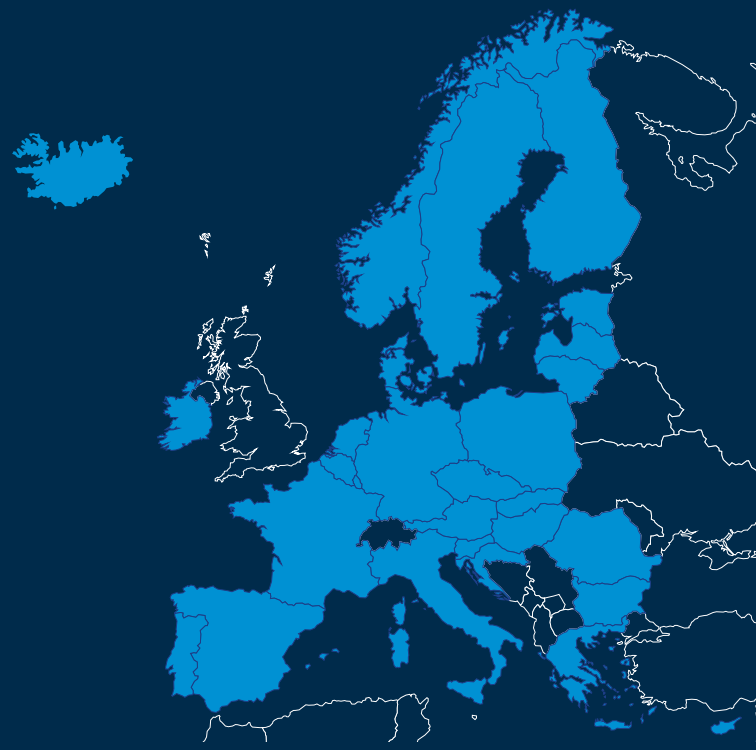
FRONTEX

CODE OF CONDUCT

APPLICABLE TO ALL PERSONS PARTICIPATING IN FRONTEX OPERATIONAL ACTIVITIES



EUROPEAN BORDER AND COAST GUARD AGENCY

CORE VALUES AND PRINCIPLES

The adoption of this code of conduct helps demonstrate the commitment made by Frontex to promote and enforce the highest professional and behavioural standards during operational activities. Such a commitment extends to fully respecting, upholding and fulfilling fundamental rights.

Throughout their operational duties and within the confines of their mandate and powers, participants in Frontex operational activities commit to ensure assistance to, in particular, vulnerable persons and persons seeking international protection.

Participants in Frontex operational activities must also ensure that their conduct matches the values enshrined in this code of conduct. In this way, Frontex wishes to ensure that the integrity and professionalism of persons deployed in operational activities remain unquestionable in all circumstances.

Finally, the cooperation Frontex has with our Union partners (such as the Commission, other Union institutions and the European Union Agency for Fundamental Rights) and with other bodies with prerogatives and expertise in tackling irregular migration is highly valued. In addition, Frontex engages with and values the input provided by international organisations competent in matters pertaining to human rights and migration such as the United Nations High Commissioner for Refugees and the Council of Europe.

CHAPTER I
GENERAL PROVISIONS

Article 1
Application, scope and objectives

1. This code of conduct applies to all Frontex operational activities, including those which take place outside the territory of the Union and, subject to paragraph 2, to all persons participating in them.

2. The basic principles set out in this code of conduct should serve as a framework for persons who are seconded national experts, other law enforcement officers or officers or participants from third countries. This code of conduct is without prejudice to the provisions of any status agreement pursuant to Article 54 of the European border and coast guard regulation (*).

3. This code of conduct aims to promote general values intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on vulnerable persons, as well as on persons seeking international protection, and is applicable to all persons participating in Frontex operational activities.

* Pursuant to Article 54 of 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), a status agreement shall be concluded by the Union with the third country concerned in cases where it is envisaged that teams will be deployed to a third country in actions where the team members will have executive powers, or where other actions in third countries require it.

