



PICUM's submission to the European Commission's Consultation on the European Border and Coast Guard – Update of EU Rules

November 2025

Introduction

The Platform for International Cooperation on Undocumented Migrants (PICUM) was founded in 2001 as an initiative of grassroots organisations. Since then, it has built a comprehensive evidence base regarding the gap between international human rights law and the policies and practices existing at national level. Nowadays it represents a network of 155 member organisations working to promote social justice and human rights of undocumented migrants in 34 countries. With two decades of experience, PICUM promotes recognition of their fundamental rights, providing an essential link between local realities and the debates at policy level.

PICUM welcomes the opportunity to contribute to the European Commission's 2025 [public consultation](#) on the potential revision of the European Border and Coast Guard (EBCG/Frontex) [Regulation](#). Building on our [previous submission](#) from September 2022, we note with concern that since the last call for evidence on the review and evaluation of the Regulation, the structural risks to fundamental rights associated with Frontex operations have persisted.

Our current submission draws on recent evidence, emerging risks, and ongoing developments to bring forward analysis and recommendations. We note how over time, and after successive amendments of the Regulation that have significantly expanded its mandate, Frontex has shifted from a role of operational support toward systemic coordination of European border and return policy. In our submission, we emphasize how this shift amplifies risks for fundamental rights violations.

Non-exhaustive list of reports of human rights violations involving Frontex

Since our 2022 submission, a growing body of evidence has further documented Frontex's involvement in, or failure to prevent, serious human rights abuses:

A [probe by the EU Anti-Fraud Agency \(OLAF\)](#), eventually leaked by media in October 2022 after [not being disclosed for months](#), uncovered serious misconduct within Frontex, including attempts to restrict its Fundamental Rights Officer's (FRO) access to critical operational information, excluding the officer from serious incident reporting, and downplaying credible allegations of rights violations, to preserve institutional reputation. The European Parliament [expressed concerns](#)

about the findings, including the delayed access to the report and the lack of accountability. In the aftermath, Frontex issued a [statement](#) asserting that the reported practices were practices of the past, and committed to implementing remedial measures, such as measures to strengthen the FRO's role.

In December 2022, Human Rights Watch and Border Forensics published a [detailed investigation](#) showing that Frontex used aerial surveillance to identify migrant boats in the central Mediterranean and then relayed those coordinates to the Libyan Coast Guard, knowing that many intercepted people face systematic abuse, arbitrary detention,

and torture upon return.

On 14 June 2023, following the sinking of the *Adriana* trawler near Pylos, Greece, which resulted in over 600 deaths, the EU Ombudsman launched an own-initiative [investigation](#) into Frontex's role. In her [conclusions](#) the EU Ombudsman marked that the agency did not act to prevent any fatalities although it was aware of the boat, called for changes to the functioning of Frontex, and noted the agency should consider whether to terminate, withdraw, or suspend its activities in member states that disregard their Search-and-Rescue (SAR) obligations or violate fundamental rights.¹

Months before the Pylos incident, the New York Times reported that Frontex's FRO had [repeatedly throughout 2022](#) recommended suspending operations in Greece due to persistent and well-documented abuses by Greek border guards.

On 25-26 February 2023, a migrant boat carrying approximately 180 people sank near Calabria,

Italy, causing at least 94 deaths. According to Lighthouse Reports, Frontex had tracked the vessel via aircraft several hours before the shipwreck as thermal imaging suggested many people onboard, but [the risk was reportedly downplayed](#).

In 2024, more than 120,000 pushbacks at EU external borders [were recorded by civil society organisations](#), with the majority occurring in Bulgaria. Frontex has significantly increased its presence in Bulgaria through joint operations, which complicates accountability as in incidents of pushbacks, it cannot be ascertained whether Frontex or Bulgarian border guards were directly involved. According to a [BIRN / Solomon investigation](#), an internal Frontex report described inhuman treatment by Bulgarian border guards (strip-searching, forced returns, use of dogs, beatings), while Frontex officers were allegedly kept away from "hot spots" to avoid witnessing or reporting.

