INTRODUCTION

Article 26a (2) of the Frontex Regulation¹ states that Frontex shall establish a Frontex Consultative Forum (CF) to “assist the Executive Director and the Management Board in fundamental rights matters” and that the CF shall also “be consulted by Frontex on the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula”. It also stipulates that “on a proposal by the Executive Director, the Management Board shall decide on the composition and the working methods of the Consultative Forum and the modalities of the transmission of information to the Consultative Forum”.

Furthermore, the CF is obliged to produce a publicly-available report annually.

The CF is a knowledge and expertise resource to enable Frontex and its Management Board (MB) to gain information and advice relevant to the aim of developing and promoting the respect of Fundamental Rights (FR) in all Frontex’ activities.

While the tasks of Fundamental Rights Officer (FRO) are monitoring and reporting on a regular basis to the CF, the Management Board and to the Frontex Executive Director (ED) as appointing authority; the CF will offer strategic opinions, recommendations and a pool of information on how Frontex can structurally improve the respect and promotion of FR in its various activities. The role of the CF and the FRO should therefore be understood as complementary.

I. WORKING METHODS

1. General Principles

The CF shall operate according to the principles of transparency, mutual respect, open process, informed participation, collegiality and consensus with the aim of enhancing the respect and promotion of FR in all Frontex activities as laid down in the Frontex Regulation and the Frontex Fundamental Rights Strategy.

2. Appointment and participation

2.1. Members of the CF

The organisations invited to become CF members shall appoint their representative(s) and alternate(s) prior to the participation at the CF meetings and inform the Chair and Co-Chair as well as the Secretariat accordingly.

CF Members must inform the Chair and Co-Chair as well as the Secretariat of any change as regards their representatives or alternates.

2.2. Other participants
Non-member organisations as well as individuals acting in a personal capacity may be invited by the Chair and Co-Chair in consultation with ED following a proposal of CF members on the basis of a specific agenda item, in order to contribute actively to the discussions or to act as observers. Non-member organisations are to appoint their representatives and inform the Chair and Co-Chair as well as the Secretariat prior to the CF meeting.
Non-member organisations must inform the Chair and Co-Chair as well as the Secretariat of any change as regards their representatives or alternates.

2.3. Frontex participants
Frontex is represented by the following participants:
- The MB Chairperson or/and its Deputy or/and other duly authorised MB representative;
- The ED or/and its Deputy;
- The FRO;
- Other Frontex Staff Members assigned by the Executive Director to contribute with their expertise to specific agenda items or as observers;

3. Operation

3.1. Chair
The CF will have a Chair and Co-chair elected among and by its members following the candidatures proposed by the own CF members.
The CF Chair shall be elected among the three organisations explicitly mentioned in the Article 26a (2) of Frontex Regulation and shall rotate among them afterwards.
The Co-Chair shall be elected among the remaining CF members.
The duration of the mandate of the Chair and Co-Chair is one year.

3.2. Convening a meeting
The CF meetings are convened in consultation with the Chair and Co-Chair at the initiative of the ED and the Chairperson of the MB or at the initiative of a majority of CF members.
The CF members may informally discuss or exchange views and information in any other way outside the CF meetings.

3.3. Agenda
The Agenda shall be set by the Chair and Co-Chair in consultation with the ED or his/her deputy and the Chairperson of the MB or his/her deputy.
The draft agenda will be submitted to the CF members at the latest two weeks before the date of the CF meeting.
CF adopts its agenda during the first point of its meeting.

3.4. Decision-making and confidentiality of deliberations
The CF adopts its opinions and recommendations by consensus of its members. Individual opinions and discussions of the CF Members shall remain confidential (so called “Chatham House Rule”).
When consensus cannot be reached, the Chair may exceptionally proceed to voting by simple majority of the CF members where also minority positions will be recorded.
If necessary, the opinions and recommendations of the CF may be adopted by written procedure.

3.5. Initiative, form, preparation and follow-up of the CF opinions and recommendations
The CF may act in the form of an opinion at the initiative of the MB or the ED when being consulted on certain matter. The CF may also act in the form of a recommendation at the initiative of the CF Members.
The CF shall be consulted on the further development and implementation of the Frontex Fundamental Rights Strategy, Code of Conduct and Common Core Curricula.
The CF may only adopt and deliver opinions and formulate recommendations to the MB and to the ED as stipulated in the Frontex Regulation and in accordance with these Working Methods and the Agenda of the CF meeting set according to point 3.3.

