

Working Arrangement

between

**The European Border
and Coast Guard Agency
(Frontex)**

and

**The European Union Agency for
Fundamental Rights
(FRA)**

The European Border and Coast Guard Agency (hereinafter referred to as 'Frontex'), represented by its Executive Director, Mr Hans Leijtens, on the one side

and

The European Union Agency for Fundamental Rights (hereinafter referred to as 'FRA'), represented by its Director, Ms Sirpa Rautio, on the other side.

Hereinafter collectively referred to as the 'Sides', or individually as the 'Side'.

Background:

Articles 2 and 7 of Regulation (EC) No 168/2007 establishing the European Union Agency for Fundamental Rights¹ as amended by Council Regulation (EU) 2022/555 (hereinafter referred to as 'FRA Regulation') require FRA to provide the relevant Union institutions, bodies, offices and agencies and the Member States when implementing Union law with assistance and expertise relating to fundamental rights; to ensure appropriate coordination with relevant Union bodies, offices and agencies and to lay down the terms of cooperation in memoranda of understanding* where appropriate;

Article 68 of Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard² (hereinafter referred to as 'EBCG Regulation') provides that Frontex should cooperate with Union institutions, bodies, offices and agencies, including with the Fundamental Rights Agency, and that such a cooperation should take place within the framework of working arrangements;

Heretofore, cooperation between the Sides has been based on the Cooperation Arrangement³ signed on 26 May 2010.

In accordance with Article 3(2) of the EBCG Regulation, the protection of fundamental rights is an overarching component in the implementation of European Integrated Border Management.

In accordance with Article 104(6) of the EBCG Regulation, a representative from FRA is invited to attend meetings of the Frontex Management Board where points relevant to the protection of fundamental rights are on the agenda.

In accordance with Article 108(2) of the EBCG Regulation, Frontex invites FRA to participate in the Consultative Forum.

In accordance with Article 10(1) of Regulation (EU) 2018/1240 establishing a European Travel Information and Authorisation System⁴ (ETIAS), the ETIAS Fundamental Rights Guidance Board is composed of, *inter alia*, a representative of the FRA.

¹ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1), amended by Council Regulation (EU) No 2022/555 of 5 April 2022 amending Regulation (EC) no 168/2007 (OJ L 108, 5.04.2022, P. 1).

* The term working arrangement is understood as a memorandum of understanding within the meaning of Article 7 of Regulation (EU) 168/2007, as amended by Regulation (EU) 2022/555 of 5 April 2022.

² Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

³ Cooperation Arrangement between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union and the European Union Agency for Fundamental Rights of 26 May 2010.

⁴ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, P. 1).

The Sides consider that it is in their mutual interest to cooperate closely in the framework of their respective mandates.

By decision C(2024) 1075⁵ the Commission gave its prior approval to this working arrangement pursuant to Article 68(2) of the EBCG Regulation.

Frontex is required to inform the European Parliament and the Council about this working arrangement pursuant to Article 68(2) of the EBCG Regulation.

Both Sides intend to cooperate as follows:

Section 1 Purpose

The purpose of this working arrangement is to set out a framework for cooperation between the Sides, within their respective mandates and areas of competence and subject to their respective rules and regulations.

Section 2 Scope of cooperation

The Sides intend to cooperate in the implementation of their respective mandates and work programmes in the following areas:

1. Supporting the compliance with and the promotion of fundamental rights in the implementation of European Integrated Border Management, particularly when related to:
 - a. Fundamental rights at the external borders, such as the right and access to asylum and other forms of international protection, the prohibition of collective expulsion and respect for the principle of *non-refoulement*;
 - b. The identification, referral and treatment of persons in need of international protection, and other persons in vulnerable situations, such as children, including unaccompanied minors (in accordance with the rights of the child, including the child's best interests); persons with disabilities; LGBTIQ+; victims of trafficking in human beings; victims of violence; persons in need of medical assistance; stateless persons; persons in distress at sea;
 - c. The use of force in the respect of the principles of legality, necessity, proportionality and precaution;
 - d. The impact of the use of new technologies, including those driven by artificial intelligence, relevant for European Integrated Border Management, on fundamental rights;
 - e. Fundamental rights in return-related activities and projects.