Inadequate Monitoring Mechanisms and Lack of Accountability

According to the formal legal framework, Frontex may incur responsibility in fundamental rights violations through both omissions and actions.² The FRO's [2023](#) and [2024](#) annual reports identified persistent deficiencies in return operations, including collective expulsions and inhuman or degrading treatment, and recommended stronger risk assessment, operational planning, and internal oversight. Yet, the FRO's recommendations are persistently not prioritised. For instance, following the Pylos shipwreck in June 2023, the FRO's [December 2023 Serious Incident Report \(SIR\)](#) concluded that Greek authorities had deployed

"insufficient and inappropriate" resources to rescue the *Adriana*. Previously, and as a response to the incident, the FRO had [recommended triggering Article 46](#) of the Frontex Regulation to suspend operations in Greece. No suspension measures have been taken until now.

The European Union Agency for Fundamental Rights (FRA) published a [2025 update](#) highlighting systemic gaps in how states investigate border abuse, and noted that despite the FRO's recommendations following complaints and serious incidents, national authorities often fail to

¹ Article 46 of Regulation 2019/1896 (EBCG Regulation) requires Frontex to cease operations in case of serious or persistent human-rights violations.

² The EBCG Regulation specifically cites omissions to act as a ground for submitting complaints against personnel (Art. 111, par. 2)

initiate effective follow-up investigations, limiting the practical impact of Frontex's oversight. The European Ombudsman, in her inquiry into the Pylos incident, criticized the lack of a unified, independent mechanism to investigate the roles of Frontex, Greek authorities, and other institutions for their roles in the disaster. She further found that Frontex had no internal guidelines for issuing emergency "mayday" signals, and its fundamental rights monitors were insufficiently involved in decisions during maritime emergencies.

Further, Frontex still does not routinely make serious incident reports or operational plans publicly available, limiting transparency and external scrutiny. Beyond the rights monitoring mechanisms in place, various working groups examining Frontex accountability have failed to ensure effective corrective action.³ Overall, Frontex's internal monitoring mechanisms rely largely on the discretionary power of the internal oversight bodies and lack procedural transparency.

Legal accountability remains equally limited. Holding Frontex accountable before the Court of Justice of the European Union (CJEU) has been challenging due to high evidentiary burden and the challenge of attributing Frontex's role in joint operations. [Academics](#) and [civil society actors](#) have continuously expressed their dissatisfaction with the agency's ability to evade responsibility. Despite this, Advocate General opinions in *WS and Others v Frontex*⁴ and *Hamoudi v Frontex*⁵ have signalled potential pathways toward stronger judicial accountability.

Finally, civil society organisations and individuals who challenge Frontex through access-to-information requests continue to face intimidation and punitive measures, including steep legal costs. In July 2025, Frontex [demanded €11,093 from Sea-Watch](#) after the NGO lost a case seeking disclosure of photos related to interceptions by the Libyan Coast Guard. Such demands have been condemned by the European Parliament, calling on Frontex to [abandon its pursuit of external lawyer fees](#).

Frontex's Increasingly Leading Role in Deportations

Over the past two decades, Frontex's involvement in deportations has [grown rapidly](#). While the agency is not legally responsible for deciding whether an individual should be deported from the EU as this competence lies exclusively with Member States,⁶ it is involved in a range of pre-return and return-related activities that can [significantly influence](#) both the return decision and its implementation. This expansion has occurred without corresponding developments in robust accountability systems.

In 2022-2023, during a pilot phase, the agency organised three "[Frontex Return Operations \(Frontex RO\)](#)" managing the full initiative, destination, date and logistics for deportation flights to Albania, Nigeria, and Bangladesh, conducting functions previously reserved for national authorities. While forced-return monitors are supposed to be deployed on flights supported or organised by Frontex, reports indicate that the deployment of monitors is not [a standard practice](#).

³ In 2020, Frontex's Management Board created its own "Working Group on Fundamental Rights and Legal Operational Aspects (WG FRaLO)". In 2022, Frontex's Executive Director established another working group specifically to consider suspending operations under Article 46. According to critics, the creation of the working groups allowed Frontex to avoid more substantial measures, such as suspension of operations. For more read, The Greens/European Free Alliance, 2023, [Who guards the guards? The legal responsibility of Frontex in the Aegean Sea under EU law](#). Heinrich Böll Stiftung.

