilities. The dissemination of a SIR is the first internal step for possible follow-up measures. Every participant shall report immediately serious incidents (SI) to Frontex, in case he/she witnesses, is involved, or has grounds to suspect about the occurrence of an incident representing a possible violation of fundamental rights or international protection obligations (Category 4 of SI Catalogue).

SI involving allegations on possible violation of fundamental rights and/or CoC can be reported via standard SIR procedure in accordance to the SI reporting lines defined in the operational plan or the exceptional reporting mechanism explained below. An exceptional reporting mechanism can be applied, for example when the reporting person has concerns that the disclosure of sensitive information on possible violation of fundamental rights or the CoC via the SIR mechanism could have consequences on their or others' integrity, reputation or deployment. After acknowledgement of such information, the participant shall immediately report such incidents to the FSC.

A Serious Incident must be reported through an initial SIR as soon as possible and preferably within the first 2 hours after such knowledge has been attained. The initial SIR shall contain a summary of the information known at that point of time. This initial SIR serves as preliminary information to obtain immediate knowledge about the incident, and does not need, at this stage, a specific confirmation of the incident. The initial SIR is not bound by any form and can be reported to the FSC using any available means of communication.

Serious Incidents are clustered into four main categories (SI-Catalogue):

- **Category 1** - Situations of high political and/or operational relevance especially with the potential to affect EU border management of one or more MS/SAC including crisis situations;
- **Category 2** - Incidents occurring in Frontex operational and non-operational activities and not related to Frontex staff and/or other participants in Frontex activities;
- **Category 3** - Incidents involving Frontex staff and/or other participants in Frontex operational and non-operational activities;
- **Category 4** - Situations of possible violations of Fundamental Rights or international protection obligations.

The operational activities of Frontex in the Aegean Sea are conducted within very specific geographical and political circumstances. This makes these operational areas unique. Therefore, our operational responses have to adapt to the complex geography and difficult relationship between Greece and Turkey. Having said that, Frontex is always committed to the highest European standards of border management and has zero tolerance for any violations of international obligations of MS or deployed Frontex assets involved. In fact, these aspects are fully integrated into any operational activity of Frontex and any activity that might be interpreted as possible violation of Fundamental Rights or international protection obligations has to be reported through our Serious Incident Report channel (SIR).

During the period between 1 April and 30 October 2020, there were several occasions where either an Incident Report or a Serious Incident Report (SIR) was produced/initiated:

Serious Incident Reports:

- **27 July 2020 - SIR Danish Helicopter sighting - Cat 4(11860/2020)**
 - *status: on-going;*
 - *SI Coordinator: HoS.OIS is the SI Coordinator for this case. FRO also received the SIR.*
 - *A letter to the Greek authorities was sent on the 8 August 2020;*
 - *A reply from the Greek authorities was received on the 14 October 2020.*
- **04-05 August 2020 - FSA sighting resulting in the creation of SIR - Cat 4 (11934/2020)**
 - *status: on-going;*
 - *SI Coordinator: after consultation with ORD, HoU.FDU was proposed to act as SIR coordinator (accepted by FDU). Upon request from FDU, FSC provided detailed information about the event on 14 August. No further information is available in FSC. FRO also received the SIR.*
- **30 October 2020 - SIR Cat 4 (12604/2020)**
 - *status: on-going;*
 - *SI Coordinator: DORD was assigned to coordinate it from the operational perspective; in parallel, FRO was assigned to coordinate it from the perspective of fundamental rights;*
 - *FRO inquired Hellenic authorities about this event and received a reply;*
 - *Frontex Inspection and Control Office (ICO) launched a fact finding missions due to accusations against an operational Frontex staff expressed by Swedish authorities.*

- **21 November 2020 - SIR Cat 4 (12790/2020)**
 - *status: on-going;*
 - *SI Coordinator: FRO was assigned to coordinate and with close support by ORD.*

Pending Incident reports (Frontex requested clarifications to the HCG)

- a. 09 June 2020 - Frontex Surveillance Aircraft sighting - Incident number: 4074011
- b. 12 June 2020
 - i. Frontex Surveillance Aircraft sighting - Incident number: 407466
 - ii. Frontex Surveillance Aircraft sighting - Incident number: 407467
- c. 28 July 2020: Frontex Surveillance Aircraft sighting related to SIR 11860 - incident number: 410811
- d. 05 August 2020: Frontex Surveillance Aircraft sighting - Incident number: 411632

Other relevant reporting

- 10 August 2020: DEU Coastal Patrol Boat deployed in Samos - Commanding Officer mission report no.19
- 14 May 2020: Frontex Surveillance Aircraft sighting - The incident has been presented as a Prevention of Departure by the ICC Piraeus (HCG).

European Commission

1. Has there been any occasion this year where a Frontex-deployed asset or a Frontex deployed staff has collected video evidence or any other type of evidence of incidents which could have been or should have been qualified as pushbacks, either by the Hellenic Coast Guard or by any other entity or body?

Yes, and where this was the case, either an Incident Report or a Serious Incident Report (SIR) was produced/initiated. A more detailed overview of all incidents and serious incidents can be found in the answer to *Question 2* below.

In addition, 2 other incidents were identified as might they could be relevant in this context:

A. 10 August 2020- DEU CPB 62 deployed in Samos

- In DEU CPB 62 mission report no.19 dated 10 August the Commanding Officer reported: At 06:00AM, GRC Navy Observation Point PRASO detected an object in position 37°50,0' N 027°01,0' E in Greek TW. At 06:15AM, DEU CPB reached position 37°49,9' N; 027°02,1' E and stopped a rubber boat with approx. 40 migrants on board. DEU CPB informed HCG Samos. At 06:45AM, HCG with asset 604 was arrived the area and took over responsibility of the incident.
- The mission report no.105 dated 10 August of the HCG CPB 513 co-financed by Frontex reported that": at 07:50 SAR 513 spotted a rubber boat with illegal immigrants in Turkish TW in position: 37 55.1 N; 027 05.9E. SAR 513 informed JRCC Piraeus and port authority of Samos and remain present in the area of Greek border line to provide assistance, if needed. 08:40 Turkish Coast Guard patrol boat arrived in position adjacent to the rubber boat. 09:20 CPB 604 arrived in area to replace SAR 513. Informed JRCC Piraeus - port authority of Samos and departed from area.
- The DEU NO sent an email to the ICC Piraeus asking for clarification about the outcome of the incident.
- The HCG authorities informed that after the arrival of the HCG CPBs the rubber boat moved in TTW and TCG vessel took the responsibility of the incident. ICC Piraeus added that the concerned incident will be categorized as prevention of departure since, upon the sight of the HCG CPB the migrant vessel altered its course and headed to the Turkish Coasts.

