

Frontex—Written Evidence (PMS0009)

Frontex

This document contains the contribution of Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States (MS) of the European Union (EU), to the inquiry sent by the EU Home Affairs Sub-Committee of the House of Lords. As agreed the focus will lie on four issues:

- The tasks allocated to Frontex by the Action Plan and EU action against migrant smuggling more generally;
- Frontex's mandate and whether this will have to be broadened in order to fulfil the above tasks;
- The anticipated functioning of the new "Hotspot" approach;
- Inter-agency cooperation and the interaction between Frontex and other EU Agencies in the context of migrant smuggling.

Numerous tasks are assigned to Frontex in the EU Action Plan, some of them suggest an extended interpretation of the Agencies mandate (or even explicitly suggests this direction). We have addressed the four abovementioned suggested topics by commenting on the main chapters of the EU Action Plan and referring to Frontex most relevant activities.

Enhanced Police and Judicial Response

- There is a general statement about the need to “enhance the ability of EU Agencies to provide support to MS” capacities to investigate and prosecute migrant smuggling networks. There is a potential of Frontex to contribute directly to the investigations of MS, as Frontex is a direct source of information by its capability in intelligence collection. MS rely more and more on Frontex capacity and ability to obtain and make available actionable intelligence to Frontex Agency. This occurs mostly at times of pressure at the borders, when MS resources are stretched to its limits. Then Frontex provides these extra resource, expertise and value (in debriefing, in scrutiny of evidence from sites or boats, etc.) on activities that otherwise would not take place or would be postponed, risking the loss of its value as evidence and intelligence. Also in regular border management activities, the best practices and expertise of Frontex coordinated pools on intelligence experts, also in the use of more sophisticated means of collection of information (when not available at MS level), brings added value to MS capacities to investigate.
- In many MS, the relevant Border Police and Border Guard authorities are also entrusted/mandated to carry our investigations on human smuggling (in some cases, exclusively as part of the Police). These authorities are also Frontex counterpart in many of its operational activities. At times, it becomes desirable for those authorities that Frontex could provide more direct operational/analytical support to their investigations. Frontex has grown in ability and maturity to provide this kind of support and is able to support MS investigations in the field of smuggling of migrants should the mandate of the agency take this direction. (Which emerges as the most relevant cross border crime for Frontex). At the moment Europol receives this kind of intelligence through the Europol National Units in the MS.

- Frontex can effectively contribute to the success of financial investigations, both by providing strategic intelligence but also by direct contribution to ongoing or future investigations. Frontex has the ability to collect and record important amounts of information in relation to payment procedures and means, directly from interviews performed on migrants.
- Frontex actively participates, since the outset in June 2015, in the meetings of the Contact Group of EU Agencies. Frontex has been proactive in bringing information and proposals to the common table in relation to migrant smuggling, enabling more efficacy in the exchange of information and operational interaction. The most visible initiative within this group has been the availability of Frontex to offer its operational platforms (Joint Operations (JO), Intelligence Networks, Fusion Services, etc.) for the integration and participation of the operational response of all other EU Agencies.
- Frontex utilises the Eurosur framework to its full potential, including the efforts to identify and track vessels intended to be used by smuggling networks. The agency makes available to MS real time and near to real time information on the situation of suspicious vessels and other related relevant services, which provide for effective operational response. Likewise, Frontex has set up risk indicators to be able to establish when a certain vessel merits specific monitoring attention, be it at the request of the MS or upon the agency's own operational judgment.
- During Frontex Operational Activities, when there are reasonable grounds to suspect that a stateless vessel is engaged in the smuggling of migrants by sea, the interception is performed either in territorial waters, contiguous zone or international waters. The intervening maritime units must assure to the extent of possible that no migrants' boat is left adrift. In case of need, other MS could instruct the participating maritime units, through the Frontex International Coordination Centre, to support the towing of the migrants' boat left adrift to a define port or position.
- Frontex actively participates in multiple actions under the EMPACT (European Multidisciplinary Platform against Criminal Threats) Priority Illegal Migration, and in the implementation of the relevant activities of the Operational Action Plan of this priority in the EU Policy Cycle.

