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Frontex Accountability and Fundamental Rights: Legal Remedies and Institutional Reform in the European Union

ASMI CHAHAL*

ABSTRACT

The European Border and Coast Guard Agency (Frontex) has become central to the management of the external borders of the European Union because of its increasingly operational capabilities. The broadening of its remit to improve border security and border management is intended to strengthen security and the control of migration, but it has raised concerns about respect for fundamental rights. This paper explores how far Frontex can be held legally liable for breaches of fundamental rights resulting from its activities. It examines the judicial and institutional procedures for holding Frontex accountable and reviews the current accountability framework. The study follows a doctrinal legal approach grounded in EU primary and secondary law, case law, institutional documents, scholarly work and human-rights reports. The paper finds that significant accountability challenges remain, given the distribution of responsibility between Frontex and the Member States, problems of attribution and causation, the limited availability of judicial remedies and the limited capacity of internal and external oversight mechanisms to secure compliance. The recent case law of the Court of Justice of the European Union on the non-contractual liability of Frontex is discussed in particular. The paper concludes with recommendations for legal and institutional reform to improve EU border management, focusing on stronger oversight, access to justice, the sharing of evidence and the effective protection of fundamental rights.

Keywords: *Frontex, Fundamental Rights, EU Border Management, Accountability, Non-Contractual Liability, Judicial Remedies, Attribution of Responsibility, Effective Judicial Protection*

I. INTRODUCTION AND RESEARCH FRAMEWORK

A. Statement of the problem

The European Border and Coast Guard Agency (Frontex) has grown into a much more significant operational actor in the management of the external borders of the European Union,

* Author is a Ph.D. Scholar at Symbiosis International University, Pune, Maharashtra, India.

although its formal role remains largely one of coordination and support.¹ This institutional development aims to strengthen border security and improve the management of migration, yet there have been repeated reports since then alleging violations of fundamental rights, such as pushbacks, collective expulsions, ill-treatment of migrants and obstruction of access to asylum procedures, in the context of operations supported by Frontex.²

Although formal obligations and internal accountability measures exist, there are major obstacles to establishing the legal liability of Frontex for alleged violations of fundamental rights. These difficulties stem in particular from the division of powers between Frontex and the Member States, the difficult question of who is responsible for particular conduct, the lack of adequate judicial review and the weakness of institutional accountability mechanisms. The remedies available to those affected by alleged violations, and the effectiveness of those remedies, remain a concern in the EU border-management framework.

Recent developments in the case law of the Court of Justice of the European Union (CJEU), in particular on the possible non-contractual liability of Frontex, offer an opportunity to revisit these questions of accountability. The central question this paper addresses is therefore whether the current EU legal and institutional framework contains effective mechanisms to identify responsibility, to allow judicial redress and to provide meaningful protection of fundamental rights in Frontex operations.³

B. Literature review

As the operations of Frontex have grown, so has the academic literature on the Agency. Existing scholarship has focused mainly on the institutional relationship between Frontex and the Member States, the externalisation of EU border control, and the consequences of the securitisation of migration for fundamental rights. More recent scholarship has paid increasing attention to the accountability of Frontex itself: judicial and administrative control, democratic oversight, transparency, and the sharing of responsibility in joint border-management operations. The literature therefore provides an important point of reference for considering whether the current EU accountability framework can serve as an effective remedy for violations of fundamental rights.

¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and Repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, 2019 O.J. (L 295) 1 [hereinafter Regulation 2019/1896].

² EUROPEAN ANTI-FRAUD OFFICE (OLAF), *Final Report on Frontex*, Case No. OC/2021/0451/A1 (Feb. 2022) (made public Oct. 13, 2022), <https://fragdenstaat.de/dokumente/233972-olaf-final-report-on-frontex/>.

³ Consolidated Version of the Treaty on the Functioning of the European Union art. 340, 2012 O.J. (C 326) 47 [hereinafter TFEU].

i. Institutional development and the problem of shared responsibility

In their work on the European Border and Coast Guard, Sergio Carrera, Elspeth Guild and their co-authors examine the institutional challenges that stem from the division of border-management responsibilities between the European Union and its Member States. The analysis is relevant because Frontex does not operate in an institutional vacuum: its operations usually take place within a framework of cooperation with national authorities. This shared administrative system makes it difficult to determine who is legally responsible when a violation of fundamental rights is alleged. The literature thus identifies the fragmentation of responsibility as a significant barrier to effective judicial supervision and access to remedies.⁴

The institutional issue has gained weight with the growing breadth and depth of Frontex's operational and surveillance functions and its expanding competences in relation to returns, which have gone well beyond its initial coordinating mandate. The distribution of responsibilities within Frontex, and between the Agency and the Member States, has therefore become a major accountability issue.

ii. Externalised border control, jurisdiction and fundamental rights

A second strand of literature examines the human-rights aspects of externalised and technology-driven border control. Here, Violeta Moreno-Lax's account of functional jurisdiction is especially significant, since it explains how human-rights obligations can arise from the exercise of public powers outside the traditional framework of territorial jurisdiction. Her analysis highlights the challenges raised by migration control exercised through maritime operations, cooperation with third countries, surveillance and other forms of indirect or operational control.⁵

Likewise, scholarship on State responsibility beyond borders has analysed the connection between migration control, jurisdiction and the principle of *non-refoulement*. This work is relevant to Frontex because the Agency operates within complex networks of EU and Member State authorities, including through maritime interceptions and cooperation with third countries. It thus raises a question that is central to the present research: can several public actors lawfully be held responsible for the exercise, or the non-exercise, of operational control?

⁴ SERGIO CARRERA ET AL., THE EUROPEAN BORDER AND COAST GUARD: ADDRESSING MIGRATION AND ASYLUM CHALLENGES IN THE MEDITERRANEAN? (CEPS Task Force Report, Feb. 2017), <https://aei.pitt.edu/83997/>.