Additionally clarifications were provided by the Hellenic CG:

- The migrant boat was detected by the DEU asset in the GTW;
- The sea state at the time of the incident was calm, no threat for the lives of the migrants;
- The DEU asset was instructed not to take action and leave the responsibility to the HCG assets arriving at the scene;
- HCG assets took up border control measures prohibiting the landing to Samos;
- The migrant boat performed manoeuvres after some time changed direction and return back to the TTW;
- According to HCG these were border control activities and do not provide any ground to initiate a SIR procedure.

B. On 14th of May

- 00:17LT, FSA METIS observed a migrant boat with approx. 40 POB heading due south towards the Lesvos coast 39° 25' 25" N 026° 19' 54" E in Greek TW. While the Greek LO is usually located at Frontex HQ within the European Monitoring Team, due to COVID-19 restrictions the Greek LO following the flight in live streaming was exceptionally located at ICC Piraeus. The Greek LO located at ICC Piraeus passed information to HCG and instructed FSA METIS to continue on tasked route. HCG informed that the incident is under control.
- On the same day, at 00:45LT, CZE TVV received a message from HCG that a migrant boat might be located near of the Turkish/Greek border - sector C Lesvos. CZE TVV found this boat in cooperation with HCG and passed the information to the HCG LO.
- During the next day's JCB meeting from ICC (within the official PPT), the incident has been presented, as it follows: "On 14 May at 00:10 LT a boat with approximately 40 migrants on board was early detected by HCG CPB 602 and subsequently by FWA METIS at the sea area Akra Korakas, North of Lesvos island. The information passed to CZ TVV and JRCC Piraeus informed MRCC Ankara. At the view of HCG CPB 602 boat altered her course on own initiative/will and headed towards Turkish coastline. Eventually two (02) TCG patrol boats arrived at the place and took over responsibility of incident."
- The incident has been presented as a Prevention of Departure by the ICC Piraeus (HCG).

2. If yes, on which occasions has such evidence been collected? Please provide the dates of the related incidents.

Serious Incident Reports:

- a. 18-19 April 2020 - Frontex Surveillance Aircraft (FSA) sighting resulting in the creation of Cat 2 SIR (11095/2020)
- b. 27 July 2020 - SIR Danish Helicopter sighting - Cat 4(11860/2020)
- c. 04-05 August 2020 - Frontex Surveillance Aircraft sighting resulting in the creation of SIR - Cat 4 (11934/2020)
- d. 30 October 2020 - SIR Cat 4 (12604/2020)

Pending Incident reports (FSC requested clarifications to the HCG)

- e. 09 June 2020 - Frontex Surveillance Aircraft sighting - Incident number: 4074011
- f. 12 June 2020
 - i. Frontex Surveillance Aircraft sighting - Incident number: 407466
 - ii. Frontex Surveillance Aircraft sighting - Incident number: 407467
- g. 28 July 2020: Frontex Surveillance Aircraft sighting related to SIR 11860 - incident number: 410811
- h. 05 August 2020: Frontex Surveillance Aircraft sighting - Incident number: 411632

3. How many of these incidents have been qualified as serious by the responsible officers and reported via a Serious Incident Report (SIR)?

Four of the above mentioned incidents can be qualified as serious incident (11095, 11860, 11934, 12604).

4. Can you provide the legal assessment of Frontex of each of these incidents in light of international and European Union law, including Regulation (EU) No 656/2014?

The Management Board is proposed to decide on the establishment of the Working Group on Legal and Operational aspects of Maritime Operations (WG LOMO), on its composition and its mandate. The Management Board shall also decide on the spokesperson of this working group. The objective of the WG LOMO will be to conduct further inquiries on the alleged push backs in the Eastern Mediterranean, as well as to provide the interpretation of EU regulations' provisions related to operational activities at sea and "hybrid threats" to Member States national security at external borders.

5. How many have been subsequently declassified?

N/A, please see the answer to question 4.

6. Can you provide the reasons for any declassification?

N/A, please see the answer to question 4.

7. Please provide a full account, including reporting lines and decisions taken, of any incident reported by any Frontex member of staff in any jurisdiction, in particular in relation to the media reports related to the following dates: 14 April 2020, 19 April 2020, 28 April 2020, 29 April 2020, 4 May 2020, 13 May 2020, 4 June 2020, 5 June 2020, 8 June 2020, 15 August 2020 and 19 August 2020.

On these dates various incidents and one serious incident were reported but none of them can be linked to what has been reported in the media. In case Frontex Surveillance Aircraft was deployed, it is indicated in the description of the incident.

Incident Reports:

The reporting line, structure and the procedure in JORA2 is defined in the OPLAN and the Specific Activity Plan (SAP) that are shared and formally accepted by the Host Member State (MS) and (where applicable) and by participating Member States as well. This reporting line has specific structure (per operational activity) and timeline. The information is collected within the Activity via JORA2 by officers assigned by the host MS. After the incidents are validated at different levels (LCC, ICC), all the reported incidents undergo the final JORA validation step executed by Frontex Situation Centre (FSC). In case there are any issues with the reported incidents these are not validated until all information and data is clarified/confirmed by all the stakeholders (reporting entity and the various entities that have a role in incident validation e.g. LCC, ICC, FSC).

There are specific JORA Guidelines, Handbook and reporting templates. Frontex reports and reporting lines applicable for each operational activity are defined in the respective Annex/ SAP.

Frontex Situation Centre receives, process and validates information about incidents occurred around European borders through the official platforms of Eurosur/JORA.

A dedicated team of experts checks the accuracy of the facts inserted in the system by Member States. They then either validate an incident in the system or reject it and ask the particular Member State for clarification.

