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| date of receipt: | 15 October 2024 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | SWD(2024) 237 final |
| Subject: | COMMISSION STAFF WORKING DOCUMENT Fundamental rights assessment of the Republic of Serbia linked to the Proposal for a Council decision on the conclusion of the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia Accompanying the document Proposal for a COUNCIL DECISION on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia |

Delegations will find attached document SWD(2024) 237 final.

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**COMMISSION STAFF WORKING DOCUMENT**

# Fundamental rights assessment of the Republic of Serbia linked to the Proposal for a Council decision on the conclusion of the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia

*Accompanying the document*

**Proposal for a**
**COUNCIL DECISION**

**on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia**

{COM(2024) 161 final/2}

Pursuant to Article 73(3) of Regulation (EU) 2019/1896 (the 'Regulation')[1], in circumstances requiring the deployment of border management teams from the European Border and Coast Guard standing corps to a third country where the members of the teams will exercise executive powers, a so-called 'status agreement' should be concluded by the Union with the third country concerned. Recital 88 of the Regulation invites the Commission to assess the fundamental rights situation '*relevant to the areas covered by the status agreement in that third country*'[2].

This document aims to assess the fundamental rights situation in the Republic of Serbia ('Serbia') relevant to the prospective operational activities of the European Border and Coast Guard Agency ('Frontex' or the 'Agency') in that country, in particular whether deployments by Frontex in support of Serbia's border management authorities can be feasibly undertaken without contributing to serious or persistent violations of fundamental rights or of international protection obligations. This document is based on publicly available information, data, and reports regarding the protection of human rights in Serbia, in particular the international legal framework for the protection of such rights and obligations applicable in its legal order.

This assessment does not affect the overarching obligation under the Regulation of the Agency and its Executive Director to assess whether there are, or are likely to be, serious or persistent violations of fundamental rights or international protection obligations related to specific activities that are to take place on the basis of this status agreement, and to then respond accordingly. Should the Executive Director consider that launching an activity in Serbia could lead to serious or persistent violations of fundamental rights or international protection obligations, it is their responsibility not to launch that activity. Similarly, where the Executive Director determines that such serious or persistent violations are occurring, it is solely their responsibility to withdraw the financing for the activity in question or suspend or terminate it in whole or in part as deemed appropriate to address the situation[3].

*Background*

Serbia remains mostly a transit country for migration towards the European Union Member States via the Western Balkan route. In this context, Serbia has contributed to the management of mixed migration flows and cooperated with the European Union, the Member States and its neighbours to implement the European Union Action Plan on the Western Balkans[4], which was presented by the Commission in December 2022[5]. The Union has, in turn, demonstrated its continued commitment to supporting Serbia as a partner country and accession candidate, both

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1 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p.1).

2 Regulation (EU) 2019/1896, Recital 88.

3 Regulation (EU) 2019/1896, Article 46.

4 European Commission, EU Action Plan on the Western Balkans, 5 December 2022. Available at: https://home-affairs.ec.europa.eu/document/download/e63e3b92-4f0c-4d95-a7f9-b0aff2dd0efc_en?filename=Western%20Balkans_en.pdf.

5 European Commission, European Neighbourhood Policy and Enlargement Negotiations (DG NEAR), Serbia. Available at: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/serbia_en.

financially and through the support provided by agencies such as Frontex and the European Union Agency for Asylum ('EUAA'). Nevertheless, Serbia has also been the subject of allegations of pushbacks and other forms of collective expulsions, which are alleged to take place from Serbia towards neighbouring countries such as North Macedonia and Bulgaria.

Frontex and Serbia have been engaging in operational cooperation since 2009, when the Agency signed a working arrangement with Serbia's Ministry of Interior[6]. Additionally, Frontex personnel have been deployed in Serbia with executive powers since 2020 on the basis of the European Union's current status agreement with Serbia[7]. This status agreement, based on Regulation (EU) 2016/1624[8], limits Frontex deployments to Serbia's borders with the European Union. In practice, border management teams and the Serbian border police are currently cooperating in border management activities at Serbia's borders with Hungary and Bulgaria under Joint Operation Serbia.

