

Frontex' Annual Report on the implementation on the EU Regulation 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders

2016

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INTRODUCTION

The EU Regulation 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Border and Coast Guard Agency (hereinafter "Regulation") came into force on 17 July 2014.

This Regulation has been fully integrated and is referred to in the European Border and Coast Guard Regulation¹.

The present report on the practical application of the Regulation was drafted pursuant to Article 13 thereof and is aimed to be submitted to the European Parliament, the Council and the Commission.

The report refers to all those joint operations (JO) launched in 2016 that included surveillance of the EU external sea borders. It reflects the operational calendar of activities foreseen in the Programme of Work 2016 with implementation periods of the respective JO as specified in Chapter 2.

The report comprises three parts.

The first part describes the provisions introduced to the governing procedural documents related to the Joint Operations, the Operational Plans.

The second part is a description of the procedures set forth by Frontex to implement the Regulation during sea operations and information on its application, including detailed information on compliance with Fundamental Rights, and any incidents which may have taken place.

In the second part, the report analyses the implementation of the Regulation in each joint operation starting with the issue of disembarkation in third countries, followed by the procedures put in place to address the special needs of certain categories of persons and of persons in need of international protection and the assessment of the communication and cooperation channels.

The third part contains the assessment of the implementation of the Regulation during 2016 and evaluates the need to further develop the measures adopted so far.

1. Provisions introduced to the Operational Plans (OPLANs)

The following Joint Operations launched by Frontex in 2016 under the European Patrols Network (EPN) concept included the surveillance at the external sea borders:

- EPN Triton 2016
- JO Poseidon Rapid Intervention 2015-16 / EPN Poseidon Sea 2016
- EPN Indalo 2016
- EPN Hera 2016

The Operational Plans of the aforementioned Joint Operations contained specific provisions in line with the EU Regulation 656/2014.

The provisions were introduced into the chapters in the Specific Annex of the OPLANs on the Rules of Engagement and into the Technical Equipment Mission Report (for Host and contributing MS Vessels).

The provisions introduced were the following:

An assessment of the general situation in a Third Country (TC) whenever the disembarkation in a third country was foreseen in the OPLAN²; this was envisaged in cases of:

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, OJ L 251, 16.09.2016, p. 1.

² Article 4 (2) of the EU Regulation 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders: "When considering the possibility of disembarkation in third country, in the context of planning a sea operation, the host Member State, in coordination with participating Member States and the Agency, shall take into account the general situation in that third country."

- a) disembarkation upon interception in high seas
- b) disembarkation upon Search and Rescue (SAR)

A reference to the existing shore-based medical staff, interpreters and other relevant experts of the host and participating Member States to support the assessment of the personal circumstances of rescued and intercepted persons (if disembarkation in a Third Country is foreseen) - Article 4(3) of the Regulation.

Contact details of the national authorities responsible for providing follow-up measures upon disembarkation of persons in need of international protection and other persons in a particularly vulnerable situation, such as children, in particular unaccompanied minors, victims of trafficking in human beings, persons in need of urgent medical assistance, disabled persons, elderly people, pregnant women, single parents with minor children, persons with mental disorders and persons who could have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. - Article 10(2) together with Article 4 (1) and (4) of the Regulation.

Procedures to collect information to be used in the present report. A special template for reporting on disembarkation in Third Countries was applied and was made available to the deployed assets.

Instructions on the part of MRCC regarding assistance in SAR situations.

Definition of the modalities for the disembarkation of the persons intercepted or rescued in a sea operation, adapted to the circumstances of the operation and in accordance with the table below:

Place of interception/rescue	Place of Disembarkation
Interception in the Territorial Sea	Host Member State
Interception in the Contiguous Zone	Coastal Member State, either: <ul style="list-style-type: none"> - Host Member State, or - Neighbouring participating Member State that has allowed the conduct of the vessel/persons onboard to its territory in accordance with Article 6(2)(c), or - Neighbouring non-participating Member State that has allowed the conduct of the vessel/persons onboard to its territory in accordance with Article 8(2) together with 6(4) and 6(2)(c).
Interception on the High Seas	1st- Third Country from which the vessel is assumed to have departed 2nd - either: <ul style="list-style-type: none"> - Host Member State, or - Neighbouring participating Member State that has allowed the conduct of the vessel/persons onboard to its territory in accordance with Article 6(2)(c), or - Neighbouring non-participating Member State that has allowed the conduct of the vessel/persons onboard to its territory in accordance with Article 8(2) together with 6(4) and 6(2)(c).
Search and Rescue	1st - place of safety identified in cooperation between the host Member State and the participating Member States and the responsible Rescue Coordination Centre 2nd - Host Member State