Please see the information below regarding the specific dates. There was no specific information that raised any doubts to what was reported in JORA and thus the incidents were validated:

14 April 2020: two incidents were inserted in JORA, classified by Greek Authorities as preventions of departure:

1. The JORA incident 406128, linked to mission report number 177 by Frontex surveillance aircraft (FSA), says the following: *“A boat with approximately 30 migrants on board was early detected by MASS FWA and HCG CPB 618 at the sea area SE of Lesbos Island, inside TTW. After detection Operational Center informed MRCC Ankara with negative results. At the sight of HCG CPB 618, the migrant's boat altered course on her own initiative/will and headed towards the Turkish coasts”.*

As reported by Greek Authorities, the migrant boat was detected by Frontex Surveillance Asset (FSA) **“METIS” inside Turkish territorial waters (TTW). Due to fuel limitations FSA could not observe the entire incident and left the area before the migrant boat went back to Turkish coast.**

2. The JORA incident 406129 reports the following: *“A boat with approximately 40 migrants on board was early detected by HCG OPV 080 at the sea area East of Lesbos Island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and subsequently a Turkish Coast Guard (TCG) boat arrived in the area and took over responsibility of the incident”.*

No FSA sighting in relation to this incident.

28 April 2020:

1. Incident reported in JORA: A boat with approximately 20 migrants on board was early detected by HCG OPV 050 at the sea area SE of Samos Island, inside TTW. JRCC Piraeus informed MRCC Ankara and a TCG

boat arrived at the area and took over responsibility of the incident. No FSA sighting in relation to this incident.

29 April 2020: one incident, classified by Greek Authorities as prevention of departure:

1. The JORA incident 406283 reports the following: *“A boat with approximately 40 migrants on board was early detected by HCG OPV 080 and subsequently by BGR CPV at the sea area Akra Korakas, North East of Lesbos island, inside TTW. JRCC Piraeus informed MRCC Ankara and following VHF calls, a TCG boat arrived at the area and took over responsibility of the incident”.*

No FSA flight took place on this date/no sightings reported by FSA

04 May 2020: there are no sightings/incidents reported by Greek Authorities dated 04 May. **No FSA sighting in relation to this incident.**

13 May 2020: one incident, classified by Greek Authorities as prevention of departure:

1. The JORA incident 406393 reports the following: *“A boat with approximately 40 migrants on board was early detected by HCG CPB 602 and subsequently by FWA METIS at the sea area Akra Korakas, North of Lesbos island inside TTW. The information passed to CZE TVV and JRCC Piraeus informed MRCC Ankara. At the view of HCG CPB 602 the boat altered her course on her own initiative/will and headed towards Turkish coastlines. Eventually two (02) TCG patrol boats arrived at the place and took over responsibility of the incident”.*
2. As reported by Greek Authorities, the migrant boat was detected by Frontex Surveillance Asset (FSA) “METIS” inside Turkish territorial waters. Due to indication of HCG liaison officer that the incident was under control FSA was instructed to continue patrol on the tasked route. Accordingly FSA did not record the entire incident.

04 June 2020: four incidents, classified by Greek Authorities as preventions of departure:

1. The JORA incident 407062 reports the following: *“a boat with approximately 35 migrants onboard was early detected by HCG OPV 070 at the sea area “Neniton” SE of Chios island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and a TCG boat arrived in the area and took over responsibility of incident”.* **No FSA sighting in relation to this incident.**
2. The JORA incident 407091 reports the following: *“A boat with approximately 40 migrants onboard was early detected by HCG CPB 602 at the sea area NE of Lesbos island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and two (02) TCG boats arrived in the area and took over responsibility of the incident”.* **Due to indication of HCG liaison officer that the incident was under control FSA was instructed to continue patrol on the tasked route. Accordingly FSA did not record the entire incident.**
3. The JORA incident 407094 reports the following: *“A boat with approximately 30 migrants on board was early detected by HCG CPB 602 at the sea area North of Lesbos island, inside Turkish territorial waters. After detection JRCC Piraeus informed MRCC Ankara. At the area was already patrolling a TCG boat but didn' t respond to the incident, finally another TCG boat arrived at the place and took over responsibility of the incident”.* **No FSA sighting in relation to this incident.**
4. The JORA incident 407100 reports the following: *“A boat with approximately 09 migrants onboard was early detected by HRV CPB at the sea area East of Megisti island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and a TCG boat which was already patrolling in the area and took over responsibility of the incident”.* **No FSA sighting in relation to this incident.**

05 June 2020: two incidents, classified by Greek Authorities as preventions of departure:

1. The JORA incident 407113, reports the following: *“A boat with approximately 30 migrants on board was early detected by HCG OPV 080 at the sea area North East of Lesbos island, inside Turkish territorial waters. After detection JRCC Piraeus informed MRCC Ankara and Turkish Coast Guard boat arrived at the place and took over responsibility of the incident”.* **No FSA sighting in relation to this incident.**
2. The JORA incident 407188, reports the following: *“A boat with approximately 35 migrants on board was early detected by HCG CPB 615 at the sea area East of Lesbos island, inside Turkish territorial waters. After detection JRCC Piraeus informed MRCC Ankara and Turkish Coast Guard boat arrived in the area and took over responsibility of the incident”.*
No FSA sighting in relation to this incident.

08 June 2020: three incidents, classified by Greek Authorities as preventions of departure:

1. The JORA incident 407256, reports the following: *“A boat with one (01) migrant onboard was early detected by HCG FIB 1043 at the sea area NE of Kos Island, inside TTW. A TCG boat which was already*

patrolling in the area was informed via VHF with negative results. At the view of HCG FIB the rubber boat altered course on its own and headed towards to Turkish coasts". **No FSA sighting in relation to this incident.**

2. The JORA incident 407206, reports the following: "A boat with approximately 50 migrants on board was early detected by HCG OPV 080 at the sea area "Skala Sykamnia" North of Lesbos island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and a TCG boat which was already patrolling in the area took over responsibility of the incident". FSA sighted a white rubber boat with approx. 20 POB, sailing 5 knots, course 270. One Turkish CG patrol vessel nearby. At 04:23, FSA observed the rubber boat with approx. 20 POB, trying to evade the Turkish Coast Guard. A second patrol boat nearby was probably HCG
3. The JORA incident 407258, reports the following: "a boat with approximately 16 migrants onboard was early detected by HCG CPB at the sea aarea East of Farmakonisi island, inside TTW. After detection JRCC Piraeus informed MRCC Ankara and a TCG boat arrived in the area and took over responsibility of the incident". **No FSA sighting in relation to this incident.**