⁵ Violeta Moreno-Lax, *The Architecture of Functional Jurisdiction: Unpacking Contactless Control – On Public Powers, S.S. and Others v. Italy, and the “Operational Model”*, 21 GERMAN L.J. 385 (2020), <https://doi.org/10.1017/glj.2020.25>.

iii. Securitisation of migration and the expansion of border-control powers

A third strand of scholarship examines Frontex in the context of the securitisation of EU migration policy. Valsamis Mitsilegas has analysed the emphasis on enforcement, security and deterrence in EU migration governance. The expanding powers of State border-control agents are relevant here because they create a continuing tension between the aims of migration control and the protection of fundamental rights.⁶

The securitisation literature, however, mainly provides the broader policy and legal framework within which Frontex operates. It does not by itself answer the more specific question of how responsibility should be determined when rights are allegedly violated during Frontex operations. The present research therefore builds on this literature and carries the discussion of securitisation a step further, towards institutional responsibility, legal remedies and accountability.

iv. Frontex accountability and non-judicial oversight

A richer and more directly relevant body of literature addresses the internal and external accountability processes that apply to Frontex. Mariana Gkliati argues that the accountability framework of Frontex is a fragmented mix of judicial, administrative, democratic and social accountability mechanisms. Her analysis exposes the structural flaws of the current framework, and she proposes a broader concept of “systemic accountability” to address recurring fundamental-rights problems.⁷

Democratic oversight has also received increasing attention. Tineke Strik’s study examines the degree of democratic accountability that has accompanied Frontex’s rapid expansion, especially in the context of return operations and cooperation with third countries. Her analysis identifies the practical difficulties the European Parliament faces in scrutinising an agency that is becoming increasingly operational.⁸

The existing literature therefore covers the role of the Fundamental Rights Officer, the Consultative Forum, the complaints mechanism, the European Ombudsman, the European Parliament and other monitoring bodies. The connection between these mechanisms and legal redress, however, remains unclear, especially where administrative accountability does not include a right to damages or a final judgment on liability.

⁶ VALSAMIS MITSILEGAS, *THE CRIMINALISATION OF MIGRATION IN EUROPE: CHALLENGES FOR HUMAN RIGHTS AND THE RULE OF LAW* (2015), <https://doi.org/10.1007/978-3-319-12658-6>.

⁷ Mariana Gkliati, *Decoding Frontex’s Fragmented Accountability Mosaic and Introducing Systemic Accountability – System Reset*, 30 EUR. L.J. 197 (2024), <https://doi.org/10.1111/eulj.12514>.

⁸ Tineke Strik, *Frontex’s Expanding Mandate: Has Democratic Control Caught Up?*, 30 EUR. L.J. 217 (2024), <https://doi.org/10.1111/eulj.12499>.

v. Judicial protection and the possible liability of Frontex

Judicial accountability has become a growing concern in recent scholarship. Salvatore Fabio Nicolosi has analysed litigation against Frontex before the Court of Justice and the obstacles faced by those who have sought judicial protection against the Agency. His study highlights the shortcomings of administrative remedies as well as structural obstacles to judicial proceedings before the Court of Justice, including those arising from the wider context of joint EU and national administration.

The use of the EU action for damages as a fundamental-rights remedy against Frontex has also been explored. This literature is of particular importance because it concerns the possibility of non-contractual liability under EU law where the Agency's conduct violates the fundamental rights of the person concerned. It also draws attention to the difficulty of meeting the current EU conditions for liability and to the need to establish a sufficiently direct causal link between the Agency's conduct and the alleged damage.⁹

C. Research gaps

In the last few years the scholarship has shifted from treating Frontex as a border-management agency to studying it as an increasingly operational EU body that needs to be held to account more effectively in the judicial, administrative and democratic spheres. The literature covers shared responsibility, the protection of fundamental rights, non-judicial and democratic oversight, judicial remedies and potential non-contractual liability. In recent years, Frontex's activities have also been analysed in relation to newer aspects of its mandate, such as surveillance, the analysis and processing of information, and the potential impact of technological border control on privacy and data protection.¹⁰

Despite this volume of scholarship, three questions stand out. First, the relationship between Frontex and the Member States still causes problems in determining attribution and causation for alleged violations during joint or coordinated operations. Second, while several studies analyse individual accountability mechanisms, whether judicial and non-judicial mechanisms taken together offer effective access to remedies has yet to be studied. Third, the impact of the Court of Justice's developing approach to Frontex's potential non-contractual liability on the overall accountability regime requires further exploration.

⁹ Salvatore Fabio Nicolosi, *The European Border and Coast Guard Agency (Frontex) and the Limits to Effective Judicial Protection in European Union Law*, 30 EUR. L.J. 149 (2024), <https://doi.org/10.1111/eulj.12512>.

¹⁰ Charter of Fundamental Rights of the European Union arts. 7–8, 2012 O.J. (C 326) 391 [hereinafter Charter].

This paper aims to fill these gaps by combining the institutional, judicial and fundamental-rights dimensions of Frontex accountability. It focuses on the nexus between responsibility, judicial remedies and institutional oversight, and examines how effectively the current EU legal framework attributes responsibility and safeguards fundamental rights in relation to the activities of Frontex.

D. Research questions

1. To what extent can Frontex be held legally and independently responsible for infringements of fundamental rights resulting from its conduct?
2. What is the position of EU law on the joint attribution of responsibility in Frontex–Member State operations?
3. Do the current judicial and institutional accountability mechanisms provide effective remedies to affected individuals?

E. Research objectives

1. To examine the extent and nature of the legal obligations of Frontex with respect to alleged violations of fundamental rights arising from its operational activities.
2. To study the legal aspects of the sharing of responsibility between Frontex and the Member States in joint or coordinated border-management operations.
3. To assess the working of judicial and institutional accountability procedures and the remedies available to those whose fundamental rights have allegedly been violated in the context of Frontex operations.

F. Methodology

The paper follows a doctrinal legal approach to analyse the legal framework governing the mandate, fundamental-rights obligations and accountability of Frontex. It systematically examines the legal rules, institutions and case law in order to identify when Frontex can be held legally liable for violations of fundamental rights in the course of its activities.

The main sources are the Treaty on the Functioning of the European Union (TFEU), the Charter of Fundamental Rights of the European Union, the EU regulations concerning Frontex and the European Border and Coast Guard, and the relevant case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).¹¹ Special attention is paid to the legal principles on fundamental-rights protection, attribution, causation, non-contractual liability and access to effective remedies.

¹¹ TFEU arts. 263, 340; Regulation 2019/1896.

Relevant institutional documents, including regulations, policy documents, reports and decisions of the European Commission, the European Union Agency for Fundamental Rights (FRA), the European Ombudsman, the European Parliament and Frontex, are also analysed. These materials are used to evaluate how well institutional accountability systems work and how fundamental-rights obligations are implemented in practice.