Because the current Regulation allows a broader scope of potential cooperation under a Status Agreement, particularly the potential deployment of the European Border and Coast Guard Standing Corps anywhere on the territory of the third country (as requested by the country and agreed to by Frontex), rather than just along its borders with the European Union, the Commission proposed to the Council the authorisation to open the negotiation of a new status agreement in 2022, which it received on 18 November 2022,[9]. The European Commission, on behalf of the European Union, and Serbia held formal negotiations in view of an agreement on 14 September 2023 via VTC and on 7 November 2023 in Belgrade. The parties reached preliminary agreement on a text on 7 February 2024.

*Alignment with European standards and cooperation with European institutions*

The Commission monitors closely the implementation of reforms in Serbia and the country's alignment with the European Union *acquis* and standards, including in the areas of rule of law and fundamental rights, and provides a detailed assessment of the state of play and the progress made by Serbia in its enlargement package[10]. The Commission's 2023 Report on Serbia[11] notes that 'Serbia's legislative and institutional framework for upholding fundamental rights is broadly

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6 Frontex, Working Arrangement establishing operational cooperation between the European Border and Coast Guard Agency (Frontex) and the Ministry of the Interior of Republic of Serbia, 17 February 2009.

7 Status Agreement between the European Union and the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia (OJ L 202, 25.6.2020, p. 1).

8 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 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

9 Council Decision (EU) 2022/2274 of 18 November 2022 authorising the opening of negotiations on a status agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia (OJ L 300, 21.11.2022, p. 29).

10 European Commission, European Neighbourhood Policy and Enlargement Negotiations (DG NEAR), Serbia. Available at: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/serbia_en.

11 Commission Staff Working Document, Serbia 2023 Report. 8 November 2022. Available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf

in place' but 'needs to be consistently and efficiently implemented'[12]. With specific regard to the area of migration and border management, Serbia is a cooperative partner of the European Union with regard to the management of the mixed migration flows towards the EU, and this has also led to some progress with regard to its alignment with the *acquis*. Serbia adopted a Schengen action plan in July 2023 and continues to cooperate with the Member States of the European Union and neighbouring states on the implementation of the European Union Action Plan on the Western Balkans[13], although additional progress is expected on all pillars of the action plan[14].

Serbia maintains open and ongoing dialogue with key international human rights organisations and monitoring bodies. Since July 2018, Serbia has joined the Management Board of the European Union Agency for Fundamental Rights ('FRA') as an observer, also appointing a National Liaison Officer to connect FRA and Serbia, allowing the country to benefit from the Agency's expertise and advice[15]. Similarly, Serbia has been cooperating with the EUAA since 2014; since 2017, this cooperation has been based on bilateral Roadmaps for Cooperation. The most recent Roadmap, covering the period 2020-2022 (and extended to cover 2023 as well)[16], had the stated overall objective to "enhance the protection space for asylum seekers and refugees in line with the Common European Asylum System (CEAS) and EU Member States' practices"[17]. An external evaluation of the Roadmap done in 2022 found its overall effectiveness to have been modest[18]. Of specific relevance, the evaluation finds that "the effective identification and reception of vulnerable groups remains a priority in Serbia"[19], noting in particular that the country did not have in place an age assessment procedure to appropriately and proactively identify minors by the time of the evaluation. This was confirmed by Human Rights Watch in its World Report 2023[20]. The lack of formal age assessment or minors' identification procedures places children at risk of being treated as adults, rather than ensuring

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12 Ibid.

13 European Commission, EU Action Plan on the Western Balkans, 5 December 2022. Available at: https://home-affairs.ec.europa.eu/document/download/e63e3b92-4f0c-4d95-a7f9-b0aff2dd0efc_en?filename=Western%20Balkans_en.pdf.

14 Commission Staff Working Document, Serbia 2023 Report. 8 November 2022. Available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf, page 9.

15 EU Agency for Fundamental Rights, "Member States of the EU". Available at: http://fra.europa.eu/en/cooperation/eu-member-states.