Competences/tasks of the ICC

For each joint operation, a coordination structure was established within the host Member State, composed of officers from the host Member State, guest officers³ and Frontex' Operational Coordinator under the control of Frontex Coordinating Officer. This coordination structure, called International Coordination Centre (ICC), was used as a channel for communication between the officers involved in the sea operation and the authorities concerned.

The ICC leads and coordinates the implementation of the operational activity as described in the Operational Plan.

Frontex coordinated JOs are set up as the main aim for border control purposes. Frontex-deployed means operate under the command of the International Coordination Centre (ICC). However, when contacted by the respective Maritime Rescue Coordination Centre, or when SAR case is being declared, it is the MRCC that takes command for SAR situations. It is worth to mention that support to SAR is provided also beyond the operational areas of Frontex (e.g. JO Triton where most of the SAR events are happening close to Libya). In this regard, during the last year Frontex deployed assets were involved directly in rescuing approximately 90 000 persons in operations in Italy and Greece.

Providing such assistance is also part of Frontex' new mandate linked with "Operational and technical support to SAR" as part of the European Integrated Border Management. This is also in line with international law, which obliges all captains of vessels to provide assistance to any persons found in distress at sea.

It has to be noted that Frontex support to Member States does not cease after the migrants are being disembarked. Frontex is present in all stages of migrants processing while contributing to internal security of EU. Therefore, Frontex deploys screening, debriefing, fingerprinting and advanced level document experts to hotspots in Greece and Italy. The Agency coordinates security checks and sharing of personal data with the Host Member State and Europol that may be relevant for the purposes of criminal investigations.

³ since the 6th of October 2016 when new Regulation enter into the force, term team member is used instead guest officer

2. Information on the application of the Regulation in each Joint Operation

2.1. EPN Triton 2016

2.1.1. Period of implementation and operational areas

In accordance with the provision of the Operational Plan, the joint activities started on 01 February 2016 (00:00h LT) and ended on 31 January 2017 (24:00h LT). The operational area was established in the south of Italy (Puglia and Calabria) including Sicily, Sardinia, the Pelagic Islands, as well as some area south the island of Malta;

2.1.2. Disembarkation in Third Countries

The operational area of JO EPN Triton 2016 included the SAR regions of Italy and Malta. Nevertheless, the Italian MRCC received many SAR requests from boats in distress in Libyan SAR. All the migrants rescued in the Libyan SAR Area were disembarked in Italy.

Disembarkation in third countries was not foreseen in the operational plan. As a result, no such action was carried out during the implementation period of JO EPN Triton 2016.

To meet the requirements of the Regulation, the special template for the reports of disembarkation in Third Countries was made available to the deployed assets, but was never used as no disembarkations in third countries occurred.

2.1.3. Procedures regarding training and the identification of persons in particular situations

Training in first aid is included in the basic training of the law enforcement authorities involved in the operation. Therefore, the crew members of the Frontex co-financed maritime assets participating in the operation underwent basic first aid training ensured by the national authority. Moreover, some of the participating surface assets, with adequate size and operational capacity (Offshore Patrol Vessels), embarked particularly for this activity special teams for SAR and first aid support comprising medical, first aid and SAR experts, boarding teams and divers. Upon interception or rescue, the participating maritime assets informed immediately the International Coordination Centre, respectively the Italian Maritime Rescue Coordination Centre of the presence of any vulnerable persons on board.

Upon disembarkation, prior to any other action, local authorities rendered the basic human needs of the apprehended and rescued persons such as food, shelter and medical assistance. In this initial procedure, Red Cross, Save the Children, UNHCR, as well as members of the local Immigration Offices with the support of interpreters and other responsible bodies were involved, ensuring screening and personal assessment of the persons apprehended or rescued at the designated points of disembarkation in Italy.

