

More powers, more responsibilities: The new Frontex mandate

In 2015 there were more than 1 million migrants, who entered the Schengen area, with Europol figures showing 90% of those flows were organised. Berndt Koerner - Frontex Deputy Executive Director who moderated the debate - cited these figures to kick off the discussion of the new Frontex mandate. Nearly every country represented at the conference was affected, he said, either as a country of transit or destination. As part of its response to the crisis, the Commission in March called for a roadmap back to the functioning of the Schengen system, which should be adopted no later than June, becoming operational in the summer.

Wojciech Kalociński, a policy officer in the European Commission, gave an overview of the proposal for changing the new regulation. The review began in 2014, seeking development toward shared management of external borders; 2015 “brought a totally different dynamic to the process,” with migration flows proving that “existing structures are inadequate to address the challenges.”


The proposed change in the Agency’s name shows that the coast guard is part of the border management process, Kalociński said. The new proposal also includes a legal concept and definition of integrated border management, with the Agency’s role changing dramatically from co-ordinating to having a role in implementing EU integrated border management.

Kalociński identified five axes of the proposal:

- reinforcement of the prevention and monitoring functions of the Agency
- consolidating the range of support it offers
- mandatory pooling - a new boost for the Agency to acquire its own equipment
- a focus on the Agency’s governance and integrity by clarifying the roles of different actors
- quite significant changes in terms of resources, including “an unprecedented increase in the staff” - from 400 to 1,000.

Monica den Boer, Director of SeQure Research and Consultancy, stressed the need for a stronger and a more coordinated European response and welcomed the proposal. She said there was both internal and external pressure for change. The external reasons include a ring of instability surrounding the EU, with irregular migration and organised crime, terrorism and failing states, said Den Boer, who also serves as an adjunct professor at the Department of Policing, Intelligence and Counter-Terrorism at Macquarie University, Sydney. Internally, the EU is having problems with a harmonized and coherent approach towards external border management. Den Boer said would like to see Europe “with a blueprint, where all justice and home affairs institutions complement each other.”

Asked about his experiences in negotiating the proposal, Raoul Ueberecken, Director for Home Affairs (Migration and Security) at the General Secretariat of the Council of the European Union, pointed out that the ongoing crisis made a very specific context for the talks.





The increase in arrivals has produced “a crisis of responsibility and solidarity, not a crisis of numbers,” said Marta Ballesterio, UNHCR senior liaison officer and Chair of the Frontex Consultative Forum on Fundamental Rights. The numbers could have been handled if things had been done differently, she said; so the only way to address the crisis is through structural changes. She said emotions such as distrust and fear lead to a security concern that overrides the need to look at humanitarian factors, prompting short-termism and uncoordinated state action. Such measures have a high cost for European taxpayers, and are not only ineffective, but actually counterproductive, Ballesterio said. While there are no quick fixes, she said the commission’s proposal is “a step in the right direction.”

Hervé Caniard, head of the legal affairs unit at Frontex, saw the proposal as evolutionary rather than revolutionary. It’s not revolutionary, because the broad dividing lines of responsibilities have been left untouched; the legislator managed to strike a delicate balance between a more integrated/EU-based approach, and national sovereignty, he said. The Agency will not have ‘command and control’ over border guards, it will not have its own border guards, it will not grant migrants’ entry to the EU, decide on the merits of asylum appeals, issue return, relocation nor readmission decisions. The Agency will not have law-enforcement powers by itself and for itself; the Agency is not a policy-making body. But the proposal still represents a very significant evolution of the Agency mandate and tasks.

What is more, some provisions are real innovations, such as, for example the vulnerability assessment, the support to the Coast Guard function, the ability to intervene in third countries under certain conditions, the ability of a host country (MS) to authorise officers from another State deployed in the host country to act on its behalf, an ambitious complaint mechanism for migrants, and the expansion of the mandate of the Agency to process more personal data.

Den Boer said Europe needs to move from sovereignty to solidarity, and the media are “incredibly important” for mobilising support. Implementation is absolutely crucial, along with a sound multi-annual budget.

Asked about the main challenges for implementation in terms of fundamental rights, Ballesterio said, the vulnerability assessment will only be effective if Frontex is able to look at wider capacities to manage the borders in a protection-sensitive manner, and highlighted the need for the agency to keep a closer eye on the ground to prevent and ensure fundamental rights violations are timely and effectively addressed.

Ueberecken stressed the importance of managing public expectations. “Frontex cannot be the solution; the solution is multiple, Frontex is part of a bigger puzzle,” she said.