16 European Union Agency for Asylum, Roadmap for Cooperation EASO-Serbia (2020-2022), available at: https://euaa.europa.eu/sites/default/files/2022-02/RS_RM_Cover.pdf.

17 Ibid.

18 European Union Agency for Asylum, External evaluation of the EUAA's Roadmap for Cooperation with Serbia – Ex post evaluation report. November 2022. Available at: https://euaa.europa.eu/sites/default/files/publications/2023-04/2022_Evaluation_Report_RM_Serbia_2020-22_EN.pdf.

19 Ibid. page 10.

20 Human Rights Watch. World Report 2023 – Serbia/Kosovo – Events of 2022. Available at: https://www.hrw.org/world-report/2023/country-chapters/serbia/kosovo. Accessed on 8 February 2024.

that they are provided the protections that they need and require[21]. The cooperation between the EUAA and Serbia is continuing with a third Roadmap covering 2024-2026 that is currently being developed.

Serbia has made only limited progress in addressing the European Commission's recommendations concerning the detection and prevention of migrant smuggling and trafficking in human beings[22]. The country continues to lack a national strategy for the prevention and suppression of trafficking in human beings, and greater national coordination efforts are needed against trafficking in human beings[23]. The present situation risks resulting in generally insufficient protection of, and support to, victims of trafficking[24].

In the context of the current operational cooperation, Frontex endeavours to deploy officers with significant training and expertise in the identification of vulnerable persons, including victims of trafficking. The broader scope of operational opportunities afforded under the new status agreement would allow the Agency to provide this expertise at border sections beyond just Serbia's borders with the European Union, enabling the Standing Corps to better support the national authorities to improve their ability and capacity to identify vulnerable persons, including victims of trafficking in human beings, and consistently refer them to the appropriate support and services. This operational priority could be further complemented by targeted capacity-building activities, organised by Frontex experts for the staff of the relevant national authorities.

In 2022, the Agency's Fundamental Rights Office and the Protector of Citizens of the Republic of Serbia (Serbia's Ombuds Institution) signed a Memorandum of Understanding on complaint mechanisms, which aims to foster the cooperation and synergy between the Agency's and Serbia's respective complaints mechanisms, within the two entities' respective mandates, and encourages the two sides to exchange information regarding alleged fundamental rights violations in the context of all Frontex operational activities on Serbian territory[25].

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21 Council of Europe, 2019. "Age Assessment for Children in Migration – A human rights-based approach". Section 1: "Children's rights and migration: the importance of being treated as a child", p. 7.

22 European Commission. "Key findings of the 2023 Report on Serbia". Available at: https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_5628. Accessed on 1 February 2024.

23 European Commission, , Serbia 2023 Report', p. 53, European Commission website, 8 November 2022, accessed 17 January 2024, https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf.

24 European Commission, , Serbia 2023 Report', p. 53, European Commission website, 8 November 2022, accessed 17 January 2024, https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf.

25 Memorandum of Understanding on complaints mechanisms related to actions caried out by the European Border and Coast Guard Agency in the Republic of Serbia, based on the 'Status Agreement between the European Union and the Republic of Serbia on actions caried out by the European Border and Coast Guard Agency in the Republic of Serbia', 2 December 2022, available at https://prd.frontex.europa.eu/document/memorandum-of-understanding-on-complaints-mechanisms-related-to-actions-carried-out-by-the-european-border-and-coast-guard-agency-in-the-republic-of-serbia-based-on-the-status-agreement-be/.

Nevertheless, Serbia lacks an independent border monitoring mechanism, with the country's National Human Rights Institution (the Protector of Citizens) fulfilling a monitoring role within the limits of its mandate as Serbia's National Preventive Mechanism. The model has been overall successful and has benefitted from strong cooperation with relevant authorities and civil society organisations, which contribute to monitoring activities[26], but it lacks "effective pathway to follow-up on allegations of human rights violations in the context of border management in Serbia nor on individual complaints of cross-border physical violence or other abuse"[27].