The deployed guest officers supported Italian authorities upon disembarkation, paying special attention to possible victims of trafficking. Any person expressing, in any way, a fear of suffering serious harm if (s)he is returned to his/her country of origin or former habitual residence, asking or claiming for asylum or any other form of international protection, was referred by the guest officers to the Italian Team Leader with whom they worked together.

The Italian Team Leader was then responsible to hand over those persons to the competent Italian authority - local Prefectures (via local Immigration Offices) and Department for Civil Freedom and Immigration for an examination of their status.

2.1.4. Communication and cooperation channels

The National Coordination Centre (NCC), the International Coordination Centre (ICC) and the Italian Maritime Rescue Coordination Centre (MRCC) were in permanent contact with each other. The NCC as the direct partner of Frontex assured the strategic and overall implementation of the JO and was responsible to define the port of disembarkation of the migrants intercepted or rescued. The ICC, which was also hosting the deployment of Frontex Operational Coordinator, was responsible for the daily operational implementation of the JO and the reporting system. The MRCC, in its capacity as SAR authority in Italy, coordinated all search and rescue incidents in their area of competence or according to international conventions.

2.2. JO Poseidon Rapid Intervention 2015/ EPN Poseidon Sea 2016

2.2.1. Period of implementation and operational areas

JO Poseidon Rapid Intervention 2015 was launched following the request of the Hellenic authorities on 3 December 2015. After fulfilling all necessary procedures the Poseidon Rapid Intervention started on 28 December 2015 (00:00 local time) and was extended until 31 May 2016 (24:00 local time).

The operational activities were carried out at the external sea border of Greece.

Two Maritime Vigilance Areas - North and South as well as Reporting points were established to maintain overall situational picture and to monitor the secondary movements in the region.

The Rapid Border Intervention Teams and Technical Equipment were deployed in the focused area including the Greek hotspots and their surrounding sea areas.

The JO EPN Poseidon Sea 2016, in accordance to the Operational Plan started on 1 June 2016 (00:00 local time) and ended on 31 January 2017.

The operational activities under JO EPN Poseidon Sea 2016 were carried out at the external sea border of Greece.

Two Maritime Vigilance Areas - North and South - were established in the Aegean Sea. Furthermore, in order to monitor secondary migration flow, Reporting points were established at the ports of Igoumenitsa, Patras, Korinthos and Kerkyra.

2.2.2. Disembarkation in Third Countries

The technical assets deployed within the operation were authorized by Greece to disembark in its territory the persons intercepted and apprehended in Greek territorial sea as well as in the operational area beyond its territorial sea. Although foreseen, disembarkation in third countries was not carried out during the implementation period of Poseidon Rapid Intervention 2015 as well as JO EPN Poseidon Sea 2016.

SAR case followed by hand over managed by Hellenic JRCC

On 11 June 2016, a SAR incident occurred at the borderline between Greece and Turkey during the border surveillance activities. The coordination of incident was transferred to JRCC Piraeus according to SAR and SOLAS Convention. The search and rescue operation launched concerned a group of 61 irregular migrants aboard a rubber boat. For safety reasons, the migrants were transhipped (handed over by Hellenic Coast Guard) to a Turkish vessel.

According to information collected and confirmed by Frontex, another boat in distress was detected near this area (Greek waters), which required urgent rescue operation by the patrol vessel. Due to the limited capacity of this patrol vessel, MRCC/Piraeus instructed the transhipment of the migrants on board to the Turkish vessel in order to rescue the 28 migrants aboard the second rubber boat.

Frontex assessed the involvement and coordination role of the MRCC and provided feedback on the applicable procedures and the need to ensure full compliance with fundamental rights in the frame of the JO EPN Poseidon.

2.2.3. Assessment of the general situation in Turkey

The assessment of the general situation in Turkey was conducted by Hellenic authorities and made available to Frontex prior to the starting of the operations in 2016, a reviewed assessment followed on 31 May 2016. Based on the General Assessment, the host, the participating Member States and Frontex agreed that apprehended persons could be conducted to or be handed over to the Turkish Authorities, and that apprehended and rescued persons could be disembarked in Turkey.

