

To:

Date: November 18, 2025

Subject: **Meijers Committee's comments on the proposed reform of the  
European Border and Coast Guard Regulation (2019/1896)**Surinameplein 122,  
1058 GV Amsterdam[Website](#)[Email](#)

To whom it may concern,

In view of the anticipated reform of the European Border and Coast Guard Regulation (2019/1896) (EBCG Regulation), the Meijers Committee would like to draw your attention to three of its principal concerns. The forthcoming proposal is expected to expand Frontex's activity in third countries, further enlarge the standing corps and bring about an intensification of drone-based surveillance by Frontex. These new developments aggravate the existing concerns which the Meijers Committee has been voicing for the past two decades: that Frontex is lacking adequate fundamental rights embedding and accountability mechanisms to ensure the effective protection of fundamental rights. After setting out the accountability concerns, concrete recommendations will be made to include robust fundamental rights safeguards and accountability structures in the reform proposal.

#### Need for improved accountability mechanisms

Given the fact that Frontex operates almost always in cooperation with national authorities of either Member States or third States, victims of fundamental rights violations are faced with the challenge of proving which actor certain acts must be attributed to.

Effective accountability of the Agency is further hampered by the fact that neither national nor international courts have competency to adjudicate Frontex's actions. Using the Court of Justice of the European Union (CJEU)'s annulment procedure is complicated given that many of Frontex's actions do not constitute a legal act, yet liability for damages is hindered by the requirement that the plaintiff must prove which actor the acts must be attributed to. In addition, we would like to draw your attention to the fact that persons most directly affected by the Agency's operations are in a very vulnerable position and face numerous practical obstacles to access justice, for instance due to limited legal aid or interpretation services. This is further exacerbated by a lack of transparency by the Agency regarding its operations. Although there is an individual complaints mechanism pursuant to Article 111 EBCG Regulation, this is ordained by the Executive Director, who is not adequately impartial, nor does the mechanism provide for adequate redress. This leaves Frontex in an accountability void, perpetuated by structural deficiencies (see our recent comments on Frontex's accountability void: [CM2307](#), [CM2105](#)).

The expected proposals to reform the EBCG Regulation – which aims to increase the standing corps, third-country return operations, and drone activities – increases our longstanding concerns that Frontex is exceedingly difficult to hold to account, where human rights violations occur.

Instead of deteriorating the accountability gap, legislative action could address the structural challenges. Although some underlying issues – such as the lack of a common forum and limited direct access to the CJEU for individual applicants – would require broader reforms, much can be achieved at the legislative level. The forthcoming reform of the EBCG Regulation presents a valuable opportunity to tackle the longstanding difficulty that affected individuals face in identifying which actor is responsible for violations in joint operations (and consequently which court has jurisdiction), for instance by establishing a joint liability mechanism between Frontex and Member States for damage arising from joint operations. Such a mechanism could take inspiration from the Europol Regulation's

approach and would enable individuals to seek full redress from either party, ensuring victims are never left without an effective remedy.

#### Increased standing corps

Firstly, the Meijers Committee is concerned by the European Commission's intention to increase Frontex's standing corps. Further enlarging the corps without resolving Frontex's existing accountability void risks worsening the critical deficit.

The eventual makeup of this standing corps will determine the scale of the accountability gap. If the personnel are seconded from Member States, then there will likely be an apparatus at national level that could ensure criminal prosecution in case of serious misconduct. However, if the standing corps is comprised predominantly of Frontex staff, no equivalent external accountability system will exist, since national oversight is absent. Furthermore, the fact that not all human rights violations in which Frontex is involved amount to criminal offences, also leaves accountability gaps. Robust and independent accountability structures must be implemented to ensure the effective protection of fundamental rights, prior to the expansion of the agency.