Secondary sources consist of peer-reviewed journal articles, academic books and monographs, working papers and other scholarly writing and reports on Frontex accountability, EU migration governance, border management, fundamental rights and judicial protection. Where relevant, reports of international and non-governmental organisations containing evidence of alleged violations of fundamental rights and of accountability practices are also taken into account.

The research is qualitative and assesses the relationship between the normative legal framework and its institutional and judicial application. The methodology accordingly combines doctrinal discussion of legal rules and case law with a critical analysis of institutional practices and accountability mechanisms. The study aims to identify the weaknesses of the current framework and to assess how far judicial and institutional mechanisms are adequate to ensure accountability and redress for those affected by alleged violations of their fundamental rights.

G. Scope

The paper examines the legal obligations and liability of the European Border and Coast Guard Agency (Frontex) for alleged breaches of fundamental rights connected with its work at the external borders of the European Union. It considers the role of Frontex and its fundamental-rights obligations under EU primary and secondary law, the Charter of Fundamental Rights of the European Union, and the principles of international refugee and human-rights law.¹²

The study centres in particular on the allocation and attribution of responsibility between Frontex and the Member States in joint or coordinated operations. It also examines the judicial and institutional procedures through which Frontex can be held to account, such as the Fundamental Rights Officer, the European Ombudsman, national courts and the Court of Justice of the European Union. Special attention is paid to recent judicial and institutional developments concerning the possible liability of Frontex, access to judicial remedies and the protection of fundamental rights.

¹² Convention Relating to the Status of Refugees art. 33, July 28, 1951, 189 U.N.T.S. 150 [hereinafter Refugee Convention].

H. Limitations

The study is doctrinal and qualitative and is not based on primary empirical research, such as interviews with affected persons, Frontex officials or national authorities. The assessment is also limited by the availability of operational information, evidence and internal Frontex documents, which can affect the assessment of the facts and of attribution in specific cases.

A comparative analysis of the border-management practices of all EU Member States is not the purpose of this paper. It addresses mainly the EU legal and institutional framework governing the accountability of Frontex, and refers to Member State practice and cases only briefly, where relevant. Finally, the analysis reflects the legal and institutional framework as at the date of writing and may need to be updated as the EU's border-management and accountability framework evolves.

I. Thematic chapterisation

1. Introduction and research framework
2. Fundamental-rights obligations in border management
3. Judicial accountability and attribution of responsibility
4. Internal and institutional accountability mechanisms
5. Recent developments and reform agenda
6. Critical analysis, recommendations and conclusion

J. Introduction

The European Border and Coast Guard Agency (Frontex) has taken on more and more operational duties in response to the security pressures associated with migration, particularly in the wake of the 2015 refugee crisis. It has grown from a coordinating centre into a more operational body with its own staff, improved surveillance and information-gathering capacities, and an enlarged mandate in border management and return. Regulation (EU) 2019/1896 gives the Agency a wider mandate, including joint operations, rapid border interventions, surveillance and returns, and provides for a standing corps with a capacity of up to 10,000 operational staff by 2027.¹³

At the same time, the increasingly operational character of Frontex has raised questions about the observance of fundamental rights. EU institutions, international organisations, civil-society organisations and investigative journalists have reported allegations of pushbacks, collective expulsions, ill-treatment and obstacles to access to asylum procedures. These allegations engage

¹³ Regulation 2019/1896, arts. 5(2), 54, annex I.

the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and international refugee and human-rights law, including the principle of *non-refoulement*.¹⁴

Serious as these allegations are, the legal responsibility of Frontex is complex. The Agency works within a system in which tasks are shared between Frontex, the Member States and other EU institutions. Joint or coordinated operations involving several actors can therefore raise difficulties of attribution, causation and access to effective judicial remedies. The existing accountability mechanisms include judicial review, the Frontex complaints mechanism, the Fundamental Rights Officer, the European Ombudsman, parliamentary scrutiny and other institutional mechanisms. The effectiveness of these mechanisms, and the interaction between them, are also important subjects of legal debate.

The paper considers how far the responsibility of Frontex extends for alleged breaches of fundamental rights, such as the right to life. It examines the roles of Frontex and the Member States in the allocation of responsibility, the current judicial and institutional accountability mechanisms, and the availability and effectiveness of remedies for those affected by alleged violations. Through a doctrinal analysis of EU legal and institutional documents, case law, scholarship and relevant human-rights reports, it aims to contribute to the debate on EU accountability, fundamental-rights protection and the governance of the external borders.

II. LEGAL AND INSTITUTIONAL FRAMEWORK OF FRONTEX

A. Frontex mandate and evolution

Frontex was established by Council Regulation (EC) No 2007/2004 as the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, and began operating in 2005.¹⁵ Its original role was to coordinate and facilitate operational cooperation between the Member States in managing the external borders. Its institutional design reflected the continuing primary responsibility of the Member States for external-border operations, and the Agency was mainly responsible for coordination, support, technical assistance and risk analysis for joint operations.

The migration and refugee crisis of 2015–2016 was a turning point in the institutional development of Frontex. The Agency's mandate was gradually extended in response to growing migration pressures and the EU's need to improve the management of its external borders.

¹⁴ Charter, *supra* note 10; Refugee Convention, *supra* note 12, art. 33.

¹⁵ Council Regulation (EC) No 2007/2004 of 26 October 2004 Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 2004 O.J. (L 349) 1.

Regulation (EU) 2016/1624 on the European Border and Coast Guard replaced the earlier framework and significantly enhanced the Agency's operational role, including its support for joint operations, rapid border interventions and return activities.¹⁶

Regulation (EU) 2019/1896 then extended Frontex's mandate further and created the European Border and Coast Guard standing corps, which began with a capacity of 6,500 operational staff in 2021 and is to reach up to 10,000 from 2027. The Regulation also enlarged the Agency's role in border surveillance, risk analysis, joint operations, rapid border interventions, technical and operational support, and return operations.¹⁷

These operational capacities have changed the role of Frontex in EU border governance. Member States retain important responsibilities, particularly for operational activity, but the position of Frontex today differs significantly from that envisaged in its original mandate: it now operates within a framework of cooperation with the Member States that gives it real operational influence. This development raises related questions about responsibility and effective accountability where fundamental rights are violated.

