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Operational Practices of EU Agencies in the Area of Freedom, Security and Justice in Third Countries: Legal Effects and Challenges

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This working paper examines how the operational practices of EU agencies in the Area of Freedom, Security and Justice (AFSJ) with a specific focus on Frontex, Europol, and Eurojust, exert extraterritorial influence on the legal frameworks of third countries. While much of the existing literature has focused on how EU agencies are shaped by internal dynamics or influenced by third-country cooperation, this study highlights the reverse: how EU agencies themselves shape external legal systems. Focusing primarily on operational practices such as liaison officer exchanges and joint operations, the article demonstrates how these mechanisms embed EU administrative power abroad. It shows how agency actions, such as Frontex-led operations under status agreements, can require legislative change, grant immunities, and introduce EU-style fundamental rights safeguards in host countries. However, these developments raise pressing concerns around accountability, legal responsibility, and fundamental rights protection especially given the limited effectiveness of judicial remedies and non-judicial complaints mechanisms. Ultimately, while EU agency operations actively reshape third-country laws, the resulting framework remains fragmented and normatively fragile, necessitating safeguards that match the scope of this external enforcement expansion.

Keywords:

EU agencies, area of freedom, security and justice, third-country legal systems, operational practices, Frontex, status agreements.

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I. Introduction

Over the past fifty years, EU agencies have been widely studied for their proliferation, complex mandates, accountability, and impact on the EU's constitutional order. Crucially, their expanding role beyond EU borders² has emerged as a vital facet of EU external enforcement. While EU external action, partly carried out by EU agencies, has become a growing field of EU administrative law³, little attention has been paid to how agency practices influence the legal frameworks of third countries.⁴ This paper addresses that gap by focusing on agencies operating in the Area of Freedom, Security and Justice (AFSJ), which increasingly shape legal environments beyond the EU through operational cooperation, technical assistance, and joint enforcement actions. Such activities signal a shift in the EU's external relations towards more decentralised, administrative, and informal modes of influence. Within the broader spectrum of these 'venues of implication', which also includes regulatory and cooperative dimensions, this paper focuses on operational practices. This represents a distinct zone of influence where agency activity may interact with, reshape, or place pressure on national legal frameworks.⁵

The study introduces a typology of two operational models, each raising three interconnected challenges: protecting fundamental rights, allocating legal responsibility between EU and non-EU actors, and ensuring effective accountability. The first is the liaison model, involving the exchange of liaison officers and prosecutors (Section II); the second is the joint operations model, covering activities on third-country territory (Section III). Frontex-led operations under status agreements in the Western Balkans illustrate the legal challenges of the latter, particularly regarding rights, responsibility, and accountability.

Sections II and III outline the legal scope of these practices, showing how agencies can shape third-country legal frameworks, notably through status agreements requiring legislative changes to accommodate immunities, complaints mechanisms, or rights safeguards. Section IV examines the legal implications of these activities, especially in relation to accountability, responsibility, and fundamental rights guarantees. Crucially, the influence on third countries is not value-neutral: while EU agencies increasingly enforce beyond the Union's borders, how that influence is managed with respect to human rights and accountability, remains an open and pressing question.

² See in particular Andrea Ott, Ellen Vos and Florin Coman-Kund, 'European agencies on the global scene: EU and international law perspectives' in Michelle Everson, Cosimo Monda and Ellen Vos (eds), *European agencies in between institutions and Member States* (Kluwer Law International 2014); Florin Coman-Kund, 'The International Dimension of the EU Agencies: Framing a Growing Legal-Institutional Phenomenon' (2018) 23 (1) *European Foreign Affairs Review* 97; Herwig CH Hofmann, Ellen Vos and Merijn Chamon (eds), *The External Dimension of EU Agencies and Bodies: Law and Policy* (Edward Elgar 2019).

³ Marise Cremona and Päivi Leino, 'Is There an Accountability Gap in EU External Relations? Some Initial Conclusions' (2017) 2 (2) *European Papers* 699.