Improved Gathering and Sharing of Information

- The EU Action Plan states "The capacities of the EU Agencies to collect, exchange and analyse information on migrant smuggling should be reinforced. Full use should be made of the risk analyses on migrant smuggling routes produced by Frontex". Frontex would require that strategic intelligence and analysis stemming out of investigations at national and EU level (Europol) could be made available for the purpose of more targeted actions at the EU external borders. Furthermore, the possibilities for Frontex to provide analytical advice to relevant stakeholders should be enlarged. This is especially relevant considering visa issuing authorities working in third countries and their need to be informed about the developments at the EU external borders, likewise Schengen local cooperation authorities in third countries. In a similar manner, Frontex would largely profit in its risk analysis activities from effective constant exchange with EU Delegations and European/MS liaison officers posted in third countries.
- Frontex has set up an effective cooperation structure and information flow with EUNAVFOR MED, as part of the operational coordination scheme arranged that aims at guaranteeing that the EU CSDP (Common Security and Defence Policy) mission and Frontex coordinated operation in the Central Med, JO Triton, deliver the expected EU value and are fully coordinated. In this

regard, many operational measures have been taken, ranging from shared operational plans, jointly designed information flows, sharing of guidelines and operational models, to concrete tactical decisions enabling coordination, including the sending of liaison officers to each other's coordination structures.

- The EU is deploying European migration liaison officers to EU Delegations in third countries of relevance. It is paramount that the information which is generated by these experts reaches the analytical capacities of Frontex, in order to integrate the strategic information collected upstream into a global operational risk analysis. In this sense, the EU Action Plan on smuggling announces a revision of the EU Regulation on the Immigration Liaison Officers (ILO) Networks. Frontex has been through the last decade developing and expanding its information sharing and analytical activities gaining the engagement and participation of different ILO networks. The most relevant example is the EU ILO network in Turkey, which has been developing with the support of Frontex, who has been attending all its meetings. Another valuable example is the African EU ILO meetings organised by Frontex, in the framework of the Africa Frontex Intelligence Community (AFIC) activity. The objective of Frontex is to make these cooperation platforms available for additional purposes other than risk analysis (e.g. exchange of operational information). Finally, Frontex is ambitious with regard to its role in the management of ILO networks, as an entity with enormous potential to provide strategic intelligence from third countries, relevant to the pre-frontier intelligence picture; Frontex could play a stronger role in coordinating the activities of the networks, enabling it to become also a platform for tactical and operational information exchange. This also applies to the management of the reporting obligations of the EU ILOs and EU Presidencies, where Frontex could play a fundamental role.
- The exploitation of the service-level agreement (SLA) between Frontex and the EU Satellite Centre (EU SatCen) is pivotal to the generation of the pre-frontier intelligence picture, as highlighted in the EU Action Plan. Frontex has categorised a number of Earth Observation services that will be requested from the EU SatCen and delivered to MS. Frontex and MS authorities need to develop their capacity and knowledge of use in order to render satellite imagery analysis instrumental for the purpose of detection of departure points, movements of suspicious means and persons, validation of intelligence, change analysis and others.
- The African Frontex Intelligence Community (AFIC):

During 2014 and 2015 AFIC has become more and more visible to outside stakeholders such as the European Commission (both Directorate-General for Migration and Home Affairs, DG HOME and Directorate-General for Neighbourhood and Enlargement Negotiations, DG NEAR/ Directorate-General for International Cooperation and Development, DG DEVCO), European External Action Service (EEAS), ECOWAS and regional initiatives of the Rabat and Khartoum processes as well as the G5 Sahel. This increasing visibility and the success of the approach adopted by Frontex when working in the field of analysis and intelligence sharing with African countries was echoed also by the 'EU Action Plan against Migrant Smuggling' that recommended the AFIC to be "further developed as a platform for information-sharing and joint analysis with third countries in Africa." Furthermore, the European Commission noted that, given the success of the AFIC "launch of similar platforms in other key regions should be considered." AFIC African members have reiterated their commitment to the joint work with Frontex within the AFIC on multiple occasions, but also their expectations regarding AFIC activities in Africa and further capacity building activities in the field of risk analysis have been clearly expressed.