B. Fundamental-rights requirements

As an EU agency, Frontex is obliged to respect fundamental rights in the exercise of its functions within the scope of EU law. Under Article 51(1) of the Charter of Fundamental Rights of the European Union, the Charter applies to the institutions, bodies, offices and agencies of the Union, and to the Member States when they are implementing Union law. The Charter therefore provides an important legal basis for discussing the fundamental-rights obligations of Frontex.¹⁸

The following rights are particularly relevant to Frontex's activities: the right to asylum (Article 18 of the Charter); the prohibition of collective expulsions (Article 19(1)); the protection against removal, expulsion or extradition to a State where there is a serious risk of the death penalty, torture or other inhuman or degrading treatment (Article 19(2)); and the right to an effective remedy and to a fair trial (Article 47). These provisions are especially relevant to border surveillance and interception, return operations and access to asylum procedures.¹⁹

The principle of *non-refoulement* plays a pivotal role in international and European law on the treatment of refugees and asylum seekers. Article 33(1) of the 1951 Refugee Convention

¹⁶ 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 and Repealing Regulation (EC) No 863/2007, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, 2016 O.J. (L 251) 1.

¹⁷ Regulation 2019/1896, arts. 5(2), 54, annex I.

¹⁸ Charter, *supra* note 10, art. 51(1).

¹⁹ Charter, *supra* note 10, arts. 18, 19, 47.

provides that no Contracting State shall expel or return a refugee to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. The principle is also embodied in European human-rights law and EU law, including Article 19(2) of the Charter and the case law on Article 3 of the European Convention on Human Rights.²⁰

Regulation (EU) 2019/1896 expressly integrates fundamental-rights protection into the European Border and Coast Guard (EBCG). It establishes institutional safeguards for fundamental rights in the performance of the tasks of the Agency and of the European Border and Coast Guard, including the Fundamental Rights Officer, fundamental rights monitors and a complaints mechanism.

The existence of these formal legal obligations does not, however, resolve the problems of implementation and enforcement. An important accountability question is therefore whether the legal and institutional means available are adequate to identify responsibility and to provide effective remedies when fundamental rights are allegedly violated during Frontex-supported operations.

C. Other protection failures

Beyond the formal recognition of fundamental-rights obligations, concerns have been raised about how these obligations are put into practice. In its annual report for 2023, the Frontex Consultative Forum on Fundamental Rights reported concerns regarding the treatment of vulnerable persons, such as unaccompanied children, as well as more general issues relating to returns, access to asylum procedures and the protection of fundamental rights during border-management operations.²¹ These concerns show that it is not enough to ask whether legal obligations exist; how alleged breaches of those obligations are investigated and addressed is equally important.

The EU border-management framework also shows persistent problems of effective investigation and enforcement. According to the 2025 report of the European Union Agency for Fundamental Rights (FRA) on investigations of alleged ill-treatment, at least 135 criminal investigations were launched in 12 Member States between 2020 and 2024 concerning the EU's external borders. The allegations included excessive use of force and ill-treatment and, in some cases, homicide and rape. Of the investigations that were closed, FRA identified four

²⁰ Refugee Convention, *supra* note 12, art. 33(1); Convention for the Protection of Human Rights and Fundamental Freedoms art. 3, Nov. 4, 1950, 213 U.N.T.S. 222 [hereinafter ECHR].

²¹ FRONTEX CONSULTATIVE FORUM ON FUNDAMENTAL RIGHTS, *Eleventh Annual Report 2023* 23–24, 29, 74 (2024), <https://doi.org/10.2819/384581>.

convictions, three in Hungary and one in Spain. These figures concern investigations into ill-treatment at the EU's external borders as a whole, not Frontex specifically, and FRA cautions that the information is incomplete and not fully comparable across Member States.²²

FRA's findings nonetheless shed light on the broader accountability challenges at the EU's external borders where rights abuses are alleged. FRA observed that most cases continued to be closed at the pre-trial stage without charges being pressed, and called for more effective and more transparent investigations. Its findings are relevant to the present study because they stress the need for effective investigation, judicial supervision and access to remedies, especially where responsibility is divided between national authorities and EU actors.

III. JUDICIAL ACCOUNTABILITY AND ATTRIBUTION OF RESPONSIBILITY

A. *WS and Others v. Frontex* (C-679/23 P)

The judgment of the Court of Justice in *WS and Others v. Frontex* is an important step in the judicial review of Frontex's potential non-contractual liability. The case concerned a Syrian family of six who arrived on the Greek island of Milos in October 2016 and, on 20 October 2016, were returned to Türkiye in a joint return operation carried out by Greece and coordinated by Frontex. They claimed that the return breached the principle of *non-refoulement* and their fundamental rights, and brought an action for damages against Frontex before the General Court.²³

The General Court dismissed the action, holding, among other things, that the applicants had not established a sufficiently direct causal link between Frontex's conduct and the alleged damage. The applicants appealed to the Court of Justice. In its Grand Chamber judgment of 18 December 2025, the Court of Justice upheld the appeal in part, set aside the General Court's judgment in part and referred the case back to the General Court. The judgment therefore did not find Frontex liable to the applicants.²⁴

The relevance of the judgment lies in its treatment of Frontex's own obligations in joint return operations and of whether breaches of those obligations can ground non-contractual liability under EU law. The Court held that Frontex must verify that an individual, enforceable return decision exists for every person whom a Member State intends to include in a joint return

²² EUR. UNION AGENCY FOR FUNDAMENTAL RIGHTS, *Investigating Alleged Ill-Treatment at the European Union's External Borders – 2025 Update* (July 30, 2025), <https://fra.europa.eu/en/publication/2025/investigating-alleged-ill-treatment-borders-update>.

²³ Case T-600/21, *WS and Others v. European Border and Coast Guard Agency (Frontex)*, ECLI:EU:T:2023:492 (Sept. 6, 2023); TFEU art. 340.

²⁴ Case C-679/23 P, *WS and Others v. European Border and Coast Guard Agency (Frontex)*, ECLI:EU:C:2025:976 (Dec. 18, 2025) (Grand Chamber).

operation, and that Frontex's liability for fundamental-rights violations during a return flight cannot be excluded in advance merely because the host Member State is also involved. A possible basis for Frontex liability does not, however, mean that the Agency is liable in a specific case: breach, damage and a direct causal link must still be established, and the Court required the causal link to be assessed in the light of all the circumstances of the persons concerned.