⁴ The impact has been studied mostly limited to the participation of third countries in the agencies. See Sandra Lavenex, 'The external face of differentiated integration: third country participation in EU sectoral bodies' (2015) 22 (6) *Journal of European Public Policy* 836; Dovile Rimkutė and Karina Shyrokykh, 'Transferring the *acquis* through EU agencies: the case of the European Neighbourhood Policy countries' in Herwig CH Hofmann, Ellen Vos and Merijn Chamon (eds), *The External Dimension of EU Agencies and Bodies: Law and Policy* (Edward Elgar 2019); Marja-Liisa Öberg, 'Third countries in EU agencies: Participation and Influence' in Herwig CH Hofmann, Ellen Vos and Merijn Chamon (eds), *The External Dimension of EU Agencies and Bodies: Law and Policy* (Edward Elgar 2019). See also the special issue of the *Journal of Common Market Studies* (2023) 61 for more in-depth discussions on third country influence on EU law and policy-making and see in particular Sandra Lavenex and Philipp Lutz, 'Third Country Access to EU Agencies: Exploring Spaces for Influence' (2023) 61 (6) *Journal of Common Market Studies* 1563.

⁵ Ott, Vos and Coman-Kund distinguish three types of external activities that EU agencies may undertake: (i) acting as a forum open to third countries or international organizations; (ii) assisting EU institutions in their external relations; and (iii) engaging directly with third countries or international organizations. Within this third category, Chamon further distinguishes between agencies merely expected to develop appropriate contacts and those explicitly mandated to conclude (administrative) agreements. See Andrea Ott, Ellen Vos and Florin Coman-Kund, 'EU agencies and their international mandate: A new category of global actors?' (2013) Cleer Working Papers, No. 7, 8; Merijn Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration* (OUP 2016) 87.

II. Operational practices of EU Agencies in the Area of Freedom, Security and Justice with external impact: Exchange of liaison officers with third countries

This section outlines the main channels through which Frontex, Europol and Eurojust engage with third countries, showing how liaison officer deployments embed EU administrative presence within external legal and institutional settings.

Both the Frontex Regulation⁶ and the Europol Regulation⁷, as well as their older versions, contain provisions regarding the deployment of liaison officers. Article 77(2) of the Frontex Regulation explicitly states that the Agency could deploy liaison officers in third countries and receive them on a reciprocal basis. This is further operationalised through working arrangements between Frontex and the authorities of third countries. By contrast, the Europol Regulation, in Article 8, refers only to liaison officers posted by Member States to Europol, without an explicit provision for liaison deployment between Europol and third countries. Nevertheless, such exchanges occur in practice, enabled by strategic and operational agreements and working arrangements, sometimes formalised through separate liaison agreements or memoranda of understanding.⁸ EURLOs, on the other hand, constitute a subtype of the broader category of EU migration liaison officers, whose deployment is governed by Regulation No 2019/1240.⁹ A further example is found in the exchange of liaison prosecutors from third countries to Eurojust and, conversely, the posting of Eurojust liaison magistrates to third countries, both of which serve to enhance cross-border judicial cooperation.

i. Frontex Liaison Officers (FLOs) and Liaison Officers in Frontex

Pursuant to the Frontex Regulation, the Agency deploys its own experts as liaison officers *in third countries*. Decisions to post these officers involve other EU institutions: The Commission must give its prior opinion, and the European Parliament is to be kept fully informed of all activities without delay.¹⁰ Frontex sent its first liaison officer to Turkey, in April 2016, ‘due to the migratory situation on the Eastern Mediterranean route of migration, and the history of good cooperation’.¹¹ Today, FLOs operate in a range of countries, including the Western Balkans, West Africa, and the Eastern Partnership region. They are also integrated into the Immigration Liaison Officers Network, like the EURLOs discussed below, which was originally established by Council Regulation (EC) No 377/2004¹² and is now governed by Regulation (EU) 2019/1240.¹³

FLOs liaise directly with third-country authorities to support the prevention of irregular migration and the return of migrants. They assist in identity verification and obtaining travel documents.¹⁴ For example, in Frontex-organised return operations, the Agency liaises with the authorities of the country of return—via

⁶ 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] OJ L 295/1 (Frontex Regulation).

⁷ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA [2016] OJ L 135/53 (Europol Regulation).