Article 2

Definitions

For the purpose of this code of conduct, the following definitions apply:

a) The term 'participant' refers to any person participating or engaged in a Frontex operational activity.

b) The term 'Frontex operational activity' means any activity coordinated, assisted, financed or co-financed by Frontex in the context of assisting Member States in undertaking border control and return tasks, in accordance with Article 8 of the European border and coast guard regulation. Frontex operational activities include joint operations, pilot projects, return operations and training of relevant staff.

c) The term 'law enforcement officers' includes members of the European Border and Coast Guard teams and/or relevant staff from the Member States and/or from third countries, who have law enforcement prerogatives.

d) The term 'vulnerable persons' may include women, children (unaccompanied or with family members), persons with disabilities, the elderly, victims of torture or trauma, persons susceptible to exploitation and victims of exploitation or trafficking in human beings.

e) The term 'Member State' also includes the Schengen associated countries.

f) The term 'discrimination' means any unequal treatment or arbitrary action or distinction based on a person's sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, nationality, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation or other status.

g) The term ‘harassment’ means intentional behaviour which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile or offensive environment.

h) The term ‘social media’ includes blogs, business networks, social networks, forums, photo sharing, products/services review, social bookmarking, social gaming, video sharing and virtual worlds.

CHAPTER II
PRINCIPLES

Article 3
Lawfulness

Participants must:

a) comply with international law and Union law as well as the national law of both home and host Member States;

b) meet the obligations imposed upon them by the provisions stated in the operational/implementation plan.

Article 4
Fundamental rights

Participants must:

a) promote, respect, fulfil and protect human dignity and the fundamental rights of every individual, regardless of their sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, nationality, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation or other status, with particular focus on vulnerable persons;

b) ensure respect for the relevant international and European instruments regarding fundamental rights protection, including the asylum *acquis*.

Article 5
International protection

Participants must:

a) promote, respect, fulfil and protect the right of persons seeking international protection to be identified, receive adequate assistance and be informed in an appropriate way, preferably using a number of the most common languages that third-country nationals understand or are reasonably believed to understand, about their rights and relevant procedures;

b) ensure that persons in (a) above must be referred without delay to the national authorities responsible for considering their requests, in compliance with the principle of non-refoulement, the prohibition against arbitrary and collective expulsions and the right to seek asylum;

c) ensure that persons in their custody are treated in accordance with the right to human dignity, and are provided with basic necessities, including food, water, shelter and medical attention to meet their individual needs;

d) ensure that special consideration is given to vulnerable persons as well as to persons seeking international protection.

Article 6
Performance of duties

Participants must:

a) ensure that instructions, directives and required duties given to them are carried out promptly and in accordance with the training received on the protection of fundamental rights;

b) display that they are on a Frontex operational activity, unless such transparency would compromise either their personal safety or duly justified operational objectives;

c) use resources put at their disposal responsibly and avoid unnecessary waste: such resources may include mobile offices, cars, computers or phones.

Article 7

Responsibility

Participants are primarily responsible for all the actions in the context of their participation in a Frontex operational activity. Any breach of the participants' legal obligations or this code of conduct, or any failure by those participants to refer or report any suspected breaches of this code of conduct, should be reported using the appropriate channels.

Article 8

Conflict of interests

Participants must refrain from any activities which would undermine or compromise their impartiality and the appropriate performance of their duties.

Article 9

Confidentiality

1. The processing of personal data by participants must comply with the applicable Union as well as national data protection law.

2. Participants must not record any aspect of Frontex operational activities for private use. Professional information in the possession of a participant in current, past or planned Frontex operational activities must not be publicly disclosed, including on social media, unless the performance of the duty strictly requires disclosure, or such disclosure has been appropriately authorised in accordance with the applicable standards.

3. Participants must not express themselves regarding current, past and planned Frontex operational activities in the media, including social media, unless explicit authorisation is given, in accordance with the operational/ implementation plan or other similar agreed rules.

Article 10
Behavioural standards

Participants, whether on or off duty, must:

a) not behave in a way likely to compromise the prestige and the nature of the public mission in which they are invested, or to bring discredit upon their organisation, entity or Frontex;

b) act with fairness, impartiality and non-discrimination and treat all persons with dignity, courtesy and respect;

c) not take any actions contrary to public order;

d) not use vulgar, obscene or otherwise offensive speech or gestures that could be considered abusive;

e) not be ignorant of cultural differences when interacting with persons so as to cause misunderstandings.

CHAPTER III
PROHIBITED CONDUCTS

Article 11
Prohibition of abuse of authority and position

All improper use of a position of influence, power or authority is forbidden.