*Serbia's commitments under international law*

This assessment also takes into consideration Serbia's ratification of international human rights instruments, which represents a strong benchmark of commitment to human rights while providing an overview of applicable human rights standards. Serbia has been a Member State of the Council of Europe since 3 April 2003 and has ratified the European Convention on Human Rights, making it subject to the jurisdiction of the European Court of Human Rights. Serbia is a party to the revised European Social Charter, the Council of Europe Convention on Action against Trafficking in Human Beings, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Framework Convention for the Protection of National Minorities.

Serbia is a party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and its Optional Protocol and Second Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights, although it has not yet signed its Optional Protocol. Serbia is also a party to the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to its Optional Protocol. The country has also concluded the Convention on the Rights of the Child and its Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography. It is also a party to the Convention against Transnational Organized Crime, including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air. Serbia has also acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the Convention on the Rights of Persons with Disabilities, and its Optional Protocol. Serbia has also signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

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[26] ENNHRI. "Serbian NHRI publishes report on monitoring the treatment of migrants at the borders". 15 July 2021. Available at: https://ennhri.org/news-and-blog/serbian-nhri-publishes-report-on-monitoring-the-treatment-of-migrants-at-the-borders/. Accessed on 12 January 2024.

[27] OSCE-ODIHR. "Border Police Monitoring in South-Eastern Europe: New Opportunities". 25 October 2023. Available at: https://www.osce.org/files/f/documents/0/5/556554_0.pdf, page 19.

*Serbia's border with the European Union*

Frontex has received and investigated a number of reported incidents, including allegations of fundamental rights violations, in its operational area while deploying officers to Serbia's borders with Bulgaria and Hungary[28]. These investigations aimed at establishing all the facts and identifying any wrongdoing, with a view to communicating the investigation findings to the relevant national investigative authorities for appropriate follow-up by the host State. The investigations serve also to remedy flawed practices and prevent similar incidents from occurring in the future. Issues reported include ill-treatment and abuse of migrants and forms of collective expulsion[29]. These incident reports also mirror concerns reported by international organisations and civil society organisations regarding the uniform application and respect of human rights and international standards in border management activities in Serbia.

The situation at the Hungary-Serbia border is of particular concern due to serious and frequent allegations of violent and illegal practices[30]. Serbia reportedly struggles to provide consistent and

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28 The Serious Incident Reporting mechanism, which applies to all participants in a Frontex Joint Operation, directly assigns all cases concerning potential violations of fundamental rights to the Fundamental Rights Officer as a Case Handler, who is then in charge of conducting an investigation and consulting the national authorities as appropriate.

29 Serious Incident Reports and investigation reports are internal documents. However, they have on occasion become subject of "Public Access to Document" requests. In such cases, redacted versions of these reports are made publicly available by the Agency on its Public Registry of Documents.