#### Third-country operations

Secondly, the Meijers Committee reiterates its serious concerns regarding Frontex's engagement in third-country operations. The forecast expansion of Frontex's mandate, which is expected to empower Frontex to engage in return operations from one third country to another – for instance, in transfer/return hubs – raises profound accountability challenges.

In current third country operations outside the EU which involve Frontex, third country authorities have exclusive power to give instructions to all personnel. Hence, there is a lack of command and control by Frontex (and Member States). This setup limits Frontex's (and Member States') ability to influence operations and raises concerns about compliance with EU standards and fundamental rights. Frontex staff actions are generally attributable to the Agency, but when directed by third-country authorities, responsibility may shift to those states. This possible shift raises concerns due to their weaker human rights obligations. Moreover, since determining who is legally responsible in multi-actor operations is difficult, victims' access to justice and effective remedies is complicated (see our comment on status agreements with Senegal and Mauritania, [CM2307](#)).

Similar to current joint operations in third countries, the enforcement of third-country-to-third-country removals by Frontex exposes the Agency to the constant risk of violating fundamental rights obligations, such as the principle of non-refoulement. Clear safeguards need to be provided to mitigate such risks.

As Advocate General Ćapeta has set out clearly in her Advisory Opinion in the pending case of [WS v Frontex](#), Member State's primary role in returns should not shield Frontex from liability. As Ćapeta correctly points out, protection of fundamental rights within the EU would be seriously undermined if Frontex could not effectively be held to account for its own responsibility to ensure respect for fundamental rights in all its tasks.

#### Drone activity

Thirdly, the Meijers Committee is deeply concerned by calls for Frontex to intensify its use of drones. Whilst drones have ostensibly been deployed to monitor migrant boats to aid search and rescue missions ('SARs'), there is significant evidence to show that aerial surveillance has been used to facilitate pullbacks to Libya. This has been highlighted in a number of reports (see this [2018 report](#), [2020 report](#), and [2022 report](#)). In this respect, the Meijers Committee reiterates the [judgment](#) of The

Civil Court of Crotona: that Libya's systemic failure to provide safety or fundamental rights to individuals returned to Libya prohibits operations by Libya being regarded as rescue.

As such, through drone-based surveillance, Frontex has contributed to serious fundamental rights violations, which, in the case of pullbacks by the Libyan Coast Guard, led to exposure to abuse, human trafficking and violence. Consistent with the EU's fundamental rights obligations, including those enshrined in the Charter of Fundamental Rights (Charter), we vehemently oppose drone operations that facilitate fundamental rights abuses. If these drones are to be used for search and rescue, this must be compliant with EU and international law and bring about the safe arrival of individuals, to a place of safety. In addition, such operations must have a clear legal basis, and accountability for possible contributions to violations of fundamental rights must be ensured by transparency regarding Frontex's drone operations and by establishing effective routes for accountability.

#### Recommendations

The Meijers Committee advises against the increase of the standing corps, the possibility of Frontex implementing removals from one third country to another, and the intensification of the use of drones – as long as there are no robust and clear fundamental rights safeguards and accountability structures.<sup>1</sup> To ensure these safeguards and structures, we recommend that the amended regulation:

- (i) allows individuals to hold Frontex or a Member State accountable for all damages resulting from joint operations, without having to prove who the unlawful act in question must be attributed to;
- (ii) establish a mechanism aimed at removing some of the practical obstacles preventing victims access to justice, such as the provision of interpretation services and legal aid;
- (iii) ensures that the internal complaints mechanism sets out the forms of redress available to victims.

As always, we stand ready to engage in a further exchange of thoughts on this comment and its subject matter.

Yours sincerely,  
On behalf of the Meijers Committee



Dr. Sanne Buisman, Chairwoman

---

<sup>1</sup> Whilst the eventual shape of this revised regulation will determine the exact fundamental rights protections required, the Commission should address existing concerns by incorporating the [FRA's five substantive recommendations](#) on fundamental rights protection in the context of return hubs.