The Africa-Frontex Intelligence Community was set up in 2010 to provide a framework for regular knowledge and intelligence sharing in the field of border security between Frontex and African countries. The concept of this collaboration was broadly based on the model of the Frontex Risk Analysis Network (FRAN) and the two already-established regional risk analysis networks (Western Balkan-RAN and Eastern Borders-RAN). Since 2011 North African countries, international organisations active in the African continent, like the African Union and the Arab Maghreb Union, ECOWAS, EEAS, EUCAP Sahel and EUBAM Libya, have participated in the AFIC activities. The AFIC countries want the network to evolve further (and not just through expanding it geographically). As of March 2015, the AFIC has exchanged information continuously on a dedicated secure platform. Frontex also finally took the AFIC to Africa: one regional workshop was organised in Casablanca and another one in Dakar. The feedback from the AFIC participants to these changes have been positive. Going local also enabled Frontex staff to establish links to relevant local/regional actors to get their insights regarding the situation on the ground. In addition, in 2015, AFIC has been on the agenda of Euro-African Police Conference on Irregular Immigration (Canary Islands), the G5 Sahel (Niger), the IOM regional conference (Niger), and in the inaugural meeting of the Border Security Initiative of the Global Counter-Terrorism Forum-UN Counter-Terrorism Centre (GCTF-UNCCT) (Morocco).

The AFIC has matured and in many ways exceeded the initial expectations. However, AFIC African members and key external stakeholders, namely DG HOME and EEAS demand more including the capacity building pillar of this analytical activity.

- The European Agenda on Migration has developed the new approach “Hotspot” which should enable the coordinated support of EU Agencies to those MS facing high migratory pressures on their external borders, including the support in targeting smuggling networks. Frontex, together with Europol, EASO and Eurojust have jointly developed a cooperation model and materialised this model in so called EU Regional Task Forces (EURTF). The first EURTF to be set up was in Catania, Sicily, where all the agencies and the host MS national authorities are present and working jointly. In addition to this, EU NAVFORMED has allocated its liaison officer within this coordination team. The EURTF is capable of facilitating the cooperation between agencies, including the coordination of operational means made available as part of the operational response. The EURTF model will now be expanded and applied in Greece, where talks between EU Agencies and local authorities are already taking place.
- The propose Hotspot approach is integral part of Frontex coordinated JOs and hence of its Operational Plan. It is part of the Integrated Border Management concept implemented by Frontex in its operation activities boosting the inter-agency cooperation dimension at EU and National level
- Frontex has supported a recent pilot activity of the European Asylum Office aiming at gathering information and intelligence on smuggling activities in the course of an asylum determination process (interview). A success in this activity will bring more knowledge on offenders and smugglers, especially when the collection of information takes place in areas and locations where debriefing interviews are not possible or not foreseen.
- The EU Action Plan calls for more research and risk analyses on the possible links between cross border crime, irregular migration and smuggling. Indeed, the risk analysis model used at EU level (the Common Integrated Risk Analysis Model) categorises the analysis of cross-border crime as a fundamental element intrinsically embedded in the analysis of border security risks. However, the mandate of Frontex is not sufficiently straightforward in this regard and in occasions it raises questions if not resistance from parties who do not understand the complex

nature

of border management nor are aware of the EU concept of Integrated Border Management and its close connections to Internal and External Security. At EU level, it should be able to produce an EU Integrated Risk and Threat Assessment Report, where the knowledge and analysis of risks at the highest strategic level is introduced to the EU leadership in order to inform high level/strategic policy development in the area of Home Affairs, including migration management.