2.2.4. Procedures regarding training and the identification of persons in particular situations

Training in first aid is included in the basic training of the law enforcement agencies involved in the operation. Moreover, some of the participating surface assets, with adequate size and operational capacity (Offshore Patrol Vessels), embarked particularly for this activity special teams for SAR and first aid support comprising medical, first aid and SAR experts, boarding teams and divers. The Frontex co-financed participating assets were properly equipped for assisting maritime SAR missions. The crew members made use of this equipment on several occasions, whenever the situation required.

The participating units were instructed to use appropriate means to identify the intercepted or rescued persons, assess their personal circumstances, inform them of their destination in a way that those persons

understand or may reasonably be presumed to understand and give them an opportunity to express any reasons for believing that disembarkation, forcing to enter, conducting or otherwise handing over to the third country authorities to the proposed place would be in violation of the principle of *non-refoulement*.

Each participating unit appointed an Officer responsible for collecting the information mentioned above to forward to ICC. In this context, the host Member State ensured the availability of shore-based medical staff, interpreters, legal advisers and other relevant experts that shall provide support for the screening and personal assessment of the persons apprehended or rescued.

Once disembarked, the migrants were met on shore at the Greek Sea ports by mixed teams of Red Cross, Doctors of the World, Doctors without borders and other non-governmental organizations. The responsible officers of the Hellenic Coast Guard or Hellenic Police were ensuring the examination of the status of persons in need of international protection and addressing the special needs of persons in a particularly vulnerable situation (e.g. children victims of trafficking in human beings, persons in need of urgent medical assistance, disabled persons, elderly people, pregnant women, single parents with minor children, persons with mental disorders and persons who could have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence).

2.2.5. Communication and cooperation channels

In both activities (Rapid Intervention and JO), the National Coordination Centre (NCC) located in the International Coordination Centre (ICC) facilitated the communication flow between those two entities. The JRCC and the ICC were in permanent contact with each other. In case of SAR, the responsible Hellenic JRCC as a standard rule took over the coordination and, in case of need, cooperated with MRCC Ankara (Turkey) and MRCC Rome (Italy).

2.3. EPN Indalo 2016

2.3.1. Period of implementation and operational areas

The JO was carried out between 26 July and 31 October 2016.

The operational areas covered different southern coastal areas of Spain: Algeciras-Cadiz, Malaga, Motril, -Granada, Almeria and Cartagena-Murcia.

2.3.2. Disembarkation in Third Countries

Although foreseen in the Operational Plan, disembarkation in third countries was not carried out during the implementation period of JO EPN Indalo 2016.

2.3.3. Assessment of the general situation in Morocco and Algeria

The assessment of the situation in Morocco and Algeria was conducted by Spanish authorities and made available to Frontex on 25 April 2016 and, after a specific request made by Frontex for review according to the requirements of the Regulation 656/2014, updated on 16 August 2016.

2.3.4. Procedures regarding training and the identification of persons in particular situations

Training in first aid is included in the basic training of the law enforcement agencies and navies involved in the operation. Moreover, some of the participating surface assets, with adequate size and operational capacity (Offshore Patrol Vessels), embarked particularly for this activity special teams for SAR and first aid support comprising medical, first aid and SAR experts, boarding teams and divers. The Frontex co-financed participating assets were properly equipped for maritime SAR missions. The crew members made use of this equipment on several occasions, whenever the situation required.

Once disembarked, the migrants were met on shore in the Spanish ports by mixed teams of Red Cross, UNHCR and different other non-governmental organizations as well as members of the National Police and other responsible bodies ensuring the examination of the status of person in need of international protection and addressing the special needs of children victims of trafficking in human beings, persons in need of urgent medical assistance, disabled persons, elderly people, pregnant women, single parents with minor children, persons with mental disorders and persons who could have been subjected to torture, rape

or other serious forms of psychological, physical or sexual violence and other persons in a particularly vulnerable situation.

2.3.5. Communication and cooperation channels

The fact that the NCC hosted the ICC facilitated the communication flow between those two entities.

The RCC and the ICC were in permanent contact with each other and with SASEMAR (Maritime Safety and Rescue Society- responsible for SAR operations in Spain). The latter, in its capacity of SAR authority in Spain, coordinated these type of activities in close cooperation with Moroccan and Algerian MRCCs. SASEMAR's cooperation with the Moroccan MRCC was particularly enhanced in the Strait of Gibraltar where, due to the specificity of the area, both authorities have jurisdiction in the area (part of it also included in the operational area of JO EPN Indalo 2016).