The opinions, recommendations and annual report of the CF shall be transmitted to the ED and MB.

The Chair of the MB and/or Frontex ED may request the Chair and Co-chair of the CF to present the CF opinion or recommendation.

On the request of the CF, the MB and/or ED may submit a reply in writing to the CF presenting their views and actions undertaken following the CF opinion and/or recommendation.

In order to prepare its opinions or recommendations, the CF members may appoint a rapporteur among them for preparing the draft text. The CF may also request the FRO to report on a certain topic or the ED to grant access to information as set out below under Title II.

The CF shall prepare an annual report of its activities.

3.6. Publicity

The annual report shall be made publicly available after presentation to the MB.

Public access to the opinions and recommendations of the CF is to be provided in accordance with the Regulation (EC) No 1049/20012 and Title II below.

3.7. Minutes

The outcome of the discussions, drafted by the Secretariat and approved by the Chair and Co-Chair and the CF members, shall be formally recorded in the minutes of the meeting.

4. Organisation

4.1. Secretariat

The Secretariat provides the CF with the administrative support for the preparation, implementation and management of the CF’s work and acts as single contact point for the request and transmission of information, cf. Part II point 3.

It is provided by Frontex.

4.2. Frequency and location of the meetings

The CF meetings shall take place at the Frontex Headquarters, in Warsaw, Poland, in principle twice a year.

4.3. Expenses

Costs related to the participation of CF members and other participants at CF meetings shall be born by Frontex in accordance with the relevant rules in force for Frontex meetings.

---

II. MODALITIES OF TRANSMISSION OF INFORMATION

1. General principles

1.1. Article 11d of Frontex Regulation referring to the Commission’s Rules on security regarding the protection of EU classified information laid down in annex to Commission Decision 2001/844/EC, ECSC, Euratom and the relevant Frontex rules on the sensitive unclassified information shall apply to the work of the CF.

1.2. CF members, their representatives and other participants shall sign a “Declaration of adherence to professional secrecy”, set out in the Appendix.

2. Type of Frontex Information and applicable rules

Without prejudice to the abovementioned rules,

2.1 Unclassified information (non sensitive information) shall be made immediately available to CF Members upon request.

2.2 Sensitive unclassified information are to be processed and exchanged in accordance with Article 11d of Frontex Regulation referring to the Commission’s rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and with the relevant Frontex rules.

2.3 EU Classified Information are to be processed and exchanged in accordance with Article 11d of Frontex Regulation referring to the Commission’s rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and with the relevant Frontex rules.

3. Transmission and Request of Information

Information necessary for the work of the CF and concerning respect for FR in Frontex activities according to Article 26a(4) of the Frontex Regulation shall be transferred by Frontex to the CF via the Secretariat or during the CF meetings.

If the information concerned is considered insufficient by the CF for its proper functioning, it may decide to ask Frontex ED for additional information. The ED decides to transfer the requested information, unless the request of the CF is considered to be unjustified. Requests for additional information shall be transmitted to Frontex via the Secretariat or during the CF meetings.

Specific e-mail addresses will be provided by the Secretariat and by the CF members for this purpose.

Transmission of information shall be conducted pursuant to the above-mentioned rules (defined in points 1 and 2 of Title II).

4. Liability

In case of breach of the professional secrecy and other confidentiality requirements by one of the representatives at the CF, the rules referred to in points 1 and 2 of Title II shall apply.

5. Protection of personal data

All processing of personal data for administrative purposes concerning the work of the CF shall be carried out in accordance with Regulation (EC) 45/2001.

---

3 Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data.
III. FINAL PROVISIONS

1.1 Duration of Membership
Except for the organisations mentioned in Article 26a of the Frontex Regulation, the term of mandate of CF membership shall be of three years, which may be renewed.

1.2 Evaluation
The MB Decision laying down the present Working Methods and Modalities of the Transmission of Information shall be revised together with the MB Decision establishing the Composition of the CF by the MB at the latest three years after its entry into force.

Without prejudice to Article 4 of the present Decision, at the request of the MB the CF members may perform a mid-term and/or final evaluation of the work of the CF to be submitted to the MB in view of the revision of the two abovementioned MB Decisions.