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Please quote when replying.

Warsaw, 21 December 2020

Subject: Written question: E-005471/2020 - Fundamental rights compliance by Frontex staff and the current absence of the Fundamental Rights Officer

Dear Mr Oel,

Please find below our reply to the Written Question [E-5471/20] submitted by Tineke Strik (Greens/EFA).

QUESTION 1

Given the current long-term absence of the Frontex fundamental rights officer (FRO), has a deputy FRO been appointed, as laid down in Regulation 2019/1896 Article 109(6), if so, what criteria and procedure were applied in the selection process, and on what date did the deputy FRO take up office?

Answer:

According to Article 109(6) of Regulation (EU) 2019/1896 - hereinafter 'the Regulation' - the deputy fundamental rights officer shall be appointed by the Management Board from a list of at least three candidates presented by the Fundamental Rights Officer.

The Management Board, appointing authority for FRO, decided to give priority to launching the selection process for the Fundamental Rights Officer (vacancy notice published on 12 November 2020) and nominated as soon as possible a FRO ad interim as middle manager.

It should be noted that the Fundamental Rights Officer (FRO) is in view of the extended scope of duties under the current Regulation a post at middle management level.

The FRO hiring process under current Regulation is a specific selection procedure and could only be launched once the Management Board adopted a decision on middle management staff, in accordance with Article 110 of the Staff Regulations. This new procedure was not applicable to FRO under the previous Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard as it was a non-managerial position at the time.

QUESTION 2

If no deputy FRO has been appointed, or for the period that no (deputy) FRO was in post, how have DG Home and Frontex ensured that the duties of the FRO were and are performed, in full compliance with Regulation 2019/1896, especially Articles 109(2)(b), (i) and (j), 109.3(a), 111, and other obligations of the EU acquis, and how has Frontex complied with the criteria of these provisions for the Evros deployment since the beginning of March 2020?

Answer:

The FRO appointed prior to the Regulation (EU) 2019/1896 - hereinafter 'the Regulation' - was a non-managerial position. The periods where the FRO appointed prior to the Regulation was unable to perform her duty were covered since 2018 by firstly appointing FRO ad interim by the Management Board Decision 27/2018 of 5 November 2018, and then deputising arrangements by the recruited Associated FRO by Management Board Decision 13/2019 of 12 June 2019. Those action were taken respectively to ensure business continuity in the important area of Fundamental Rights.

Following the adoption of the Management Board Decision laying down implementing rules on temporary occupation of management posts, the Management Board decided on 23 September 2020 on the appointment of an ad interim Fundamental Rights Officer at middle management level as defined under Article 109 of the Regulation.

Article 1(2) and (3) of the Management Board decision provides that the ad interim FRO is independent in the conduct of her duties pursuant to Article 109(5) of the Regulation and she shall not carry out other functions during her appointment.

The selection process for Fundamental Rights Monitors was launched by the FRO ad interim and the related selection notices were published on 20 and 23 November 2020 respectively.

Secondly, on fundamental rights monitoring, according to Article 109 of the Regulation, FRO is tasked to monitor the Agency's compliance with fundamental rights, including carrying out on-the-spot visits to any joint operation or rapid border intervention. During the COVID-19 crisis, close monitoring in the field was hardly possible and fundamental rights monitoring was mainly undertaken by other means (keeping contacts with the Agency's business units, fundamental rights briefings to deployed team members, incoming reports, observations, Consultative Forum information shared, etc.);

In this period, FRO has also been involved in the implementation of the Regulation along with contribution to preparation of strategic documents and engaging in the establishment of the fundamental rights monitoring, including a pilot project signed by the Executive Directors of Frontex and the European Union Agency for Fundamental Rights (FRA);

Concerning rapid border intervention in Greece: FRO observations to the operational plan of the rapid border intervention (Evros and Aegean 2020) were provided by Associated FRO prior to the launching of the operations and in the context of the Regulation (EU) 2019/1896 in place; Associated FRO proposed to include the general instructions on how to ensure the safeguarding of fundamental rights during the operational activity of the Agency (Article 38(3)(l) of the Regulation) in the draft operational plan; and later on, a supplementary opinion to the operational plan observations Rapid Border Intervention Evros issued.

Currently FRO staff is working on further analysing the Agency's operational activities in Greece based on reports and information received from different external and internal sources (regarding Greek land and sea borders).

With this on-going analysis and the FRO on-the-spot visits to Evros region and Greek islands, which are planned in the coming weeks, FRO is contemplating to take further actions in monitoring the Agency's compliance with fundamental rights, including by conducting investigations into any of its activities (Article 109(2)(b) of the Regulation).

QUESTION 3

What effect has the absence of the FRO had on the fundamental rights training of new and current staff, given the FRO's role in this under Regulation 2019/1896 Article 62(6), and what efforts have been made by the agency and DG Home to ensure fundamental rights training is provided to new and current Frontex staff?

Answer:

The Agency may only reply on behalf of the Agency, and DG Home might complete the response.

FRO was asked by Frontex training unit to deliver training to the European Border and Coast Guard Standing Corps (development of material and contributed to the delivery of dedicated FR training).

In addition, FRO commissioned a training consultant (March-April 2020) for the review of the selected products for the basic training of the Standing Corps Category 1, in support of Frontex Capacity Building Division/Training Unit, ensuring that fundamental rights are mainstreamed. FRO considers the training as a fundamental element to equip the Standing Corps with knowledge and understanding of Fundamental Rights aspects.

FRO is also providing training to all newcomers to Frontex in the newcomers' induction training which is taking place on a monthly basis.

Should you need any further clarifications, I remain at your disposal.

Yours sincerely,



Fabrice Leggeri
Executive Director