2.4. EPN Hera 2016

2.4.1. Period of implementation and operational areas

The JO started on 1 August 2016 (12.00 LT) and ended on 31 October 2016 (12.00 LT).

The operational area "P" was divided into two zones:

- Operational Area P-1 "Canary": Land area of the Canary Islands
- Operational Area P-2 "Senegal": Territorial waters and exclusive economic zone (EEZ) of Senegal, as well as its air space.

2.4.2. Disembarkation in Third Countries

Although foreseen in the Operational Plan, disembarkation in third countries was not carried out during the implementation period of JO EPN Hera 2016.

2.4.3. Assessment of the general situation in Morocco and Senegal

The assessment of the situation in Morocco and Senegal was conducted by Spanish authorities and made available to Frontex on 25 April 2016 and, after a specific suggestion made by Frontex for review according to the requirements of the Regulation 656/2014, updated on 16 August 2016.

During the implementation of the operation no migrant boat was intercepted at sea in the operational area. People rescued at sea outside the operational area by the Spanish and Moroccan assets in their respective search and rescue region, were treated in compliance with the SAR and SOLAS conventions as well as IAMSAR manuals.

2.4.4. Procedures regarding training and the identification of persons in particular situations

Training in first aid is included in the basic training of the law enforcement agencies and navies involved in the operation. Moreover, some of the participating surface assets embarked particularly for this activity special teams for SAR and first aid support comprising medical, first aid and SAR experts, boarding teams and divers. The Frontex co-financed participating assets were properly equipped for maritime SAR missions. The crew members made use of these equipment on several occasions, whenever the situation required.

A special template for the reports of disembarkation in Third Countries was created, especially to meet the requirements of the Regulation and was made available to the deployed assets, but was not used (no disembarkations).

2.4.5. Communication and cooperation channels

The fact that the NCC hosts the ICC facilitated the communication flow between those two entities.

During the JO EPN Hera 2016, there was no case of a participating MS unit to be placed at the disposal of any Rescue Coordination Centre except between 6 and 24 September for the search of a missing aircraft. No participating unit had the need to inform the International Coordination Centre of the presence of any persons within the meaning of Article 4 (international protection), therefore the ICC did not transmit any information to the competent national authorities of the country where disembarkation would have taken place.

3. Main conclusions and assessment

During the third year of the implementation of the Regulation, Frontex' assessment is the following:

Frontex has always monitored the protection of and ensured full compliance with fundamental rights in the joint operations it coordinates; according to the Operational Plan, the host Member States communicated in advance with their partners responsible for providing support for vulnerable persons with special needs. Frontex could, thus, even better monitor the proper implementation of the operational plans in this regard;

The Regulation contributed to the clarification of the roles of the National Officer and of the International Coordination Centre and of the communications flows in both interception and search and rescue cases. The Regulation also allowed for an enhanced cooperation between ICC and national MRCCs;

Faced with the difficulty of dealing with mixed flows and the need to ensure both the respect of the principle of *non-refoulement*, and the implementation of EU border management policy, in particular the need to prevent irregular migration and to fight cross-border crime by means of border control, host Member States assumed the responsibility for disembarkation of all persons apprehended and/or rescued in their territory and even beyond their territory as it was decided by Italy.

In 2016, it was observed that the difference between 'interception' and 'Search and Rescue' cases was more and more difficult to establish in the framework of Triton operation due to the increase of relatively insufficiently concerted operational deployment of assets in the Central Mediterranean.

As a consequence, the issue of rescued or intercepted persons being disembarked in Italy was raised when this report was under preparation and about to be issued.

When disembarkation in third countries was envisaged (in case of JO Poseidon Rapid Intervention 2015-16/ EPN Poseidon Sea 2016, JO EPN Indalo 2016 and JO EPN Hera 2016), Frontex required the host Member State to provide a "general assessment" of the concerned third country. In this particular aspect, although legal obligations were fully met, Frontex considers that, still 3 years after entry into force, there is room for improvement of the assessments delivered and it remains ready to support the Member States to develop them further;

Tailored briefings for all participants in JOs have been arranged by Frontex and included inter alia the information and video tutorials as regards main principles of fundamental rights, mechanism of search and rescue activities, as well as role of national authorities to which Frontex experts have to refer in case of persons in need of international protection.