30 See for example Frontex "Serious Incident Report Number 13178/2023', Frontex website, accessed 17 January 2024, https://prd.frontex.europa.eu/document/access-to-information-regarding-frontex-activities-in-serbia/;
Frontex "Serious Incident Report Number 12506/2023, Frontex website, accessed 17 January 2024,: https://prd.frontex.europa.eu/document/access-to-information-regarding-frontex-activities-in-serbia/;
Human Rights Watch, 'Hungary: Migrants Abused at the Border'. HRW website, 13 July 2016, accessed 17 January 2024, https://www.hrw.org/news/2016/07/13/hungary-migrants-abused-border;
International Organization for Migration (IOM). 'The European migration crisis and Hungary'. IOM website, Undated, accessed 31 January 2024, https://hungary.iom.int/european-migration-crisis-and-hungary;
Hungarian Helsinki Committee, 'Helsinki File: Migrant push-backs', Hungarian Helsinki Committee Website, 23 January 2024, accessed 31 January 2024, https://helsinki.hu/en/akta/push-backs/;
Council of Europe, 'Submission by the Council of Europe Commissioner for Human Rights under Rule 9.4 of the Rules of the Committee of Ministers for the supervision of the execution of judgement and of the terms of friendly settlements in the case of Ilias and Ahmed v. Hungary (application no. 47287/15, Grand Chamber judgment of 21Nomber 2019 grouped with Shahzad v Hungary (application no. 12625/17, judgement of 8 July 2021)', Coe Website, 31 August 2022, https://www.coe.int/en/web/commissioner/-/hungarian-authorities-should-refrain-from-arbitrary-removals-of-refugees-asylum-seekers-and-migrants-to-serbia-and-ensure-access-to-a-fair-and-effecti;
Médecins Sans Frontières, 'Alarming violence occurring at Hungary-Serbia border', MSF website, 4 August 2022, accessed 17 January 2024, https://www.msf.org/violent-pushbacks-hungary-serbia-border;
Save the Children, 'Wherever we go, someone does us harm' Save the Children website, August 2022, accessed 17 January 2024, https://resourcecentre.savethechildren.net/document/wherever-we-go-someone-does-us-harm-violence-against-refugee-and-migrant-children-arriving-in-europe-through-the-balkans/; In addition, the European Court of Justice (ECJ) ruled in two cases that Hungarian legislation and practice at the border with Serbia is not compliant with EU law. Judgement of the Court of 22 June 2023, case C-823/21 *Commission v Hungary*, ECLI:EU:C:2023:504 and Judgement of the Court of 17 December 2020, case C-808/18 *Commission v. Hungary*, ECLI:EU:C:2020:1029.

appropriate access to the asylum procedures or ensure adequate asylum capacity, despite some improvements[31].

Serious Incident Reports show that migrants reported illegal practices by the Serbian authorities related to fundamental rights violations[32]. Due to the situation described above, these practices risk contributing to dynamics such as "chain pushbacks" and potentially chain-*refoulement*[33].

According to the assessment of the Fundamental Rights Office[34], which investigated these allegations, if confirmed, these incidents would amount to violations of fundamental rights, international law, and the *acquis*[35].The Fundamental Rights Office found that some allegations, such as attempts to collectively expel migrants or disregard their wish to apply for asylum, could be corroborated more thoroughly, while others, including evidence of physical abuse at the hands of the national authorities, could neither be independently corroborated nor disproved.

It is important to note that there have been no reports of fundamental rights violations involving Frontex staff in Serbia.

*Conclusion*

Overall, this assessment finds that, despite the challenges described above, the situation in Serbia at the time of the negotiation of the status agreement with that country does not preclude the continuation and expansion of Frontex operational activities in Serbia, on account of a risk of contributing or taking part in serious or persistent violations of fundamental rights or obligations concerning international protection.

The legislative framework to ensure compliance with the relevant international standards and fundamental rights obligations is largely in place in Serbia. Additionally, although there appear to be some institutional deficiencies, particularly with regard to asylum-related capacity and procedures, the European Union and Serbia have demonstrated their joint commitment to addressing these issues, particularly through the direct and continued cooperation with the EUAA. As regards practices on the ground, reports of alleged fundamental rights violations were identified and may speak to the possible existence of underlying dynamics, especially with

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31 Commission Staff Working Document, Serbia 2023 Report. 8 November 2022. Available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf, page 68.

32 See for example Serious Incident Report Number 11304/2023. Available at: https://prd.frontex.europa.eu/document/serious-incident-reports-and-complaints/. Accessed on 17 January 2024.

33 European Union Agency for Fundamental Rights. "Migration: Key Fundamental Rights Concerns". Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-migration-bulletin-2_en.pdf. Page 10.

34 See the Fundamental Rights Office's assessment of Serious Incident Report Number 11304/2023 and Serious Incident Report 10392/2023. Both available at: https://prd.frontex.europa.eu/document/access-to-information-regarding-frontex-activities-in-serbia/. Accessed on 17 January 2024.

35 European Convention on Human Rights, Article 3, "Prohibition of torture"; European Convention on Human Rights, Protocol 4, Article 4, "Prohibition of collective expulsion of aliens"; European Convention on Human Rights, Article 13, "Right to an effective remedy".

regard to collective expulsions, that would not be in line with international standards and Union law, including fundamental rights. In the view of the Commission, any incidents such as those mentioned in this report require full and transparent investigations by the responsible national authorities, and the priority must be to establish all the facts and to implement practical safeguards and remedies against future similar situations.