The judgment is therefore central to the accountability framework that applies to EU agencies. It does not decide the question of the Agency's liability; rather, it emphasises Frontex's own obligations and conduct in cooperative operations. The proceedings on referral before the General Court will be important for the assessment of the individual claim for damages.

B. *Hamoudi v. Frontex* (C-136/24 P)

The judgment in *Hamoudi v. Frontex* is another significant step in the development of judicial accountability and illustrates the practical difficulties of bringing a damages action against Frontex. The case concerned an alleged pushback of a Syrian national who stated that he had landed on the Greek island of Samos in April 2020 to seek asylum. According to the applicant, Frontex operational activities were under way in the area at the time and an aircraft operating for Frontex flew over the scene. He claimed compensation from Frontex for the non-material damage caused by the alleged pushback.

By an order of 13 December 2023, the General Court dismissed the action as manifestly lacking any foundation in law, because it found that the applicant had not conclusively proved his presence at the alleged pushback. The applicant had also asked the General Court to order Frontex to produce documents in its possession that might support his claim. In its Grand Chamber judgment of 18 December 2025, the Court of Justice held that the General Court had erred in its approach to the burden of proof and the taking of evidence. A person claiming to be the victim of a pushback in which Frontex was involved need provide only *prima facie* evidence, not conclusive proof; once such evidence is provided, the General Court must investigate the case, including by adopting measures of organisation of procedure or measures of inquiry to obtain the relevant information held by Frontex, in order to guarantee effective judicial protection.²⁵

The judgment is significant for the balance between evidentiary requirements and access to justice in proceedings against EU agencies. Where the operational information needed to establish the facts is held by the Agency, an applicant may find it very difficult to prove the

²⁵ Case C-136/24 P, *Hamoudi v. European Border and Coast Guard Agency (Frontex)*, ECLI:EU:C:2025:977 (Dec. 18, 2025) (Grand Chamber), setting aside Case T-136/22, *Hamoudi v. Frontex*, ECLI:EU:T:2023:821 (Order of Dec. 13, 2023); Charter, *supra* note 10, art. 47.

claim. The Court's reasoning emphasises the role of the General Court in gathering relevant information and in ensuring that evidentiary requirements do not prevent the effective exercise of the right to judicial protection.

The judgment does not establish Frontex's liability for the alleged pushback. Instead, it consolidates the procedural framework for examining the non-contractual liability of Frontex. The case was referred back to the General Court, which will consider the question of liability itself.

C. Attribution of responsibility in Frontex–Member State operations

Although Frontex itself cannot be held to account before the European Court of Human Rights, Member States taking part in joint operations remain answerable for human-rights violations under that Court's case law. *Hirsi Jamaa and Others v. Italy* is an example. Under that case law, a State's jurisdiction, and with it its responsibility under the Convention, can arise where its agents exercise effective control over territory or persons, a principle that is relevant to joint Frontex–State activities.²⁶

D. National and European human-rights adjudication

The responsibility of Frontex must be distinguished from the responsibility of Member States under the European Convention on Human Rights. As an EU agency, Frontex cannot be a respondent before the European Court of Human Rights. The Convention may, however, continue to apply to the conduct of Member States involved in Frontex-supported operations, subject to the Convention's jurisdictional requirements.

The judgment of the European Court of Human Rights in *Hirsi Jamaa and Others v. Italy* is a valuable reference on State responsibility for migration-control operations outside a State's territory. The case concerned the interception of migrants at sea and their return to Libya by the Italian authorities. The Grand Chamber found that the applicants were within Italy's jurisdiction and that there had been violations of Article 3 of the Convention, of Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens), and of Article 13 (right to an effective remedy) taken together with those provisions.

Hirsi Jamaa did not concern Frontex, but its reasoning applies to the broader legal context of State responsibility for migration-control operations beyond State territory. It shows that

²⁶ *Hirsi Jamaa and Others v. Italy*, App. No. 27765/09 (Eur. Ct. H.R. Feb. 23, 2012) (Grand Chamber).

conducting border-control operations outside its territory does not release a State from its obligations under the Convention.²⁷

For accountability purposes, however, the responsibility of a Member State under the Convention must be distinguished from the possible non-contractual liability of Frontex under EU law. The two may cover similar facts but rest on different legal bases, institutions and standards of responsibility. The responsibility of a Member State does not automatically mean that Frontex is liable; conversely, a finding that a Member State is not responsible does not automatically mean that Frontex escapes liability under EU law.

IV. MECHANISMS OF INSTITUTIONAL AND INTERNAL ACCOUNTABILITY

A. Internal processes and controls

Regulation (EU) 2019/1896 extended the internal fundamental-rights safeguards that apply to Frontex and introduced various arrangements to ensure respect for fundamental-rights obligations.²⁸ These include the Fundamental Rights Officer (FRO), the fundamental rights monitors, the Consultative Forum on Fundamental Rights and a complaints mechanism for potential violations of fundamental rights in the context of Frontex operations. These mechanisms are a key component of the Agency's internal accountability system.

The Fundamental Rights Officer plays a central role in this system. The FRO monitors and promotes respect for fundamental rights in Frontex activities and has responsibilities concerning complaints, serious incidents and fundamental-rights monitoring. The Regulation also provides for fundamental rights monitors, who assess the fundamental-rights compliance of the Agency's operational activities and help to identify potential concerns. These mechanisms work, however, not merely because they are formally established, but only when they are adequately staffed, function independently, have access to information, and see their findings and recommendations put into practice.

The European Ombudsman found that Frontex had been slow to implement the reforms that Regulation (EU) 2019/1896 introduced to its complaints mechanism. The Ombudsman also noted that relatively few complaints had been received through the mechanism: between 2016 and January 2021 the Fundamental Rights Officer had received 69 complaints, of which 22 were declared admissible. The Ombudsman attributed the low number of complaints to a lack of awareness of the mechanism, fear of negative consequences, the stressful circumstances in

²⁷ *Hirsi Jamaa and Others v. Italy*, *supra* note 26; ECHR, *supra* note 20, arts. 3, 13; Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms art. 4, Sept. 16, 1963, E.T.S. No. 46.