⁸ See e.g. Article 8 of the Operational Agreement between the United States of America and Europol [6 December 2001] <<https://www.europol.europa.eu/partners-collaboration/agreements/united-states-of-america>> accessed 24 November 2025; Article 9 of the Agreement on Strategic Cooperation between the Federative Republic of Brazil and the European Police Office [11 April 2017] <<https://www.europol.europa.eu/partners-collaboration/agreements/brazil>> accessed 24 November 2025; Europol, ‘Chile and Europol sign Liaison Officer Agreement and SIENA Memorandum of Understanding’ (4 December 2024) <<https://www.europol.europa.eu/media-press/newsroom/news/chile-and-europol-sign-liaison-officer-agreement-and-siena-memorandum-of-understanding/>> accessed 24 November 2025.

⁹ Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers [2019] OJ L 198/88.

¹⁰ Frontex Regulation (n 6) art 76(5).

¹¹ Frontex, ‘General Report 2015’ (Report, 2016) <<https://op.europa.eu/en/publication-detail/-/publication/474bb018-b537-11e6-9e3c-01aa75ed71a1>> accessed 24 November 2025.

¹² Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network [2004] OJ L 64.

¹³ Regulation 2019/1240 (n 9) art 2(1) defines ‘liaison officer’ to explicitly encompass officers deployed abroad by the Union Agencies.

¹⁴ Frontex Regulation (n 6) art 77(3).

FLOs, EURLOs or EU Delegations—to agree on and coordinate the operation’s implementation.¹⁵ While Frontex has significantly expanded its external role, especially through liaison deployments and working arrangements¹⁶, these deployments are not tied to the third country’s human rights standards, a gap that has been noted.¹⁷ Instead, working arrangements must include rights and data protection clauses¹⁸, but their effectiveness remains uncertain and raises concerns, as they often blur the line between technical cooperation and political decision-making.¹⁹

Reciprocally, Frontex hosts *liaison officers seconded by third countries*. While most postings are made by Member States under Article 13 of the Frontex Regulation and Frontex Management Board Decision 24/2021²⁰, one Schengen Associated Country—Switzerland—has deployed a liaison officer to the Agency.

ii. Europol Liaison Officers and Liaison Officers in Europol

Since Europol lacks executive powers, its operational reach relies heavily on information exchange via liaison officers, making their deployment abroad crucial. They may only be stationed in third countries once a formal cooperation agreement is in place. Under the previous legal framework, established by Council Decision 2009/371/JHA of 6 April 2009²¹, Europol concluded two main types of agreements: *strategic agreements* for non-personal data (such as general intelligence, strategic and technical information), and *operational agreements* allowing personal data exchange. Regulation 2016/794 (Europol Regulation), in line with the post-Lisbon external action framework, removed Europol’s power to conclude binding international agreements. Now, agreements enabling personal data transfers are concluded by the EU under Article 218 of the Treaty on the Functioning of the European Union (TFEU).²² Within this new framework, the Europol Regulation introduces a revised classification of implementing instruments: non-binding *working arrangements* for non-personal data (similar to former strategic agreements), and *administrative arrangements* to operationalise Article 218 agreements, existing treaties, or adequacy decisions, allowing personal data exchange.²³ Pre-2017 strategic and operational agreements remain in force, and post-2017 working arrangements may also govern liaison officer deployment.

The type of agreement Europol concludes, whether strategic or operational before 2017 or administrative or working arrangements thereafter, indicates whether a third country’s data protection laws align with EU standards. Turkey, for instance, signed a strategic agreement in 2004²⁴ but never an operational one, reflecting

¹⁵ Frontex, ‘Cooperation between Frontex and Third Countries in 2023’ (Report, 12 July 2024) <<https://prd.frontex.europa.eu/document/cooperation-between-frontex-and-third-countries-in-2023/>> accessed 24 November 2025.

¹⁶ Juan Santos Vara, ‘The Activities of Frontex on the Territory of Third Countries: Outsourcing Border Controls Without Human Rights Limits?’ (2023) 8 (2) European Papers 985, 988.