⁴ In *WS and Others v. Frontex* (C-679/23 P), Advocate General Ćapeta issued an [Opinion](#) (12 June 2025) recommending the CJEU refer the case back to the General Court for a proper assessment of Frontex's non-contractual liability, arguing that Frontex can be held responsible even if Member States issue the return decisions.

⁵ In *Hamoudi v. Frontex* (C-136/24 P), Advocate General Norkus (10 April 2025) [proposed](#) that the burden of proof be shifted in cases involving collective expulsions, because Frontex is in a better position to disprove certain allegations than returnees.

⁶ Article 48(1) of the EBCG Regulation.

In 2024, Frontex was involved in deporting over 37,000 people. Concerns have been raised over Frontex's involvement in deportations that may involve violations of the non-refoulement principle and due process standards. In Bulgaria, Frontex's presence has significantly expanded as it is now deeply embedded in return operations, including in most pre-removal detention centers. Statewatch reported that as part of an EU-funded "assisted voluntary return" (AVR) pilot project, which involved significant increases in financial incentives compared to previous AVR programmes under IOM, Frontex deployed return counsellors into detention, and conducted over 1,300 counselling sessions in 2023 to inform detainees about voluntary and forced return operations. The voluntariness of return in a detention context can be seriously undermined, especially when access to independent legal advice and support is limited and individuals have no realistic alternatives. In such situations, Frontex may play an active and largely unmonitored role in shaping people's decisions.

Frontex remains highly implicated in return operations in Poland, including via charter flights and return escort officers. Poland's 2025 suspension of the right to apply for asylum at certain border crossings, combined with systemic deficiencies noted in the 2024 Schengen Evaluation Report for Poland, means many deportees might have never had their claims registered or properly examined. Monitoring from NGOs has suggested that return operations from Poland sometimes lack independent oversight, which raises concerns about compliance with rights-based return standards. By coordinating and funding return under these conditions, Frontex risks complicity in unlawful removals. In November 2025, Frontex cancelled a joint Poland-Germany deportation operation to Pakistan minutes before departure, after the Rule of Law Institute filed a complaint showing that Poland had denied the returnees access to asylum procedures.

Moreover, Frontex plays an increasingly central role in risk analysis, influencing migration management strategies by gathering large amounts of data from both public and restricted sources and sharing operational data with Member States and third countries through the EUROSUR system. However, the "Personal Data for Risk Analysis" (PeDRA) project, a collaboration with Europol, has been criticized for its handling of personal data without sufficient safeguards, raising concerns about privacy violations and data misuse.

Frontex's increasing involvement in operations outside the EU adds further complexity. The EU's legal framework allows Frontex to coordinate joint operations in third-country territories, but these operations are typically conducted under the command of third-country authorities, which limits Frontex's ability to ensure rights compliance on the ground. As these operations grow, the risk of human rights violations during returns becomes more pronounced. This is especially problematic given the lack of independent oversight in many third countries and the ambiguity surrounding responsibility for rights violations during joint operations.

The European Commission has indicated plans to expand Frontex's mandate in 2026. Further, the Commission's 2025 return reform proposal foresees a significantly expanded role for Frontex in enforcement, readmission, and data exchange.⁷ However, this expansion raises concerns as Frontex's internal fundamental rights mechanisms are by themselves inadequate to match the scale, breadth, and risk of its expanding operations especially in returns and external missions. Without clear mechanisms to challenge or halt Frontex-led return operations when rights violations are likely, the agency's increasingly central role in deportations and external border control poses a systemic threat to fundamental rights as guaranteed by the EU Charter, in particular non-refoulement and due process.

7 Articles 9, 36, 39-41, 45, 48 of the Return Regulation Proposal. The Return Regulation was submitted without a prior Impact Assessment, a requirement under the European Commission's own Better Regulation Guidelines, which mandate evidence-based law-making, stakeholder consultation and public consultation for proposals likely to have significant social, economic or legal effects. A similar omission occurred in the Commission's 2023 "anti-smuggling" package (the proposed Facilitation Directive and the proposed Europol Regulation), for which the European Ombudsman initiated an inquiry following a complaint by European Digital Rights (EDRI) and PICUM. In her decision on the complaint, the European Ombudsperson found that bypassing impact-assessment requirements and transparent consultation procedures amounted to maladministration. Against this background, the absence of an impact assessment for the Return Regulation, which foresees the expansion of Frontex's powers, may likewise represent maladministration.