²⁸ Regulation 2019/1896, arts. 108–111.

which potential complainants find themselves and limited engagement by deployed Frontex officers in receiving and transmitting complaints.²⁹

These findings are particularly relevant because Frontex operations often involve several authorities and jurisdictions. People affected by an operation may therefore find it difficult to establish who is responsible and to which procedure they should submit their complaint. The Ombudsman accordingly stressed the need to make the complaints procedure accessible and to ensure that complaints are followed up by Frontex and, where necessary, by national authorities. The internal mechanisms thus offer important safeguards, but they are effective only if they are properly implemented. The FRO may make findings and recommendations, and the complaints mechanism may support the reporting and follow-up of alleged violations; but neither is a substitute for judicial proceedings that can establish legal liability and award damages. It is therefore essential to distinguish between monitoring, investigation, administrative follow-up and judicial redress in order to assess the overall effectiveness of Frontex's accountability framework.

B. Ombudsman oversight

Besides its internal mechanisms, Frontex is subject to external administrative oversight by the European Ombudsman. The Ombudsman has conducted several inquiries into Frontex's fundamental-rights safeguards, its complaints mechanism, its transparency and its administration. These inquiries have identified deficiencies and led to recommendations and suggestions to enhance the Agency's accountability and its compliance with fundamental rights.

In the inquiry into the Frontex complaints mechanism and the role of the Fundamental Rights Officer, closed in June 2021, the Ombudsman found that the obligations added by Regulation (EU) 2019/1896 concerning the complaints mechanism and the Fundamental Rights Officer had not been implemented on time, and raised concerns about the accessibility and practical operation of the complaints mechanism. The Ombudsman also identified problems in the cooperation between the FRO and national authorities, and suggested that Frontex give potential complainants clear information about the existence of the mechanism and about the absence of negative consequences for those who complain.³⁰

In recent years the Ombudsman has also examined fundamental-rights aspects of Frontex's maritime operations. The Ombudsman's Annual Report 2024 records the outcome of a strategic

²⁹ EUROPEAN OMBUDSMAN, *Decision in OI/5/2020/MHZ on the Functioning of the European Border and Coast Guard Agency's (Frontex) Complaints Mechanism for Alleged Breaches of Fundamental Rights and the Role of the Fundamental Rights Officer* (June 15, 2021), <https://www.ombudsman.europa.eu/en/decision/en/143108>.

³⁰ EUROPEAN OMBUDSMAN, *supra* note 29.

inquiry into Frontex's role in search and rescue operations, opened after the Pylos shipwreck of June 2023 and closed in February 2024. The inquiry suggested, among other things, that Frontex examine whether the threshold for suspending, withdrawing from or terminating its activities in a Member State, where fundamental-rights violations are serious or likely to persist, had been reached.³¹

The Ombudsman's powers and functions are, however, not judicial. The Ombudsman does not award damages or decide on non-contractual liability, but acts mainly through administrative accountability, transparency and institutional pressure. Ombudsman inquiries can therefore detect maladministration and systemic weaknesses and support institutional reform, but they cannot replace the judicial remedies available to individuals.

Parliamentary scrutiny also plays a role in democratic accountability. The European Parliament has repeatedly questioned Frontex's management, spending, respect for fundamental rights and implementation of the recommendations of its oversight bodies. Parliamentary scrutiny can enhance transparency and political accountability, but it does not lead to individual legal liability or to compensation for those affected by alleged violations of fundamental rights.

The Ombudsman, parliamentary scrutiny and the mechanisms established within Frontex itself together provide several layers of institutional monitoring at EU level. The difference between oversight and binding judicial determination nonetheless remains important. These mechanisms can detect problems, seek clarification and suggest remedial action, but questions of liability and reparation must ultimately be resolved through judicial proceedings.

V. CONTEMPORARY DEVELOPMENTS

A. Planned Frontex reform in 2026

The future development of Frontex will have a major impact on the accountability framework. In her political guidelines of July 2024, the President of the European Commission announced the intention to strengthen Frontex and to propose tripling the number of European Border and Coast Guards to 30,000.

This proposed expansion must, however, be distinguished from the existing legal framework. Regulation (EU) 2019/1896 provides for a standing corps of up to 10,000 operational staff by 2027. The proposed figure of 30,000 would require further legislative and institutional

³¹ EUROPEAN OMBUDSMAN, *Annual Report 2024* (2025); EUROPEAN OMBUDSMAN, *Decision in Strategic Inquiry OI/3/2023/MHZ on How the European Border and Coast Guard Agency (Frontex) Complies with Its Fundamental Rights Obligations in the Context of Its Search and Rescue Activities* (Feb. 26, 2024); Regulation 2019/1896, art. 46(4)–(5).

development.³² In 2025 the Commission held a public consultation on updating the EU rules on the European Border and Coast Guard, open from 21 August to 27 November 2025, which sought views on the problems and challenges relating to Frontex's tasks, activities, deployments, structure and governance.³³ The European Parliament's Legislative Train records a proposal to reinforce the Agency's mandate, including its support to Member States on returns and the reinforcement of its standing corps, as announced in the Commission's 2026 work programme with an indicative date in the third quarter of 2026. On 29 September 2026 the Commission presented a five-point plan on the EU's external borders, which includes a proposal to strengthen the Frontex mandate, with a reinforced standing corps for the immediate deployment of personnel and equipment, a stronger role in returns, closer cooperation with partner countries and a capacity to monitor the external border and the pre-frontier area. As of early October 2026, the legislative proposal itself had not been tabled.³⁴

The proposed expansion therefore involves enhanced operational and technological capacity, returns, and cooperation with Member States and third countries, as well as the Agency's structure and governance.

From the perspective of accountability, the proposed expansion of Frontex's operational capacity raises an important legal question: should fundamental-rights protection and accountability mechanisms be strengthened as Frontex's operational capacity grows? As the Agency's operational role expands, questions of supervision and monitoring, access to information, attribution of responsibility and effective remedies are likely to become more important. The future institutional design of the Agency thus offers an opportunity to consider whether its institutional growth should be matched by equally robust mechanisms for fundamental-rights protection and judicial accountability.

B. Problems in forced-return monitoring

The monitoring of forced-return operations is a crucial safeguard against violations of fundamental rights. Under Article 8(6) of Directive 2008/115/EC, Member States must provide

³² Regulation 2019/1896, art. 5(2), annex I; Ursula von der Leyen, *Europe's Choice: Political Guidelines for the Next European Commission 2024–2029* (July 18, 2024), https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en.