⁵ Commission Decision of 23.2.2024 approving the working arrangement between the European Border and Coast Guard Agency (Frontex) and the European Union Agency for Fundamental Rights (FRA), C(2024) 1075 final.

2. Consultation on fundamental rights-related activities, including in the context of the implementation of the Frontex Fundamental Rights Strategy⁶ and corresponding Action Plan⁷, and on diversity management in the law enforcement context.

Section 3 Forms of cooperation

1. The Sides, within the scope of this working arrangement and reflecting their relative capacities and priorities, may cooperate in elements of the following:
 - a. annual planning meetings;
 - b. the exchange of information, including sensitive non-classified information, documentation, expertise and best practices, particularly to enhance situational awareness of fundamental rights concerns, for example via support to vulnerability assessments;
 - c. expert advice on elements of joint capacity building activities, such as the provision of comments on training courses specifically on fundamental rights protection and safeguards;
 - d. collaboration in research and in identifying and developing best practices, guidelines and methodologies;
 - e. the development of joint fundamental rights-related products;
 - f. participation in selected events, meetings, networks and working groups organised by either Side, or jointly, in matters of common interest;
 - g. Exchanges of personnel on a temporary basis in the form of extended visits;
 - h. the appointment of designated Points of Contact in line with Section 11 of the present working arrangement.
2. The Sides may conclude separate service level agreements or other appropriate instruments for specific projects or services, in particular where these projects require financial compensation.
3. The cooperation should take into account the priorities and limitations of resources of each Side.

Section 4 Cooperation for the purpose of EUROSUR

The Sides may cooperate on the development of EUROSUR components with regard to compliance with the fundamental rights framework for surveillance and data analytics technologies.

⁶ Frontex Management Board Decision 12/2021 of 14 February 2021 adopting the Fundamental Rights Strategy.

⁷ Frontex Management Board Decision 61/2021 of 9 November 2021 adopting the Fundamental Rights Action Plan for the implementation of the Fundamental Rights Strategy.

Section 5

Cooperation between FRA and the Frontex Fundamental Rights Officer

Where necessary for the exercise of the mandate of the Frontex Fundamental Rights Officer (FRO), the Sides may cooperate on matters related to promoting the respect of fundamental rights.

Section 6

Exchange of information

1. Any exchange or transfer of information between the Sides is subject to their respective rules and procedures and may only take place in compliance with Union law, including the Charter of Fundamental Rights of the European Union, regarding the exchange of information, data protection and protection of classified information and sensitive non-classified information.
2. Any exchange or sharing of sensitive non-classified information under this working arrangement:
 - (a) will be handled by Frontex in accordance with Article 92 of the EBCG Regulation, Articles 19 and 20 of Management Board Decision 45/2022⁸ and the relevant Frontex handling instruction⁹ and by FRA in accordance with Articles 18 and 19 of Management Board Decision 2019/03¹⁰ and the relevant FRA document management policy¹¹,
 - (b) will receive a level of protection by the receiving Side that is equivalent to the level of protection offered by the measures applied to that information by the communicating Side in terms of confidentiality, integrity and availability,
 - (c) will be conducted via information exchange systems that fulfil the criteria of availability, confidentiality and integrity for sensitive non-classified information.
3. The exchange of information as specified in this working arrangement should take place via the designated contact persons of both Sides, unless otherwise agreed.
4. The exchange of information under this arrangement does not extend to European Union Classified Information (EUCI). Arrangements for the exchange of EUCI between the Sides should be set out in a separate administrative arrangement.

⁸ Management Board Decision 45/2022 of 30 July 2022 adopting Security Rules Frontex.

⁹ Handling instruction on sensitive and non-classified information issued by Frontex, FDS/SECU/2022.

¹⁰ Decision of the Management Board of the Fundamental Rights Agency (FRA) on security rules and rules on protecting restraint UE/EU restricted information in FRA of 17 May 2019.