15 August 2020: 5 incidents, classified by Greek authorities as preventions of departure:

1. "a boat with approximately 40 migrants onboard was early detected by HCG SAR vessel 513 at the sea area East of Samos island inside TTW. At the view og HCG SAR vessel 513 the rubber boat altered course by her own initiave/will towards the Turkish coasts". **No FSA sighting in relation to this incident.**
2. "rubber boat with approximately 40 migrants onboard was early detected by HCG FIB 1006 at the sea area East of Samos island inside TTW. At the view of HCG FIB 1006 the rubber boat altered course by her own initiave/will towards the Turkish coasts." **No FSA sighting in relation to this incident.**
3. "On 15th August a rubber boat with approximately 60 migrants onboard was early detected by ROU CPV 1102 and HCG OPV 070 at the sea area North East of Lesbos island inside TTW. After detection JRCC Piraeus informed MRCC Ankara and at 11:40 LT three (03) TCG boats which were already patrolling in the area took over responsibility of the incident." **No FSA sighting in relation to this incident.**
4. "On 15th August at 20:00 LT a rubber boat with approximately 30 migrants onboard was early detected by ROU CPV 1102 at the sea area North of Lesbos island inside TTW. After detection JRCC Piraeus informed MRCC Ankara. At the view of ROU CPV 1102 the rubber boat altered course on her own initiative/will and headed towards the Turkish coasts where all migrants were safely disembarked." **No FSA sighting in relation to this incident.**
5. "On 16th August at 01:05 LT a boat with approximately 50 migrants onboard was early detected by HCG OPV 080 at the sea area SE of Lesbos island inside TTW. After detection JRCC Piraeus informed MRCC Ankara and at 03:10 LT a TCG boat arrived in the area and took over responsibility of the incident" **No FSA sighting in relation to this incident.**

19 August 2020: two incidents were reported classified by Greek authorities as preventions of departure:

1. "A rubber boat with approximately 40 migrants onboard was early detected by LTU HELO at the sea area North of Lesbos island inside TTW. Immediately the information passed to HCG CPB 602 and simultaneously JRCC Piraeus informed MRCC Ankara. At the view of HCG CPB 602 the rubber boat altered course on her own initiative/will and headed towards the Turkish coasts under the close monitoring of a TUR CG vessel." **No FSA sighting in relation to this incident.**
2. A rubber boat with approximately 50 migrants onboard was early detected by HCG OPV 090 at the sea area South of Lesbos island inside TTW. After detection JRCC Piraeus informed MRCC Ankara and at 11:40 LT a TUR CG boat arrived in the area and took over responsibility of the incident. **No FSA sighting in relation to this incident.**

Serious Incident Report:

18-19 April 2020 - SIR 11095/2020 - Frontex Surveillance Aircraft Sighting:

Description of the case:

18.04.2020

- At 22:58 HCG Sea Border Expert, based in ICC Piraeus informed FSC Team Leader about an incident north of Lesbos asking to reach the point.
- At 23:05 Frontex Surveillance Aircraft (FSA) spots a rubber boat with approx. 20-30 POB, stopped, and one Greek Patrol vessel is very close.
- At 23:22 FSC Team Leader sends the Early Warning report to the competent Greek Authorities (incident inside Greek TW - Two HCG patrol boats and one TCG are in the vicinity of the target).

- At 23:38 HCG Sea Border Expert cleared Frontex Surveillance Aircraft to resume normal patrolling.

19.04.2020

- At 00:03 Frontex Surveillance Aircraft observes and sends to FSC the picture of the Greek patrol boat towing an empty rubber boat. The migrants are on board the patrol boat.
- At 00:06 HCG Sea Border Expert asks Frontex Surveillance Aircraft to fly south, contrary to flight schedule to fly south-east.
- At 02:37 the migrants are transferred on board the rubber boat previously towed from the patrol boat, the second patrol boat, a Rigid Hulled Inflatable Boat (RHIB), awaits in the vicinity.
- At 02:43 Frontex Surveillance Aircraft affirms that nearby the rubber boat with migrants on board there are no TCG vessels, only Greek HCG.
- At 02:46 Frontex Surveillance Aircraft takes a picture of a Greek patrol vessel towing the rubber boat with migrants on board towards TUR Territorial Waters with course 051°. HCG Sea Border Expert requests to fly north.
- At 02:57 HCG Sea Border Experts sends instructions to fly northbound for the remaining 30 min of flight, when the Frontex Team Leader in the European Monitoring Room at Frontex HQ asks HCG Sea Border Expert (Greek LO exceptionally acting remotely from ICC Piraeus due to COVID-19 restrictions) if there is any specific reason to fly north the reply from HCG Sea Border Expert is “negative”.
- At 03:21 Frontex Surveillance Aircraft communicates that the rubber boat has no engine and it is adrift at 39°16'N 026°35'E. Greek assets are departing the area leaving the rubber boat adrift.
- At 04:48 Frontex Team Leader in the European Monitoring Room at Frontex HQ proposes to HCG Sea Border Expert to divert TASTY, aerial asset already airborne, to check the rubber boat. HCG Sea Border Expert replies: “Negative. Tasty will continue its normal route”.
- Once Frontex Surveillance Aircraft had landed, FSC Team Leader offers a second flight to Greek authorities to collaborate with the mentioned SAR being rejected the aid on the grounds that the Turkish Coast Guard had assumed the coordination of the incident.
- At 15:55 Greek Authorities inform that according to information received, that same morning the rubber boat landed safely on the Turkish shores under the monitoring of a Turkish Coast Guard vessel.

8. Please described for each of the occasions or incidents identified above, how the Agency reacted?

The reaction of the Agency depends on the nature of the incident and is based on the relevant reporting procedures in place (i.e. incident reporting, serious incident reporting, reporting during FSA sightings). If an FSA was involved in the sighting, the Hellenic SAR authorities have been notified about each sighting in real time (with video streaming and email notification).