³³ EUR. COMM'N, *European Border and Coast Guard – Update of EU Rules* (public consultation, Aug. 21–Nov. 27, 2025), https://home-affairs.ec.europa.eu/whats-new/public-consultations/european-border-and-coast-guard-update-eu-rules_en.

³⁴ EUR. PARL., *Legislative Train Schedule: Reinforcing the Mandate of the European Border and Coast Guard Agency* (updated Sept. 20, 2026), <https://www.europarl.europa.eu/legislative-train/theme-a-new-era-for-european-defence-and-security/file-strengthening-frontex>; Press Release, EUR. COMM'N, *Commission Proposes 5-Point Plan to Strengthen Resilience and Security of EU External Borders* (Sept. 29, 2026), https://ec.europa.eu/commission/presscorner/detail/en/ip_26_2002.

for an effective forced-return monitoring system. In addition, Regulation (EU) 2019/1896 provides for a pool of forced-return monitors, constituted by Frontex, for operations supported by the Agency.³⁵

In its 2025 update on forced-return monitoring systems, the European Union Agency for Fundamental Rights (FRA) also noted continuing problems. It reported that in 2024 five Member States did not monitor any forced return at all, that a further seven Member States monitored fewer than ten return operations, and that one in four Frontex-supported return operations was not monitored.³⁶

FRA also raised concerns about the independence of monitoring. It observed that the Frontex pool of forced-return monitors is embedded in the enforcing authority, although it has operational autonomy; recalled that a 2018 FRA publication had proposed that the pool be managed by an independent actor outside Frontex; and suggested that the planned revision of the Regulation could be an opportunity to address this. The report also notes that the 2024 annual report of the Frontex Fundamental Rights Officer stresses the importance of monitoring all phases of return, not only the pre-return phase.³⁷

These findings are relevant to the accountability of Frontex: robust monitoring can document the treatment of individuals during return operations and help identify violations. Monitoring cannot, however, establish legal responsibility. Where an alleged violation involves persons or authorities from two or more institutions, the information gathered through monitoring should be capable of being transmitted to the competent investigative or judicial body.

Monitoring is therefore not merely an administrative practice. It can also affect the evidence available in later accountability proceedings. Effective and independent monitoring can help ensure transparency, support investigations and strengthen the practical implementation of fundamental rights in return operations.

C. Overall decline in irregular border crossings and border-control effectiveness

According to Frontex, detections of irregular crossings of the EU's external borders fell by 26% in 2025, to almost 178,000. Frontex noted that this was the lowest level since 2021, while warning that migration pressure can shift quickly between routes.³⁸

³⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals art. 8(6), 2008 O.J. (L 348) 98; Regulation 2019/1896, art. 51.

³⁶ EUR. UNION AGENCY FOR FUNDAMENTAL RIGHTS, *Forced Return Monitoring Systems – 2025 Update* (Dec. 19, 2025), <https://fra.europa.eu/en/publication/2025/forced-return-monitoring-systems-2025-update>.

³⁷ *Id.*

³⁸ EUROPEAN BORDER AND COAST GUARD AGENCY (Frontex), *Frontex: Irregular Border Crossings Down 26% in 2025, Europe Must Stay Prepared* (Jan. 15, 2026), <https://www.frontex.europa.eu/media-centre/news/news-release>

The decrease in detections is relevant to the debate on the effectiveness of EU external-border management. In the absence of a demonstrated connection between the reduction in detected irregular crossings and specific Frontex measures, however, it should not be assumed that those measures caused the decrease. Many factors can affect detection levels, such as changes in migration routes, geopolitical circumstances, smuggling patterns, border-control methods and conditions in countries of origin and transit.

The distinction is significant from a fundamental-rights point of view. A decrease in crossings may simply indicate that migration movements are changing, not that access to asylum procedures has improved or that the risks faced by migrants have declined. The EU Agency for Asylum (EUAA), for instance, has observed that although detections of irregular border crossings fell by 26% in 2025, the risks at sea persisted, as smuggling routes continued to involve dangerous journeys in unseaworthy boats; citing IOM data, it records 1,873 migrants dead or missing in the Mediterranean in 2025.³⁹

The effectiveness of Frontex and of EU border-management policies therefore cannot be measured by the number of irregular crossings detected. A more comprehensive evaluation is needed that takes account of fundamental-rights obligations, access to asylum procedures, protection against *refoulement*, the treatment of vulnerable persons, the legality of return operations and the effectiveness of remedies.

There is thus a continuing tension between operational and legal considerations in the evolution of EU border management. Stronger surveillance, return cooperation and external-border control can help manage migration flows, but only if they respect fundamental rights and are accompanied by procedures capable of detecting and correcting breaches of the law.

VI. CRITICAL ANALYSIS, RECOMMENDATIONS AND CONCLUSION

A. Critical analysis of the existing accountability framework

Frontex's mission has grown in scope without a parallel development of the accountability mechanisms needed to guarantee respect for fundamental rights. The EU legal framework contains several safeguards: the Fundamental Rights Officer, the fundamental rights monitors, the complaints mechanism, the European Ombudsman, parliamentary scrutiny and judicial remedies.

[/frontex-irregular-border-crossings-down-26-in-2025-europe-must-stay-prepared-lyKpVb.](#)

³⁹ EUR. UNION AGENCY FOR ASYLUM, *Asylum Report 2026* § 3.3 (May 2026), <https://euaa.europa.eu/asylum-report-2026/33-access-territory-and-asylum-procedure>.

One of the main challenges concerns the division of responsibilities between Frontex and the Member States. Frontex operates within a system of European integrated border management in which operational tasks are often shared with other EU and national authorities. It may therefore be difficult to establish who is legally liable for a specific act or omission. Frontex's operational involvement does not, however, make it responsible for every violation that occurs during a joint operation. The non-contractual liability of Frontex will be assessed in the light of its own conduct, its legal obligations, the damage and the required causal link, in accordance with Article 340 TFEU and the provisions of Regulation (EU) 2019/1896. The recent judgments in *WS and Others v. Frontex* and *Hamoudi v. Frontex* both underline the importance of scrutinising Frontex's own obligations and conduct in this regard.⁴⁰

Persons claiming compensation may face a serious evidentiary disadvantage, because the relevant operational data, surveillance records, mission records and other documents may be in the possession of Frontex or of national authorities. In *Hamoudi v. Frontex*, the Court of Justice ruled that the General Court should have adopted appropriate measures of inquiry to obtain the relevant information held by Frontex, so as to ensure effective judicial protection.⁴¹

The internal complaints mechanism offers another way to report alleged violations of fundamental rights, but it should not be treated as an alternative to judicial remedies. Regulation (EU) 2019/1896 allows complaints by any person directly affected by the actions or omissions of staff involved in Frontex activities, and requires that information about the possibility of complaining and the procedure for doing so be readily available, including for vulnerable persons.⁴² The Fundamental Rights Officer handles complaints and ensures their follow-up. An administrative complaints process is nonetheless not an independent judicial process and cannot perform all of its functions, especially where the complainant seeks compensation or a binding determination of legal liability.