Through the assessment of the implementation of the Regulation in the coming years, Frontex will continue to perform its legal tasks of drafting the operational plan and monitor its proper implementation ensuring that the objectives pursued will continue to be attained.

Based on the new Regulation⁴ on the establishing of the European Border and Coast Guard Agency (Frontex), the Agency will continue enhancing operational cooperation with EMSA and EFCA enabling them to support in an effective and cost-efficient way the EU Member States and Schengen Associated Countries responsible for carrying out coastguard functions in a wide range of areas such as maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection.

4. Observations of the Fundamental Rights Officer (FRO)

During the reporting period, the implementation of the relevant operational plans was carried out both under the Council Regulation (EC) 2007/2004 and new Regulation (EU) 1624/2016 on European Border and Coast Guard from 6 October 2016 (EBCG Regulation). Noteworthy, the EBCG Regulation reinforced the obligations set by the Regulation 656/2014 related to protection of fundamental rights and the principle of non-refoulement by providing in Article 34.1 that "*the European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks in accordance to the Charter of Fundamental Rights of the European Union (the Charter) and relevant international law,*

⁴ For a full reference, see above footnote 1 (page 3).

including the 1951 Convention Relating to the Status of Refugees, and obligations related to access to international protection, in particular the principle of non-refoulement.”

The commitments to fulfil obligations related to the protection of fundamental rights and the principle of non-refoulement as set by the Regulation 656/2014 were expressed in general terms in all relevant operational plans concerned, i.e., EPN Triton 2016, JO Poseidon Rapid Intervention 2015-16, EPN Poseidon Sea 2016, EPN Indalo 2016 and EPN Hera 2016.

Assessment of the general situation in a third country

FRO welcomes the inclusion of the assessments of the general situation in third countries in operational plans when considering the possibility of disembarkation upon interception (i) in high seas and (ii) Search and Rescue. In 2016, the assessments were carried out for Turkey by Greece and for Morocco, Algeria and Senegal by Spain.

As indicated by FRO in earlier reports, in general, the assessments for the aforementioned third countries should offer an evaluation on whether the practices of the third country could contravene fundamental human rights and the principle of non refoulement. Furthermore, it is suggested to use a broader range of sources incorporating findings of international and domestic human rights, protection and asylum mechanisms or other UN relevant monitoring mechanisms that report about implementation of obligations deriving from the international conventions in the analysed countries.

Taking into consideration the concerns related to the assessments of the general situation in relevant third countries, FRO recommended to the Agency to request from the host Member States to expand the assessments, as well as to incorporate in operational plans the procedures aiming to “**update [Assessment] as necessary**” as per Article 4.2 of the Regulation 656/2014.

Assessment of personal circumstances

FRO welcomes the inclusion in operational plans of a reference to the obligation of participating units in operations coordinated by Frontex to use all means to (i) **identify** the intercepted or rescued persons, (ii) **assess their personal circumstances**, (iii) **inform** them of their destination as well as (iv) give them an **opportunity to express** any reason for believing that disembarkation in the proposed place would be in violation of the principle of non-refoulement.

FRO also welcomes inclusion of a provision in operational plans establishing that each participating unit shall appoint an Officer responsible for the final decision on the personal assessment and for collection of all information, excluding the personal data, which shall be regularly forwarded to ICC and to Frontex. Furthermore, there is a provision requesting from the host Member States and relevant third countries to ensure the availability of shore-based medical staff, interpreters, legal advisors and other relevant experts to support personal assessment of the persons intercepted or rescued at the designated points of disembarkation.

The consideration of disembarkation in a “**place of safety**” is also duly included in the operational plans. Disembarkation in third countries was not foreseen during the implementation of EPN Triton 2016 (Italy), while it was foreseen in Poseidon Rapid Intervention 2015/16, EPN Poseidon Sea 2016 (Greece), EPN Indalo 2016 and EPN Hera 2016 (Spain). Disembarkation in third countries was not carried out during the implementation of aforementioned operational plans. However, as per Article 4.2 of the Regulation 656/2014, the chief safeguards for the principle of non-refoulement apply not only to disembarkation, but also to “**force to enter, conduct to or otherwise hand over**” of intercepted or rescued persons to the authorities of a third country.