Afterwards and depending on the situation, Frontex took appropriate action:

- a) by issuing a Serious Incident Report (SIR)
 - when the aircraft followed the whole incident, having the complete picture of the situation;
 - in case a serious incident was flagged by another participant of the operation);

- b) by flagging the incident to the management
 - any important, exceptional or incomplete incident or activity following the regular reporting and communication channels and ICC coordination from the operational activities conducted within Joint Operations/ Rapid Border Interventions. This includes the daily reporting as follows;
 - o Technical Equipment Mission Report is drafted after each patrolling activity by the participating units, including information about the activity and surveillance performed by the assets - Commanding Officer (MS asset) to respective Local Coordination Centre (HCG) and National Officer (MS), who forwards to ICC Piraeus (HCG).
 - ICC Daily report and/or Joint Coordination Board Minutes - Operational overview on a daily basis, including a daily reporting package prepared by the ICC Staff (HCG) and consists of the reports defined above - ICC disseminates to Frontex (Operational Team ((including Coordinating Officer)), FSC and the National Officials of the participating assets.
 - In addition, Frontex Operational Coordinator posted in the ICC prepares and delivers to Frontex a daily operational overview.
 - in case the Frontex aircraft did not follow the whole incident, for example because it was redirected by the HCG, and did not have the complete timeline and details of the event;

- c) by asking the Hellenic authorities for clarification and/or requested the launch of an internal investigation, in case of discrepancies in the JORA reporting (with or without involvement of FSA):
 - putting on hold the validation of the incidents;
 - re-evaluating incidents that have been validated but flagged for clarification.
- The Executive Director signed and sent official letter (dated 08 May 2020) to the Greek Minister about the incident (SIR 11095/2020) mentioned above involving FSA sightings in the night from 18 to 19 April

Please, see the detailed description of the above under the next questions.

9. Have you reacted to the local government on each occasion?

Frontex coordinates the JO via its Coordinating Officer (FCO) who is acting on behalf of the Agency in all aspects of the deployment of the resources. The Greek authorities - Hellenic Coast Guard and Hellenic Police - are the direct interlocutors of Frontex and responsible for all border related activities within the JO. The participating MS/SAC support the achievement of operational objectives and implementation of activities by deploying their resources to the defined locations in particular periods of time.

All the activities are coordinated by the International Coordination Centre (ICC), without prejudice to the prerogatives of the national operational chain of command and control specific to each participating MS/SAC. In case border control turns to SAR, the activities are to be executed under the planning, coordination and guidance of the JRCC Piraeus according to internationally agreed SAR procedures.

Having said this, it needs to be highlighted that Frontex does not act independently/unilaterally but under the tactical command of the Host Member State. Therefore, it goes without saying that, indeed, that Agency has been in close contact with the Greek authorities in all occasions.

10. On each of the occasions, please described the reporting lines in the Agency: who was alerted, who received the incident reports, what was the proposed classification by the responsible officers and how were they finally classified, by whom, and for which reasons?

Incident Reporting:

The reporting line, structure and the procedure in JORA2 are defined in the OPLAN and the Specific Activity Plan (SAP) that are shared and formally accepted by the host Member State (MS) and (where applicable) by participating Member States as well. This reporting line has specific structure (per operational activity) and timeline. The information is collected within the Activity via JORA2 by officers assigned by the host MS. After the incidents are validated at different levels (LCC, ICC), all the reported incidents undergo the final JORA validation step executed by Frontex Situation Centre (FSC). In case there are any issues with the reported incidents these are not validated until all information and data is clarified/confirmed by all the stakeholders (reporting entity and the various entities that have a role in incident validation e.g. LCC, ICC, FSC).

There are specific JORA Guidelines, Handbook and reporting templates. Frontex reports and reporting lines applicable for each operational activity are defined in the respective Annex/ SAP.

Serious incident Reporting:

The reporting of serious incidents (SI) are in line with the reporting structure of the operational activities. A Serious Incident Report is an alert message that shall be reported in case an event or occurrence, natural or caused by human action, may negatively affect, or be relevant to a particular Frontex activity, the safety and security of participants in Frontex activities, the Agency's mission and reputation, or any combination thereof.

Serious Incidents also include situations of possible violations of European Union (EU) acquis or international law, in particular related to Fundamental Rights (FR) and international protection obligations. Finally, SIs include any violation of the Frontex Code of Conduct (CoC) applicable to all persons participating in Frontex operational activities.

A Standard Operating Procedure consists the details of the process, followed by its integration in the provisions of the OPLANS. The Serious Incidents Reporting procedure including Serious Incidents Catalogue is available in the General part of the Operational Plan and Handbook that are shared and formally accepted by the host Member State and applicable to all participants in the activities.

A SIR aims to inform the Frontex Executive and Senior Management, the Member States, the Frontex Management Board (MB) and other relevant stakeholders, as soon as possible, about the occurrence of a SI as defined in the "Frontex Serious Incident Catalogue". The production and timely dissemination of a SIR contribute towards enhancing situational awareness and increasing Frontex reaction capabilities. The dissemination of a SIR is the first internal step for possible follow-up measures. Every participant shall report immediately serious incidents (SI) to Frontex, in case he/she witnesses, is involved, or has grounds to suspect about the occurrence of an incident representing a possible violation of fundamental rights or international protection obligations (Category 4 of SI Catalogue).

SI involving allegations on possible violation of fundamental rights and/or CoC can be reported via standard SIR procedure in accordance to the SI reporting lines defined in the operational plan or the exceptional reporting mechanism explained below. An exceptional reporting mechanism can be applied, for example when the reporting person has concerns that the disclosure of sensitive information on possible violation of fundamental rights or the CoC via the SIR mechanism could have consequences on their or others' integrity, reputation or deployment. After acknowledgement of such information, the participant shall immediately report such incidents to the FSC.

A Serious Incident must be reported through an initial SIR as soon as possible and preferably within the first 2 hours after such knowledge has been attained. The initial SIR shall contain a summary of the information known at that point of time. This initial SIR serves as preliminary information to obtain immediate knowledge about the incident, and does not need, at this stage, a specific confirmation of the incident. The initial SIR is not bound by any form and can be reported to the FSC using any available means of communication.

Serious Incidents are clustered into four main categories (SI-Catalogue):

- **Category 1** - Situations of high political and/or operational relevance especially with the potential to affect EU border management of one or more MS/SAC including crisis situations;
- **Category 2** - Incidents occurring in Frontex operational and non-operational activities and not related to Frontex staff and/or other participants in Frontex activities;
- **Category 3** - Incidents involving Frontex staff and/or other participants in Frontex operational and non-operational activities;
- **Category 4** - Situations of possible violations of Fundamental Rights or international protection obligations.

The SIR Mechanism does not exclude the possibility of consultation at the initial stage of first assessment between FSC and other internal actors, allowing for the most appropriate further action, for the escalation of an event as Serious Incident and the proposal of the SI Coordinator.