Assistance to Vulnerable Migrants (People in Need of International Protection and Victims of Trafficking)

- The EU Action Plan makes a clear statement on the need to amend the mandate of Frontex in relation to its role vis-à-vis the management of return of persons who do not have the right to stay in the territory of the MS. There is not yet a formal Commission proposal to amend Frontex mandate.
- Frontex is in the process of establishing an effective monitoring system to ensure compliance with fundamental rights in all its activities. The system is currently supported by an internal reporting system from participants to operations, that are briefed and obliged to report any incident that could be consider an allegation of a violation of fundamental rights during Frontex coordinated activities. In order to support this mechanism, the Frontex Fundamental Rights Officer also has the capacity to operational plans, follow up on incidents and make observations on evaluations of those plans.
- Furthermore, the Agency counts on the support from the Consultative Forum on Fundamental Rights that has the mandate to provide strategic advice on these matters to the Executive Director and the Management Board of the Agency. The Forum is composed of 15 external partners, including EU Agencies, International Organizations and NGOs working in the field of migration and human rights within the EU and beyond.
- The Agency is in the process of revising the 2011 Fundamental Rights Strategy and Action Plan. Among other key actions, the Agency has devised a specific Fundamental Rights Training for Border Guards Trainers, it has also provided basic fundamental rights training to its staff, and includes an overview of the basic concepts and available mechanisms to tackle them in the pre deployment briefings before any operation starts. The main aspects highlighted are the obligation to refer persons that are in need of international protection without delay to the respective authorities in charge of dealing with their asylum claim at national level, the provision of basic needs and the prohibition of non refoulement.
- In the field of trafficking in human beings Frontex works closely together with the other JHA Agencies under the guidance of the EU Anti-Trafficking Coordinator. Frontex is mainly active in Capacity Building activities and supports the MS in the identification process of victims and their perpetrators at the EU external border, with a Handbook on indicators on trafficking in human beings and a handbook dealing with children at risk at airports.

Stronger Cooperation with Third Countries

- The main areas of activities of Frontex are highlighted in the Action Plan as areas to which the European Commission and the European External Action Service should be looking to when funding and supporting the development of EU and national actions in third countries. This brings a massive opportunity in broad areas of engagement core for Frontex, which is if the

strategic direction of the Agency would be to engage further in the implementation of institutional building and capacity building actions in third countries. Specifically, the Action Plan mentions that the “Commission will provide financial and technical support for starting or improving the collection, sharing and analysis of data on migrant smuggling between countries of origin, transit and destination”.

- Frontex is implementing technical assistance projects in third countries:
 - Frontex has been directly awarded a EUR 4.5 million grant by the European Commission’s DG NEAR for implementing the Eastern Partnership Integrated Border Management Capacity Building Project. The main aim of this project is to ensure border security and to facilitate legitimate movements of persons and goods in the region, while ensuring that the fight against corruption and respect for human rights will be given necessary attention throughout the project. The project partners and co-beneficiaries are the World Customs Organization and the International Organization for Migration, as well as the International Centre for Migration Policy Development. The project also foresees the involvement of other actors, including European and United Nations agencies, in implementing specific actions.
 - Frontex is engaged with EASO in a technical assistance project aimed at, among others, familiarizing Tunisia and Morocco with the work of the agencies. The 18 month project is funded by the European Commission’s DG DEVCO. Frontex focuses on implementing awareness raising activities in Morocco and Tunisia laying the foundation for intensified structured future cooperation.
 - Furthermore Frontex is engaged in the IPA II (Instrument for Pre-accession Assistance) Regional Programme – regional support to protection sensitive migration management in the Western Balkans and Turkey. The foreseen signature date of the contract is September 2015, while implementation will begin in end 2015. The regional programme will run for 36 months. Frontex, together with EASO, IOM and UNHCR, will implement the project. The actions delivered in the region will be aimed at:
 1. strengthening identification mechanisms;
 2. improving and strengthening systematic information exchange and;
 3. preparing the candidate and potential candidate countries to offer sustainable return solutions.
- Based on article 14 of Frontex Regulation, the Agency concluded working arrangements with the competent authorities of 17 countries outside the EU, as well as with the Coordination Service of the CIS Border Troop Commanders and the MARRI Regional Centre in the Western Balkans.
- Additionally, Frontex is mandated by its Management Board to start negotiations with other seven third countries, mostly in North of Africa. Partnerships and cooperation with competent authorities of third countries were further developed throughout 2014/2015. Frontex progressively succeeded to develop mutually beneficial and sustainable partnerships across the EU External Borders. Tangible results have been achieved particularly in the field of information sharing, training, joint operational activities and in the area of research and development.

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