However, FRO regrets that during the **SAR incident of 11 June 2016** occurred in EPN Poseidon Sea 2016, and as rightfully and specifically mentioned in the Agency’s Annual Report, the requirements as set by Article 4.3 were not met in relation to (i) identification, (ii) assessment of personal circumstances, (iii) information, and (iv) opportunity to oppose disembarkation. FRO wishes to note that even though the

general assessment on the situation of Turkey permits the disembarkation in their shores, the assessment of personal circumstances should be conducted in all cases.

Procedures regarding identification of persons with international protection needs and in a particularly vulnerable situation

FRO welcomes the inclusion in operational plans of provisions according to which the participating units shall, when there is a vessel in uncertainty, alert or distress, take into account and transmit all relevant information and observations to the responsible Rescue Coordination Centre including on persons on board in urgent **need of medical assistance, pregnant women, children, etc.** The operational plans also foresee follow-up measures related to provision of basic human needs, and special measures applicable to persons in need of international protection and other vulnerable persons. FRO welcomes that the operational plans, as part of **follow-up measures** in line with Recital 17 of the Regulation 656/2014, clearly state who the persons in vulnerable situation are, besides those in need of international protection, such as children, unaccompanied minors, victims of trafficking in human beings, persons with serious illness, disabled people, elderly people, pregnant women, single parents with minor children, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

However, FRO sees the need to consider a **specific fundamental rights-related operational objective after the entry into force of the Regulation 1624/2016**, which would allow impact assessment and evaluation of the operational activities on fundamental rights and the principle of non refoulement with more solid framework and further development is being considered by the Agency.

Reported Incidents and Complaints

During the reporting period and within the framework of Frontex sea operations, nine Serious Incident Reports (SIR) were submitted to Frontex including the aforementioned SAR incident from 11 June 2016. FRO was appointed as a SIR coordinator for all reported incidents (with exception of the abovementioned SAR incident from 11 June 2016). All incidents reported occurred in the EPN Poseidon 2016 and Poseidon Rapid Intervention 2015-16. FRO followed up all the incidents, together with Frontex relevant units and national authorities. In terms of alleged rights, three (3) incidents were related to collective expulsions, four (4) cases to the right of the child, three (3) to human dignity and one case (1) on the right to liberty and security in accordance to the Charter of Fundamental Rights of the European Union. Three of the cases are still open and pending final reporting on findings and conclusions by the respective authorities at the time of reporting.

As per the newly established complaints mechanism in Article 72 of the EBCG Regulation, no individual complaints were received in 2016 by the FRO in relation to activities undertaken in the framework of Agency's activities under the sea surveillance operations concerned.

Awareness and capacity building activities

FRO welcomed that the operational plans embedded a fundamental rights session in all operational briefings/debriefings to all participants of the joint operations, and also the obligation to train participants on fundamental rights and access to international protection. In addition, operational briefings were often supported by the European Asylum Support Office (EASO), the International Organization for Migration, UNHCR, Save the Children and the Red Cross. FRO welcomes this cooperation and encourages its expansion to other border operations with the support of the Frontex Consultative Forum on fundamental rights.

In order to enable border guards to proactively engage in the personal assessment of intercepted and rescued persons as well as to ensure referral to the competent authorities of persons in need of

international protection, Frontex, in cooperation with EASO developed an “**Access to procedures**” tool in 2015. This tool contains information and indicators for border guards to identify persons in need of international protection and ensure their access to international protection procedures, as well as guidance on referral and procedural guarantees that need to be observed in this process. FRO welcomes that the tool was proactively disseminated in 2016 in all operations coordinated by Frontex, especially on the “hotspots” in Italy and Greece, and that it was assessed as useful and relevant to their tasks by members of the teams deployed.

Further in 2016, FRO started delivering regularly the fundamental rights related lesson on the specialised training for “Maritime Border Surveillance Officers” for those potential participants to be deployed in the Agency’s sea surveillance operations.

FRO visited the operational areas in both Greece and Italy in this reporting period.