As far as the deployment of Frontex staff to Serbia is concerned, the Commission notes that despite years of deployments to the country, no reports have alleged the involvement of Frontex staff in actions that risk violating fundamental rights. Rather, a more significant presence of Frontex in Serbia should lead to a renewed cooperation between the European Union, through Frontex, and the Serbian national authorities on conducting border management in a way that is aligned with European integrated border management and the respect of fundamental rights. This should be a priority for any candidate for membership of the European Union. Frontex's presence provides access to reporting mechanisms, such as the Serious Incident Reports mechanism[36], the Complaints Mechanism[37], and the whistleblower protection mechanism[38], and in practice have already increased transparency in Serbia's border management activities. An enhanced Frontex presence in Serbia would also provide additional expert resources in support of national capacities, including for identification and referral of vulnerable persons, particularly where limited resources may be a contributing factor to undesirable compromises regarding for example the national authorities' ability to guarantee the privacy of individuals or protect the rights of minors or vulnerable persons[39].

Therefore, in the Commission's view this status agreement represents not only the European Union's confirmed commitment to support Serbia in improving the management of its external borders, but also an opportunity to ensure that future Frontex deployments to Serbia will feature robust 'transparency and accountability measures'[40], as also recommended by the OSCE's Office for Democratic Institutions and Human Rights. This would create important opportunities to increase the country's compliance with all relevant fundamental rights in border management and overall alignment with the EU *acquis*, which is also a prerequisite for its eventual accession to the European Union.

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36 Frontex, "Frontex Executive Director Decision No R-ED-2021-51 on Standard Operating Procedure – Serious Incident Reporting", 19 April 2021. Available at: https://prd.frontex.europa.eu/document/frontex-executive-director-decision-on-standard-operating-procedure-serious-incident-reporting/.

37 Frontex, "Complaints mechanism". Available at: https://www.frontex.europa.eu/fundamental-rights/complaints-mechanism/.

38 Frontex, "Management Board Decision 17/2019 of 18 July 2019 adopting Frontex Guidelines on Whistleblowing", 18 July 2019. Available at: https://prd.frontex.europa.eu/document/management-board-decision-17-2019-adopting-the-frontex-guidelines-on-whistleblowing/.

39 Commission Staff Working Document, Serbia 2023 Report. 8 November 2022. Available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf, page 66.

40 OSCE-ODIHR. "Border Police Monitoring in South-Eastern Europe: New Opportunities". 25 October 2023. Available at: https://www.osce.org/files/f/documents/0/5/556554_0.pdf, page 18.

Any operational activity in the country should therefore ensure that all relevant safeguards, as required by European Union and international law, and especially the Regulation, are in place. The Agency holds the responsibility to ensure that any operational activities in Serbia are closely monitored, in line with Article 110 of the Regulation, to protect and promote their compliance with fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union. Additionally, the Agency must ensure that anyone participating in a Frontex joint operation, or any other activity conducted by it in Serbia is fully cognisant of the fundamental rights standards with which they are obliged to comply. The Agency's Fundamental Rights Office should continue to be intimately involved in the development of its operational plans for any foreseen activities in Serbia. The Fundamental Rights Office is best placed to ensure that these activities not only appropriately and proactively feature any mitigating measures as necessary to avoid involvement in any potential violation of fundamental rights, but also specifically to seek to maximise the support that can be provided to Serbia in the fight against trafficking in human beings and the identification of any victims of this crime.

Lastly, it must be underlined that this assessment is not a substitute for the obligations placed on the Executive Director of the Agency and the Frontex Fundamental Rights Officer by the Regulation as referred to in Article 46(4) of the Regulation: if the Executive Director considers that launching an activity could lead to serious or persistent violations of fundamental rights or international protection obligations, then it is their responsibility to not launch the activity, and if they consider that such violations are occurring, it is solely their responsibility to withdraw the financing for that activity or suspend or terminate it in whole or in part.