Due to the possible impact and the multilateral issues generated by a specific SI, a SI-Coordinator shall be assigned upon respective proposal by the FSC, according to the SI categories illustrated in the SI-Catalogue. The SI-Coordinator is responsible for the follow up, the coordination and the closure of the SI. It is the responsibility of the FSC to trigger the SI Reporting procedure by identifying and contacting the responsible unit/sector and proposing the role of SI-Coordinator based on the SI categories illustrated in the SI-Catalogue.

Such a proposal is done at the stage of the initial SIR. Upon receiving the proposed nomination as SI-Coordinator by the FSC, the relevant Frontex entity shall assess the proposal and confirm to the FSC within one working day the acceptance of his/her role as SI-Coordinator for the respective incident. In case the proposed SI-Coordinator does not confirm his/her role, the decision making process shall be escalated to the appropriate senior management level depending on the category of the SI.

SIRs are distributed in line with the distribution list for each category that is approved by senior management. Category 4 SIRs are distributed to internal stakeholders that include the following distribution lists and functional e-mail addresses: DIEC, DORD, DSAM, Executive Director, FMM, FSC-SDO, HoO.BRU, HoO.MPR HoO.FRO, HoS.Hub, HoU.CGLE, HoU.FDU, HoU.LOU, HoU.RAU, HoU.LPU, DCBD, DCGO.

Reporting during Frontex Surveillance Aircraft missions:

In the period between April and September 2020, three Frontex Surveillance Aircraft (FSA) were deployed in the Aegean Sea (under the framework of Joint Operation Poseidon), respectively in the islands of Kos, Chios and Lesbos under the coordination of the Hellenic Coast Guard (HCG) in the International Coordination Centre (ICC) Piraeus.

All aerial surveillance activities were planned by ICC Piraeus in term of timeframe and areas to be patrolled. During the flights, a representative of HCG was present physically in the European Monitoring Room at the Frontex Situation Centre (FSC) in Warsaw, or remotely from ICC Piraeus when the restrictions related to COVID-19 started. The real-time video is streamed to the respective National Coordination Centres.

The role of the HCG liaison officer is to provide guidance and real-time instructions regarding the flight activities, including:

- flight plan,
- flight pattern,
- schedule (decided by the International Coordination Centre),
- live activity including instructions on
 - which exact area/activity needs to be surveilled
 - when to stay or fly away from any activity / geographical area
 - tactical control of the asset upon detection of an incident.

In addition to having the representative of the HCG present during each Frontex Surveillance Aircraft mission a mission report is prepared and shared directly with the following stakeholders:

- External:
 - Hellenic Coast Guard
 - ICC Piraeus
 - Joint Rescue Coordination Centre - Hellenic authority
 - Hellenic Navy
 - Contractor of the aircrafts
- Internal:
 - European Monitoring Team
 - Pooled Resource Unit
 - Operational Response Division:
 - Field Deployment Unit
 - Frontex Operational Coordinator
 - Risk Analysis Unit

11. How was the Fundamental Rights Officer involved in each of these instances?

Concerning Category 4 Serious Incident the Fundamental Rights Officer was informed and/or proposed to act as SI-coordinator (please see below) via the distribution list - approved by the senior management - includes the Head of the Fundamental Rights Office.

12. Have you received any reports or complaints from other internal or external sources making allegations of breaches of fundamental rights relation to Frontex activities? If yes, how have these been treated?

The following **Serious Incident Reports** - all categorised as Category 4, possible violation of fundamental rights - and incident reports can be considered:

1) SIR 11860

Category: 4 Situations of possible violations of Fundamental Rights or international protection obligations.

Description:

- On 27.07.2020, National Official (NO) of the Danish HELO deployed to JO Poseidon 2020 informed FOC in ICC about ambiguity of the location of a detected migrant boat.
- FOC advised DNK NO and the HELO CO to get in contact with ICC Coordinator in order to clarify the necessary details.
- On 28.07.2020 the incident has been discussed (FCO/FOC, HCG, DNK NO) in ICC Piraeus.
- The event was registered as "Prevention of Departure" by ICC Piraeus.

HoS.OIS is the SI Coordinator for this case.

As a follow up of the SIR, a letter from ED to the Commandant of the HCG was sent on the 06.08.2020, requesting the investigation of the incident. The HCG replied to the ED letter on 14 October 2020.

SIR Status: on-going

2) SIR 11934

Category: 4 Situations of possible violations of Fundamental Rights or international protection obligations.

Description:

- On 05/08/2020, at 01:41 LT, Frontex Surveillance Aircraft (FSA) Metis sighted a migrant boat with approximately 30 people on board, east of Lesbos in Greek territorial waters, towed eastwards towards Turkish territorial waters by a Greek Coast Guard patrol vessel. At the time of the sighting the convoy was located approximately 1,2 NM inside the Greek territorial waters;
- The event had been registered as a “Prevention of Departure” by ICC Piraeus.

HoU.FDU was proposed to act as SIR coordinator (accepted by FDU). Upon request from FDU, FSC provided detailed information about the event on 14 August. No further information is available in FSC.

SIR Status: on-going

FSA was deployed under JO POSEIDON from 01 March 2020 - 07 September 2020.

3) SIR 12604:

Category: 4 Situations of possible violations of Fundamental Rights or international protection obligations.

Description:

- On the 30.10.2020 04:50LT, SWE CPB intercepted a vessel and found out that it was an inflatable black rubber boat, with an outboard engine, transporting around 20 migrants
- The rubber boat stopped when it was 1.5 NM from the border line
- The rubber boat was fully operational and the assessment was that they weren't in distress
- The Greek Liaison on board contacted the Hellenic Coast Guard, which dispatched a patrol boat to the scene
- The SWE crew was informed by the Hellenic authorities that they were excused from the scene, once the HCG was taking over the situation
- Nevertheless, the SWE crew continued to monitor the situation and they saw the echo of the HCG patrol boat moving towards the border line, where it stopped moving.
- No SAR operation was initiated and no migrants' boat arrived to Chios on 30.10.2020.

DORD was assigned to coordinate it from the operational perspective; in parallel, FRO was assigned to coordinate it from the perspective of fundamental rights.

FRO inquired Hellenic authorities about this event and received feedback.

Incident reports pending validation:

During the validation process of the incidents (IV) reported in JORA for the Rapid Border Intervention (RBI) in Greece, FSC detected discrepancies between the information present in JORA and the information provided by other coming from assets deployed at the location and time of the incidents. These discrepancies were found on 05 specific incidents.