¹⁷ European Council on Refugees and Exiles (ECRE), ‘Comments on the Proposal for a Regulation of the European Parliament and of the Council on Establishing a European Border and Coast Guard and Repealing Regulation (EU) No 1052/2013’ (November 2018) <<https://ecre.org/wp-content/uploads/2018/11/ECRE-Comments-EBCG-proposal.pdf>> accessed 24 November 2025; Tineke Strik, ‘Frontex’s expanding mandate: Has democratic control caught up?’ (2024) 30 (1-2) European Law Journal 217, 231.

¹⁸ Frontex Regulation (n 6) art 76(2).

¹⁹ Strik (n 17) 231; Melanie Fink, ‘Frontex Working Arrangements: Legitimacy and Human Rights Concerns Regarding ‘Technical Relationships’’ (2012) 28 (75) Utrecht Journal of International and European Law 20.

²⁰ Frontex Management Board, ‘Decision 03/2023 adopting the rules and conditions of deployment of Liaison Officers from the Member States to Frontex and the support to be provided by the Agency, repealing Management Board Decision 24/2021’ (24 January 2023) <<https://prd.frontex.europa.eu/document/management-board-decision-03-adopting-the-rules-and-conditions-of-deployment-of-liaison-officers-from-the-member-states-to-frontex-and-the-support-to-be-provided-by-the-agency-repealing-management-bo/>> accessed 25 November 2025.

²¹ Council Decision of 6 April 2009 establishing the European Police Office (Europol) [2009] OJ L 121/37.

²² Consolidated version of the Treaty on the Functioning of the European Union [2012] OJ C 326/47 (TFEU).

²³ Europol Regulation (n 7) art 23(4) and art 25(1). See further Florin Coman-Kund, ‘Europol’s international cooperation between ‘past present’ and ‘present future’: reshaping the external dimension of EU police cooperation’ (2018) 2 (1) Europe and the World: A Law Review 1.

²⁴ Agreement on co-operation between Europol and the Republic of Türkiye [18 May 2004] <<https://www.europol.europa.eu/partners-collaboration/agreements/agreement-co-operation-between-europol-and-republic-of-t%C3%BCrkiye>> accessed 25 November 2025.

a lack of alignment.²⁵ Still, under the 2016 EU–Turkey statement²⁶, Turkey appointed a liaison officer to Europol in 2016.²⁷ However, these arrangements do not permit personal data exchange.

The Agency hosts liaison officers from 41 countries with which it has concluded cooperation agreements.²⁸ Under its ‘Intensified Cooperation’ framework, Europol prioritises ties with Schengen States, the Western Balkans, the UK, the US and Turkey.²⁹

iii. European Return Liaison Officers (EURLOs) in third countries coordinated by Frontex

While EURLOs are not directly deployed by Frontex but rather by Member States and Schengen Associated Countries to non-EU countries, Frontex is tasked with coordinating the EURLO Network. As such, this activity is included in this section as an agency-related interaction with third countries.

EURLOs are national immigration officers deployed under Regulation 2019/1240, with Frontex coordinating the network and covering costs.³⁰ Their main role is to support Member States participating in the programme in preventing irregular migration. While Immigration Liaison Officers (ILOs) initially operated as bilateral tools of individual Member States, growing pressure on national systems prompted a shift toward enhanced cooperation in return operations. In response, Belgium and the Netherlands launched the EURLO Specific Action in 2013 under the Asylum, Migration and Integration Fund³¹, creating a new EU-linked category³² within the broader network of European Immigration Liaison Officers (ILO Network). Deployed in key third countries, EURLOs facilitate returns by verifying the identity of third-country nationals and securing travel documents. Frontex collaborates operationally and strategically with these countries of return, providing assistance via the EURLO network.³³

The Implementation Appraisal Briefing by the European Parliament states: ‘In 2016 the project involved 16 Member States and EURLOs were already deployed in DR Congo, Ethiopia, Morocco and Pakistan.’³⁴ As of 2018, 17 Member States had joined the project financially and were benefiting from EURLOs appointed in 10

²⁵ European Commission, ‘Turkey 2016 Report’ SWD(2016) 366 final (Commission Staff Working Document, 9 November 2016).