Recommendations

Between 2012 and 2019, PICUM was a member of the Frontex Consultative Forum on Fundamental Rights and repeatedly raised concerns about repeated reports of violations, and insufficient mechanisms for redress. These issues remain largely unaddressed in 2025. Expanding Frontex's mandate would exacerbate existing problems and neglect to address the agency's poor fundamental rights score.

Rather than expanding Frontex's powers, PICUM recommends adopting stronger measures to address accountability gaps:

1. Limit Frontex's mandate:

- Refrain from any further extension of Frontex's powers, at least until substantial accountability and safeguards are implemented, and past and ongoing violations are meaningfully addressed.

2. Ensure transparency and public accountability:

- Ensure meaningful access for elected representatives and civil society to operational plans, risk analyses and Serious Incident Reports (SIRs), as foreseen under Article 46(6) of the EBCG Regulation.
- Abolish or cap legal cost demands on civil society for access-to-information litigation, to reduce barriers for transparency defenders.

3. Strengthen internal rights mechanisms:

- Ensure adequate resourcing, staffing, and access for the Frontex Fundamental Rights Officer (FRO). The FRO must have the ability to independently monitor operations and issue enforceable recommendations. Frontex should be required to publicly explain when and why FRO recommendations are not followed.
- Introduce a system for anonymous complaints to prevent retaliation against individuals who file reports of rights violations. This is crucial, especially for those at risk of judicial harassment or retaliation in asylum and other residence procedures.
- Publish anonymised complaints data annually to ensure transparency and to identify areas where rights violations occur, ensuring follow-up actions are taken to address systemic issues.
- Enable civil society organisations to submit complaints on behalf of individuals or groups who cannot submit complaints themselves, especially those who have been victims of pushbacks or deportations.
- Ensure bidirectional information flow: civil society should not only have structural avenues to feed data into the FRO, but Frontex (and especially the FRO) should share its investigation findings, reports, and internal data with the Consultative Forum.

4. Introduce suspension and judicial review of return operations:

- Mandate independent pre-return review (to assess whether a planned return complies with legal and rights standards) and post-return review (to evaluate the outcomes, including whether *non-refoulement* obligations were respected) of all Frontex-led return operations by civil society organisations and judicial bodies to ensure that deportations comply with EU law and fundamental rights standards.

- Establish a mechanism to suspend or halt return operations coordinated by Frontex when risks to non-refoulement or due process violations are identified.
- Ensure independent monitoring of all forced return operations, to observe treatment, restraints, conditions and other safeguards for those being deported, and to ensure compliance with international human rights standards.

5. Establish an independent commission of inquiry into border deaths and Frontex's role:

- As recommended by the European Ombudsman in her inquiries into the Pylos shipwreck, the EU should set up an independent commission examining systemic failures by national authorities, Frontex and EU institutions in maritime emergencies.

6. Use EU funding to promote fundamental rights and in full compliance with the Charter of fundamental rights:

- Dedicate sufficient and adequate resources in the current and proposed Multiannual Financial Framework 2028 – 2034 for measures aimed at strengthening fundamental rights promotion and monitoring, including by adequately resourcing the Fundamental Rights Officer operations and independent monitoring activities.
- In the next Multiannual Financial Framework, reinforce the system of fundamental rights conditionality of EU funds under shared management – particularly border management and security funds – by strengthening monitoring through the monitoring committees, ensuring greater accessibility and transparency, and systematically involving fundamental rights bodies and civil society.

7. Incorporate Third-Party Evidence in Accountability Procedures:

- The numerous reports of fundamental rights violations collected by third parties, including investigative journalists and civil society organisations included in this report, is crucial evidence that should be used in the context of the initiation of infringement procedures and accountability mechanisms the Commission has at its disposal. They document real patterns of abuse and should not be disregarded simply because they are from third parties.

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for social justice.

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