Article 12
Non-Discrimination

All forms of discrimination as defined in Article 2(f) towards persons participating in, involved in or otherwise affected by Frontex operational activities, or the general public is forbidden.

Article 13
Prevention of harassment

All forms of harassment as defined in Article 2(g) towards persons participating in, involved in or otherwise affected by Frontex operational activities, or the general public is forbidden.

Article 14
Consumption of alcohol

1. The consumption of alcohol while on duty is forbidden.

2. The consumption of alcohol off duty must be moderate, unless the operational/implementation plan prohibits any such consumption.

3. A participant unexpectedly called out for duty is obliged, at no risk of discredit, to say that he/she has consumed alcohol and may not be fit for duty.

4. A participant in a state of intoxication due to the consumption of alcohol must not report for duty or appear in public.

Article 15

Use of narcotics and drugs

1. The use or possession of narcotics or drugs, unless prescribed for medical reasons, is forbidden.

2. A participant in a state of intoxication due to the use of narcotics or drugs must not report for duty or appear in public.

Article 16

Prohibition on sexual services and sexual abuse

1. Using or soliciting services of a sexual nature by participants, whether in public or in private, is forbidden. Engaging in abusive and exploitative sexual activities by participants is strictly prohibited.

2. Participants shall refrain from any conduct of a sexual nature that implies an abuse of their power and influence by virtue of their position.

3. Participants should show full awareness of cultural differences in particular related to gender issues when interacting with persons affected by Frontex operational activities in order to avoid any misperceptions.

Article 17

Corruption and misconduct

1. Participants must not engage in any form of corrupt activity.

2. The use by participants of their public position for illegitimate private gain as well as the acceptance of unjustified rewards for actions taken in Frontex operational activities is forbidden.

CHAPTER IV

SPECIAL RULES AND PRINCIPLES APPLICABLE TO LAW ENFORCEMENT OFFICERS

Article 18

Use of force and weapons

1. Pursuant to Article 40 of the European border and coast guard regulation, while performing their tasks, members of the teams may only use force, including service weapons, ammunition and equipment, with the consent of the home Member State and the host Member State, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State. The host Member State may, with the consent of the home Member State, authorise members of the teams to use force in the absence of border guards of the host Member State.

2. The host Member State may prohibit the carrying of certain service weapons, ammunition and equipment, provided that its own legislation applies the same prohibition to its own border guards or staff involved in return-related tasks. This information is shared in advance with Frontex and the Member States.

3. The use of force, and in particular of weapons, must be as a last resort and not exceed the minimum degree necessitated by the circumstances. It has to be proportionate for the performance of duties or in legitimate self-defence or in legitimate defence of other persons and must be in strict compliance with the relevant guarantees provided for in national, Union and international law.

CHAPTER V
FINAL PROVISIONS

Article 19
Awareness

Participants must:

a) prior to their engagement in a Frontex operational activity, get acquainted with the content of this code of conduct, for example through appropriate means provided by national authorities responsible for the deployment of the participants or by Frontex;

b) keep themselves informed about the most up-to-date Frontex objectives, good practices and policies.

Article 20
Duty to cooperate and to inform

1. Participants have the duty to cooperate in the gathering of facts of any incident which was reported during a Frontex operational activity.

2. Participants must provide information about the complaints mechanism and complaint form to any person who wants to report an alleged fundamental rights violation under that mechanism.

Article 21
Sanctions

1. In the case of a violation of this code of conduct by a member of Frontex staff, the Executive Director must take adequate measures which may include the immediate removal of the member of Frontex staff from the Frontex operational activity, in accordance with the Staff Regulations (**) and the Frontex disciplinary procedure (***).

2. If the violation was committed by a person deployed by a Member State, the Executive Director communicates the incident to the responsible Member State. The Executive Director expects the relevant authority of the Member State to use its powers regarding the necessary disciplinary measures and, if applicable, suspend or remove the person concerned from the respective pool for a defined period. Nevertheless, if the continued engagement of this person jeopardises the Frontex operational activity in question, the Executive Director may decide to suspend or remove him or her from that activity.

** Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials of the European Communities (and the Conditions of employment of other servants of those Communities) (OJ L 561, 4.3.1968, p. 1).

*** Management Board Decision 23/2012 adopting Frontex Disciplinary Procedure or its successor.



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