²⁶ European Council, ‘EU-Turkey statement, 18 March 2016’ (Press Release 2016) <<https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>> accessed 25 November 2025; Charles de Marcilly and Angéline Garde, ‘The EU-Turkey Agreement and its implications: An unavoidable but conditional agreement’ (14 June 2016) European issues No 396, Robert Schuman Foundation <<https://server.www.robert-schuman.eu/storage/en/doc/questions-d-europe/qe-396-en.pdf>> accessed 25 November 2025.

²⁷ Europol, ‘Turkey and Europol sign Liaison Agreement’ (21 March 2016) <<https://www.europol.europa.eu/media-press/newsroom/news/turkey-and-europol-sign-liaison-agreement>> accessed 25 November 2025.

²⁸ Europol, ‘Partners & Collaboration’ <<https://www.europol.europa.eu/partners-collaboration>> accessed 25 November 2025.

²⁹ Europol, ‘Europol Programming Document 2025 – 2027’ (16 December 2024) <https://www.europol.europa.eu/cms/sites/default/files/documents/Europol_Programming_Document_2025-2027.pdf> accessed 25 November 2025.

³⁰ Council of the European Union, ‘Presidency discussion paper on liaison officers as partners to build a stronger common European return system’ 5494/24 (Note from the Presidency to Delegations, 1 February 2024).

³¹ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC [2014] OJ L 150/168.

³² European Parliament, European Parliamentary Research Service, ‘Revision of the immigration liaison officers network Regulation (EC) 377/2004’ (Briefing, May 2018) <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621810/EPRS_BRI\(2018\)621810_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621810/EPRS_BRI(2018)621810_EN.pdf)> accessed 25 November 2025.

³³ Frontex Management Board, ‘Decision 12/2025 adopting the consolidated annual activity report 2024 and its assessment’ (11 June 2025) <<https://prd.frontex.europa.eu/document/management-board-decision-12-2025-adopting-the-consolidated-annual-activity-report-2024-and-its-assessment/>> accessed 25 November 2025.

³⁴ European Parliamentary, European Parliamentary Research Service (n 32).

third countries.³⁵ By 2023, nine EURLOs were covering 13 third countries,³⁶ with calls for deployment to two additional countries (Bangladesh and Côte d'Ivoire/Guinea).³⁷

EURLOs assist Member States with re-documentation and returns, proving valuable where consular presence is lacking. However, annual financial and procurement cycles hinder their effective long-term deployment and capacity-building.³⁸ The project-based, non-institutionalised nature of EURLO appointments reportedly prevents them from taking on a systematic and established role in Member States' return policies, limiting their effectiveness.³⁹ As a result, the EURLO network did not expand in 2024 due to 'several complex reasons, including the limited interest by Member States to deploy EURLOs to third countries'.⁴⁰

iv. Liaison prosecutors from third countries posted at Eurojust and liaison magistrates posted to third countries by Eurojust

In third countries without mutual recognition tools, seconding a liaison prosecutor to Eurojust enables high-level operational cooperation despite differing legal systems⁴¹, in accordance with Article 54a of the Eurojust Regulation.⁴² Similarly, Eurojust may post liaison magistrates to third countries.⁴³ These arrangements are based on bilateral agreements. As with Europol, a distinction must be drawn between the period prior to the entry into force of the Eurojust Regulation on 12 December 2019 and the earlier period governed by the Eurojust Decision.⁴⁴

The secondment of liaison prosecutors to Eurojust was established through cooperation agreements between Eurojust and third countries. These agreements, concluded before the Eurojust Regulation's entry into force on December 12, 2019, involved the Council of the EU and the Joint Supervisory Body⁴⁵ to ensure operational cooperation and data exchange. Agreements with numerous third countries (e.g., Albania, Georgia, Ukraine, US) were made under this earlier regime; they remain valid under the current legal framework and include provisions for the secondment of liaison prosecutors to Eurojust. Among these, agreements concluded after

³⁵ European Commission, 'Evaluation of the Council Regulation (EC) 377/2004 on the creation of an immigration liaison officers network' SWD(2018) 197 final (Commission Staff Working Document, 16 May 2018).