A further concern is the difference between oversight and enforcement. The European Ombudsman, the Fundamental Rights Officer and parliamentary bodies can highlight institutional deficiencies, seek explanations and help hold the Agency to account. Their functions, however, differ from those of a court with jurisdiction to determine liability and award compensation. The existence of multiple oversight mechanisms does not, therefore, ensure that a person harmed by a fundamental-rights violation will obtain an effective remedy.

⁴⁰ TFEU art. 340; Regulation 2019/1896, art. 97(4); *WS and Others v. Frontex*, *supra* note 24; *Hamoudi v. Frontex*, *supra* note 25.

⁴¹ *Hamoudi v. Frontex*, *supra* note 25; Charter, *supra* note 10, art. 47.

⁴² Regulation 2019/1896, art. 111(2), (10).

The accountability framework should therefore be seen not as a single mechanism but as a system of complementary elements. Complaints procedures enable grievances to be raised; monitoring can reveal potential wrongdoing; administrative scrutiny can expose maladministration; parliamentary oversight can enhance democratic accountability; and judicial proceedings can establish liability and, where appropriate, provide compensation. The main problem is not the absence of accountability mechanisms, but that the multiple, interrelated mechanisms are difficult to link together effectively.

B. Recommendations for strengthening Frontex accountability

In light of the above analysis, several legal and institutional reforms could strengthen the accountability framework applicable to Frontex.

i. Strengthening the independence of fundamental-rights oversight

The fundamental-rights oversight structure should be institutionally and operationally independent, so that monitoring and investigations can be carried out without undue influence from operational priorities. The investigative capacity, powers and staffing of the Fundamental Rights Officer and the fundamental rights monitors should be strengthened. Clear procedures should be put in place for the follow-up and implementation of serious and substantiated findings, and any failure to implement recommendations should be reported.

ii. Improving access to judicial redress and evidence

Access to judicial remedies should go hand in hand with access to the information needed to substantiate claims. Where operational evidence is held by Frontex, the judicial process must offer adequate means of obtaining it, while respecting legitimate security and privacy interests. The Court of Justice's approach in *Hamoudi* shows why it is crucial to ensure that difficulties in gathering evidence do not prevent proper judicial scrutiny of allegations concerning Frontex's conduct.

Reform should therefore not be limited to relaxing standing requirements, but should make the judicial process more accessible in practice, including through information about available remedies, access to relevant evidence and appropriate judicial measures of inquiry.

iii. Introducing stronger fundamental-rights conditionality

Compliance with fundamental-rights obligations should be a key factor in deciding whether to continue operations where significant and substantiated risks of violations have been identified. Frontex should be required to apply clear fundamental-rights criteria when planning,

authorising, continuing and supporting operations, especially where there is a serious risk of *refoulement* or of interference with non-derogable rights.

Where serious and persistent violations are connected to an operation, the legal framework should provide clear procedures for corrective action or for suspending or terminating Frontex's involvement in the operation, subject to the applicable legal safeguards.

iv. Reinforcing data governance and transparency

With the expansion of surveillance, information sharing and technological capabilities, effective data governance is of paramount importance. Frontex should apply clear safeguards to the collection, processing, storage and transfer of personal data, especially when data are transferred to Member State or third-country authorities.

The use of surveillance and information systems should be covered by fundamental-rights safeguards, including data minimisation, purpose limitation, security, transparency and compliance with the EU data-protection framework. Greater transparency in the operation and control of these systems would also help keep Frontex activities under public and judicial scrutiny.

C. Conclusion

Frontex is part of the EU's continuing effort to improve the integrated management of its external borders. The Agency's functions have grown well beyond coordination, and its operational involvement in border surveillance, joint operations and return activities has increased significantly. This institutional growth makes it all the more important to determine how far fundamental-rights obligations are fulfilled and how responsibility for alleged infringements is assigned.

The analysis in this paper shows that Frontex is subject to a considerable set of fundamental-rights obligations under EU law. Formal obligations, however, are not sufficient to ensure effective accountability. The main challenges are the involvement of multiple actors in joint operations, uncertainty about who did what, and the gap between administrative oversight and judicial remedies.

The recent judgments of the Court of Justice in *WS and Others v. Frontex* and *Hamoudi v. Frontex* are significant. They confirm that Frontex's obligations and conduct can be relevant to claims of non-contractual liability, and they call for rigorous judicial scrutiny and appropriate

use of evidence. The judgments did not, however, establish Frontex's liability in either case; both cases were referred back to the General Court.⁴³

Several layers of institutional oversight are already in place, including the Fundamental Rights Officer, the complaints mechanism, the fundamental rights monitors, the European Ombudsman and parliamentary oversight. Their role nevertheless differs from the determination of liability and entitlement by a court of law. The key issue is how to ensure that monitoring, investigation, administrative oversight and judicial remedies operate as integrated components of a sound accountability system.

Increasing the accountability of Frontex is not only a matter of creating new mechanisms. It requires ensuring that existing mechanisms are independent, adequately resourced, have access to information and have procedures for meaningful follow-up. The framework can be further strengthened through better access to evidence, fundamental-rights conditionality, full monitoring of return operations and robust data-governance safeguards.

Finally, effective management of the external borders and the protection of fundamental rights should not be viewed as mutually exclusive goals. EU border governance derives its legitimacy from EU law, and fundamental rights set limits on the exercise of operational powers. An accountability framework for Frontex that clearly defines responsibility, provides meaningful institutional control and offers access to judicial remedies would therefore protect not only the individuals affected by border-management activities but also the rule-of-law principles underpinning the governance of the European Union's external borders.

⁴³ *WS and Others v. Frontex*, *supra* note 24; *Hamoudi v. Frontex*, *supra* note 25.