The overall issue has been addressed and explained twice to the Greek authorities. Firstly, during the “*Bilateral Meeting with Host Member State - Greece: Planning operational activities 2021*” that took place on the 24th of September. Secondly, by an email sent on the 28th October to ICC Piraeus.

On the 3rd November, ICC provided their reply and comments to each specific case. Apart from providing comments, ICC Piraeus also clarified that in what concerns the references to Persons On Board (POB), the numbers provided when addressing Prevention of Departures are approximate figures (realistic assumptions). As such, the numbers provided by maritime assets are generally preferred over the ones provided by aerial assets.

Incident 407401 (09JUN20): According to Frontex Surveillance Aircraft (FSA) Mission Report 351, the number of migrants differ (25 POB in FSA Report) and 50 in the JORA incident. The coordinates also differ: 38° 52' 30'' N 026° 35'

03' E in FSA Report vs 38° 48' 42" N 026° 39' 36" E (JORA Detection by Hellenic Coast Guard Coastal Patrol Boat 137), 38° 49' 30" N 026° 36' 48" E (JORA Interception By Turkish Coast Guard)

Incident 407466 (12JUN20): The DETECTION which was conducted by METIS according to Mission Report 364 is not mentioned in JORA.

Incident 407467: According to Mission Report 364, METIS observed a probable Migrant Boat (MB) in vicinities of 39° 26' 32" N 026° 03' 46" E, heading 176° at 4kts - METIS remained in over watch, a TUR patrol vessel arrived and began rescuing the migrants.

Incident 410811 (28JUL20): Frontex and the Greek authorities received a SIR from the Danish HELO concerning this incident, and the Modus Operandi in JORA only provides two lines about the incident.

Incident 411632 (05AUG20): There is information provided by FSA Metis indicating the location of the migrant boat 1.2 NM inside Greek Territorial Water (within the operational area of the JO Poseidon). In JORA, the incident was reported as a Prevention of Departure, specifying that "At 02.00 migrants' boat reiterated consecutive efforts to avoid HCG operational means and exited HTW."

13. Have you received any allegations of an involvement of Frontex staff in illegal activities of the Hellenic Coast Guard? If yes, what has been done to follow-up?

No.

14. With reference to the statement made by the Swedish representative at the MB extraordinary meeting on 10 November 2020 (ie that a SE vessel crew submitted a SIR on 30 October but was later advised by the Frontex coordinating officer that it should not do so), are you aware of any other cases where the Agency's staff could have influenced the submission of Serious Incident Reports?

Following the statement made by the Swedish representative at the MB extraordinary meeting on 10 November 2020, Frontex has initiated an internal inquiry with the Frontex officers concerned, in order to establish the exact circumstances of the event, and also asked for the interviewing the Swedish crew. At this stage, Frontex awaits evidences proving the allegations mentioned at the MB meeting, since the available written communication presented by the Frontex staff does not substantiate the statements.

15. Did any of the incidents referred to under numbers 1 to 13 above occur in the framework of a joint operation/rapid border intervention?

All incidents occurred in the framework of JO/RBI.

16. If yes, which ones?

N/A, please see the answer to question 15.

17. Have you, as the Executive Director, in respect of all cases and without delay, taken any of the measures set out in Article 46(4) of the EBCG Regulation, i.e. suspended or terminated the activity concerned? If not, who decided this and on the basis of which reasoning?

For all mentioned SIR cases the relevant Greek authorities have been informed and have been requested to launch internal investigation. The evidence from these investigations did not suggest any irregular/unlawful activities by the Hellenic Coast Guard. Therefore, no measures, as set out in Article 46(4) of the EBCG Regulation, have been taken.

18. Has the Frontex Fundamental Rights Officer and/or her office been informed by you of any such allegations?

The Fundamental Rights Officer has been informed through the existing reporting channels within the Agency about relevant allegation and Incident Reports and/or Serious Incident Reports with regards to alleged violations of fundamental rights.

On 16 September the Executive Director held a meeting with Associated Fundamental Rights Officer (FRO a.i. at the time) to discuss cases escalated to the Minister of Maritime Affairs and Insular Policy of Greece (letter dated 8 May 2020) and the Commander of the Hellenic Coast Guard (letter dated 6 August 2020). Documents related to these incidents (SIR 11095/2020 and 11860/2020) together with the letters from the Executive Director and the reply from

the Greek authorities on the first letter (reply to the letter dated 6 August 2020 was received only on 14 October 2020) were shared with Associated Fundamental Rights Officer by email.

19. Has she been informed by other parties?

The Fundamental Rights Officer has received information from internal business entities as well as reports and footages from external sources, including the Frontex Consultative Forum. Additionally, it is important to highlight that no complaints have been received by the FRO through the established complaint mechanism with regards to the alleged pushbacks in Greece.

20. How many files have been submitted to the Fundamental Rights Officer, including those where FRO acted as a SIR coordinator in total and how many this year? What has been the follow-up?

As reported during the Extraordinary MB meeting, where the European Commission was among the participants, three SIRs were received by FSC as entry point to be coordinated by FRO as per SIR SOPs (Category 4, fundamental rights concerns) but not related to alleged pushbacks in Greece.

FRO was provided information on several SIRs concerning alleged pushbacks from Greece in the Aegean thus related directly to fundamental rights matters, however was not assigned as SIR coordinator. In addition, on the 21 November a category 4 SIR was submitted to Frontex (12790/2020 - status ongoing), to which FRO was assigned to coordinate it with close support by ORD.

21. Have there been any instances where, based on the original assessment of a responsible Frontex coordinating officer, you as Executive Director considered that the Fundamental Rights Officer would or should have been consulted on an incident but where this consultation did not take place for any reason?

No, there was not such a case. As indicated in the above answers, all SIRs in question were distributed to FRO via the existing reporting channels and according to the appropriate procedure. Moreover, the Executive Director have shared with Associated FRO the relevant exchange of letters between Frontex and the Greek authorities during a bilateral meeting on 16 September.

22. How were you informed of such incidents and who took the decision to consult or not the Fundamental Rights Officer for each of the incidents? In particular, what was the situation in relation to three SIRs related to the fundamental rights which were not assigned to FRO as a SIR coordinator but rather handled by you directly (as reported by FRO ad interim at the MB meeting on 10 November)? Who took the final decision as regards the classification of the incidents?