³⁶ Belgium to the Democratic Republic of the Congo (also covering the Republic of the Congo); the Netherlands to Egypt; Norway to Ghana; Estonia to the Gambia; Finland to Nigeria; Sweden to Ethiopia and Kenya (with an extended mandate to Somalia); and Poland to Uzbekistan (also covering Tajikistan and Kyrgyzstan) and to Vietnam. A new deployment to Iraq by Sweden began on 18 April 2023, although this was likely short-lived, as a new call for deployment was reportedly open in February 2024 (see n 33). A Delmi report also notes this brief deployment, based on interviews about the role of diplomats and embassy staff in Sweden's return process. See Constanza Vera-Larrucea and Iris Luthman, 'Return migration diplomacy on return and readmission cooperation between Sweden and diplomatic missions' (September 2024) Delmi Report 2024:8 <https://www.delmi.se/Media/yfphi0xl/report-2024_8-webb.pdf> accessed 25 November 2025.

³⁷ A 2023 presidency discussion paper (marked LIMITE and obtained via Statewatch) on 'promoting the use of liaison officers to improve readmission cooperation' provides those figures: Council of the European Union, 'Presidency discussion paper on promoting the use of liaison officers to improve readmission cooperation' 7939/23 (Note from the Presidency to Delegations, 19 April 2023) <<https://www.statewatch.org/media/3864/eu-council-se-readmission-liaison-officers-note-7939-23.pdf>> accessed 25 November 2025. 2024 presidency paper notes two EURLO posts remain vacant (Iraq and Bangladesh) and urges Member States to apply and coordinate more closely with Frontex and the Commission to ensure coherence and efficient use of resources, see (n 30) 4.

³⁸ European Commission, 'Commission Staff Working Document: Evaluation Accompanying the document Report from the Commission to the European Parliament and the Council on the Evaluation of Regulation (EU) 2019/1896 on the European Border and Coast Guard, including a review of the Standing Corps' SWD(2024) 75 final (Commission Staff Working Document, 2 February 2024).

³⁹ See Vera-Larrucea and Luthman (n 36) 89, 90.

⁴⁰ While the target set in the Frontex Annual Work Programme 2024 was 14 EURLO deployments, the actual number remained 10, see Frontex Management Board (n 33).

⁴¹ Boštjan Škrlec, 'Eurojust and External Dimension of EU Judicial Cooperation' (2019) 3 *Eucrim* 188.

⁴² Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA [2018] OJ L 295/138 (Eurojust Regulation).

⁴³ Eurojust Regulation (n 42) art 53.

⁴⁴ Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA) [2002] OJ L 63 (Eurojust Decision).

⁴⁵ Eurojust Decision (n 44) art 26a.

the Council Decision of 16 December 2008⁴⁶ which amended Eurojust's legal basis to allow the posting of Eurojust liaison magistrates to third countries, also include provisions on such postings.⁴⁷

Since 12 December 2019, seconding a third-country liaison prosecutor to Eurojust requires an international agreement in accordance with Article 218 TFEU⁴⁸ and a working arrangement.⁴⁹ Conversely, sending a Eurojust liaison magistrate to a third country only needs a working arrangement under Article 53 of the Eurojust Regulation.⁵⁰ Currently, an international agreement and the working arrangement containing provisions on both 'Liaison Prosecutor to Eurojust' and 'Eurojust Liaison Magistrate' are in place with the UK.⁵¹ More recently, Eurojust has signed working arrangements with Armenia and Bosnia and Herzegovina, and negotiations are ongoing with other third countries.

Overall, Eurojust currently hosts liaison prosecutors from Albania, Georgia, Iceland (the most recent, appointed in 2024), Moldova, Montenegro, North Macedonia, Norway, Serbia, Switzerland, Ukraine, the United Kingdom and the United States. These officials represent their national authorities, bridging cooperation and significantly enhancing judicial cooperation.