¹¹ FRA Document Management Policy PO.QMS.001-02.

Section 7 Data Protection

1. The processing, by the Sides, of any personal data transmitted on the basis of this working arrangement is governed by Regulation (EU) No 2018/1725¹² and the relevant provisions in the Sides' respective founding Regulations, where applicable.
2. Processing of personal data on the basis of this working arrangement is only allowed when such processing is necessary for the purposes laid down in Sections 2 and 3 of this working arrangement.
3. The Data Protection Officer of Frontex can be contacted at dataprotectionoffice@frontex.europa.eu. The Data Protection Officer of FRA can be contacted at dpo@fra.europa.eu.

Section 8 Fundamental Rights

1. Any activities implemented on the basis of this working arrangement will be conducted in full compliance with the Sides' obligations to respect fundamental rights.
2. With due regard to FRA's independence, the Frontex Fundamental Rights Officer, assisted by the Fundamental Rights Monitors, will monitor the compliance of the Frontex activities implemented on the basis of this working arrangement with applicable fundamental rights standards in accordance with the EBCG Regulation.
3. FRA may provide its fundamental rights expertise on the functioning of relevant Frontex internal mechanisms to promote fundamental rights, including but not limited to the complaints mechanism and fundamental rights monitoring.

Section 9 Publicity

1. Any material developed jointly in connection with this working arrangement should acknowledge the involvement of both Sides. Where appropriate, both Sides may acknowledge the other Side's role in publications, speeches, press releases or in any similar media, with the prior written approval of the other Side.
2. One Side may use the name and logo of the other Side only in direct connection with this working arrangement and subject to the latter's prior written approval.
3. Nothing in or related to this working arrangement should be deemed to constitute any waiver, express or implied, of the copyrights enjoyed by either Side.
4. Should one of the Sides under the rules concerning public access to documents¹³ receive an application to disclose documents originating from the other Side or drafted jointly, the

¹² Regulation (EU) No. 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No. 45/2001 and Decision No. 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

¹³ Regulation (EC) No. 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

requested Side is to consult with the originating Side prior to any disclosure of the documents applied for.

Section 10 Expenses

Each Side intends to bear its own expenses arising in the course of the implementation of this working arrangement, unless otherwise agreed in writing on a case-by-case basis or in a service level agreement referred to in point 2 of Section 3.

Section 11 Points of Contact

1. For the implementation of this working arrangement, the Sides intend to notify each other in writing of the designated points of contact.
2. Where required, the Sides may decide to appoint in writing *ad hoc* focal points for specific cooperation activities and projects.

Section 12 Replacement of existing arrangement

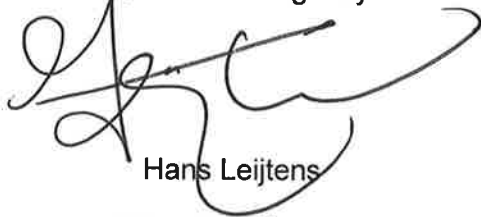
This working arrangement replaces the Cooperation Arrangement concluded on 26 May 2010 between the Sides, following its signature.

Section 13 Final arrangements

1. Cooperation under this working arrangement can start as of the day of its signature by both Sides.
2. Where information is exchanged, the Sides intend to continue to apply the confidentiality provisions in Section 6, also in case this working arrangement is discontinued.
3. Either Side may discontinue the collaboration under this working arrangement with six months' prior written notice.
4. This working arrangement does not intend to create any legal rights or obligations in respect of either Side under European Union, international or domestic law.

In witness thereof, the Executive Director of Frontex and the Director of FRA signed this working arrangement in two original copies, in English, on the dates and in the places indicated below, whereas both copies are to be considered as the original of this working arrangement.

For the European Border and
Coast Guard Agency



Hans Leijtens

Executive Director

For the European Union Agency
for Fundamental Rights



Sirpa Rautio

Director

Signed in Vienna, on 12/03/2024

Signed in Vienna, on 12/03/2024