The reason for not assigning the FRO as a SI-coordinator to all ongoing SIRs is that there are several operational issues that need to be clarified and to collect all the operational information to allow for a proper assessment of the SIR. Once all the information is available, and in case there is enough evidence to suspect an alleged violation of fundamental rights, the FRO will be informed and consulted accordingly.

When it comes to the one SIR case which was closed (SIR 11095, from 18 April 2020) and where the FRO was not assigned as SI-coordinator, the incident was finally not classified as a violation of fundamental right, hence was not further consulted with the FRO. At the same time FRO received the SIR as HoO. FRO was in cc when distributing the SIR 11095/2020.

23. What are the internal control mechanisms in place to ensure the full application of international and European law, as well as the Frontex Regulation?

The requirements for the internal controls are specified in the Internal Control Framework adopted by the MB decision 32/2017 of 22 November 2017. The principle 3 requires that: Management establishes, with political oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives. As an evidence for this control - Frontex internal structure and rules of procedure (FISROP).

24. How many internal and external audits are pending and what is their scope and timeline?

The table below contains all ongoing internal and external audits:

No	Audit Type	Scope	Timeline	Status
1	IAS	2014 - A442825	Original deadline: 23/12/2015 Revised deadline 31/12/2020	Ongoing
2	IAS	IAS.A-2015-W FRONTEX-002 - Audit on Data Validation and Quality Assurance for the Risk Analysis	Original deadline: 31/12/2019 Revised deadline 30/09/2020	Ongoing
3	IAS	2017 - IAS.A2-2017-W FRONTEX-002 Contract Management	Original deadlines: 30/09/2019; 31/03/2020; 31/12/2020 (varying per recommendation) Revised deadlines: 30/06/2021; 30/06/2021; N/A (varying per recommendation)	Ongoing
4	IAS	IAS.A2-2018-W FRONTEX-001 IT Governance and Project Management	Original deadline: 30/06/2021; 31/12/2020 Revised deadline 31/12/2021; 30/09/2021	Ongoing
6	IAS	IAS 2020 risk assessment in Frontex - it serve as a basis for the preparation of the new Strategic Internal Audit Plan (SIAP) covering the period 2021-2023.	Field work/online 09-13/11/2020	Ongoing
7	ECA	Performance audit on ECBGA (if Frontex effectively supported the MS in implementation of European Integrated Border Management)	First audit visit 4-8.11.2019 (also BCP in Dorohusk and Terespol). January 2020 visit to Italy, DG Home and EP Second audit visit - due to pandemic made online in March/April 2020 Clearing letter received 15/07/2020 Frontex replies to CL sent on 15/09/2020	Ongoing
8	ECA	DAS 2020 audit M1	Field work/online - 12-16/10/2020	Ongoing ECA to provide the preliminary findings
9	ECA	Performance audit on migrant smuggling (to assess the effectiveness of Europol support to Member States)	Notification letter received 22/10/2019; updated notification letter received on 15/05/2020	Ongoing

		in combatting migrant smuggling since 2016; Frontex included in the scope).		
10	ECA	Performance audit on EU readmission arrangements with 3 rd countries (to assess the EU progress since 2015 in concluding relevant readmission agreements or similar arrangements with priority third countries, and the EU action to facilitate effective implementation of third countries' readmission obligations; auditees include: Frontex, EEAS, SG, DGs HOME, DEVCO and NEAR)	Notification letter received 04/11/2019; Series of interviews held; various documentation provided to the auditors	Ongoing
11	European Commission	DG Defence and Space (DEFIS) - audit of Copernicus Delegation Agreement - AIR 2019	Field work/online 16-20/11/2020	Ongoing
12	European Commission	DG NEAR 2020 Residual Error Rate Study - audit done by a private audit firm BDO LLP - Frontex Eastern Partnership Integrated Border Management Capacity included in the sample	Field work/online November-December 2020	Ongoing

Concluding Remarks

The considerations and facts described in the report above and passed audits prove that the currently implemented reporting system works and is effective. With due regard to new developments, Frontex is working towards improving the efficacy of the system, including as a part of a holistic process towards the digitalisation of the work of the Agency and the utilisation of new tools. One such tool is the evolution of the Eurosur, which is moving towards becoming the most comprehensive system of collecting of different type of information at the external borders. At the same time, the JORA already represents an upgrade to the reporting system and has brought about significant improvements. Further investment is needed into the integration and upgrade of these existing systems and processes and the Agency is currently working on a comprehensive information management policy and processes. This area of activity is proposed to be reinforced and structured within the organizational model of the Agency under the direct supervision of one of the Deputy Executive Directors, which will significantly enhance the Agency's performance in this area and quality of the service towards the MS/SAC.

In addition to investing into new tools, Frontex has implemented improvements as regards the dedicated human resources at HQ level. JORA events are validated in HQ by a specialized team of experts and that has been an important step in the communication with the host MS authorities and professionalization of the process. Furthermore, Serious Incidents Reports (SIRs) can be launched by any participant in the process, and Frontex has noted the effectiveness of this procedure. The SIRs are categorized in four categories and there is a procedure relevant to each of those categories. As a part of the processing of SIRs, escalation procedures are also in place. Such escalations have already occurred based either on discussions held at the ICC, or stemming from questions asked during the validation process of JORA incidents. There have also been instances where the Executive Director has addressed the Commander of the HCG and the Greek Minister in writing as described several times in this report to reinforce the timeliness and efficiency of reaction on Frontex side.

It is important to highlight that access has never been denied to the FRO in the distribution list when communicating internally on SIRs; to the contrary FRO was always included in any SIR with a potential FR component.

While exploring ways to improve the reporting systems, the four SIR categories as well the assignment of coordinators, as described in the report may need to be revised to take into consideration the occurrence of situations that might be related to a possible threat to the national security or national defense of the Host Member State or any Member State participating in a joint operation. This is particularly important as Frontex and its MS/SACs partners operate in a geopolitical context at the external borders of the EU.

In terms of accuracy of the reporting, it is noteworthy that many pending incidents either in JORA or SIR are related to the notion of “prevention of departure”, which is to be interpreted in conjunction with the provisions of Regulation 656/2014, in particular Articles 6 and 7.

All of the above observations are intended to serve as input for the further analytical work to be carried out by the Working Group planned to be established by the Management Board with the view for the Group to be able to cover and thoroughly consider all aspects of the processes at stake. It is the Agency’s intention to support the work of the Group in all areas of its activity and to take benefit of its recommendations to further improve the system of monitoring and reporting applicable in Frontex.