III. Operational practices of EU Agencies in the Area of Freedom, Security and Justice with external impact: Joint operations with third countries

This section examines the joint operational practices of Frontex and Eurojust, which constitute an expanding dimension of EU law enforcement engagement with third countries. These practices function as key channels through which EU norms and procedures are projected extraterritorially within the AFSJ. The following subsections analyse, first, Frontex joint operations with third countries, including operations conducted under status agreements with executive powers, operations without executive powers involving third countries, and return operations and return interventions, and, second, joint investigation teams involving third countries supported by Eurojust.

i. Frontex joint operations with third countries

a. Operations with executive powers on the territory of a third country (under status agreements)

For the first time, the 2016 Frontex Regulation⁵² allowed Frontex to conduct operations involving executive powers, though these were limited to neighbouring non-EU countries. But the 2019 Regulation marked a shift as it removed the geographical limitation and enabled Frontex to deploy teams to any third country and to authorise its staff to exercise executive powers on the ground.⁵³

⁴⁶ Article 27a of Council Decision of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (2009/426/JHA) [2009] OJ L 138/14.

⁴⁷ The agreements with Albania, Georgia, Liechtenstein, Moldova, Montenegro, Serbia, and Ukraine.

⁴⁸ Eurojust Regulation (n 42) art 54a(1).

⁴⁹ Eurojust Regulation (n 42) arts 54a(2), 47(3).

⁵⁰ There is no available evidence of any Eurojust liaison magistrate being seconded to a third country. The 2024 Annual Report mentions liaison prosecutors but not any magistrate postings, suggesting none are currently in place. See Eurojust, 'Eurojust Annual Report 2024' (15 May 2025) <<https://www.eurojust.europa.eu/publication/eurojust-annual-report-2024#download-tab>> accessed 25 November 2025.

⁵¹ For the Eurojust related provisions in the EU–UK Trade and Cooperation Agreement see Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part [2021] OJ L 149/10; Articles 3 and 4 of Working Arrangement between Eurojust and the Home Office, on behalf of the competent authorities of the United Kingdom of Great Britain and Northern Ireland implementing the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland [1 October 2021].

⁵² Articles 54(3), 14(2)(c) and 19(3)(c) of 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 (2016 Frontex Regulation).

⁵³ Frontex Regulation (n 6) arts 73(3), 36(2)(c), 42(3)(c) and 54(2).

This type of deployment is permitted under specific conditions set out in Articles 73 and 74 of the Frontex Regulation. First, an operational plan must be concluded with the third country. Second, if the operation concerns a border shared with one or more EU Member States, their agreement is required. Finally, a status agreement must be in place between the EU and the third country, concluded in accordance with Article 218 TFEU. Status agreements are international treaties defining Frontex's legal framework in non-EU territory, covering operation scope, personnel powers, fundamental rights, and a complaints mechanism related to those rights. Negotiated by the European Commission on the basis of a 'model status agreement' set out in Communication COM(2021)829⁵⁴, they require Council approval and the European Parliament's consent, though Parliament's role remains limited in practice.⁵⁵ It is important to note that a mere working arrangement, which is another instrument that Frontex may conclude with third countries⁵⁶ and which allows the Agency greater autonomy in negotiation⁵⁷, does not provide a legal basis for the exercise of executive powers on the territory of the third country concerned. This is logical, considering that status agreements, in a way, replicate the relevant provisions of the Frontex Regulation.⁵⁸

So far, EU has concluded five status agreements with Albania, Moldova, Montenegro, North Macedonia, and Serbia.⁵⁹ These agreements have either been updated or newly signed following the adoption of the new model status agreement in 2021.⁶⁰ A sixth agreement, with Bosnia and Herzegovina, was signed on 10 June 2025, awaiting full entry into force.⁶¹ Frontex launched its first joint operation outside the EU in Albania in 2019.⁶² Since then, it has expanded its executive powers to North Macedonia, Moldova, and Serbia.⁶³

What exactly do status agreements permit in the context of these operations? First, the Frontex Regulation only permits border management team deployment to third countries.⁶⁴ It also does not envisage the exercise of executive powers by members of the standing corps during return operations on third-country territory.⁶⁵ The agreements concluded with Bosnia and Herzegovina, North Macedonia, Montenegro define 'executive powers' as those necessary to perform border control tasks on the territory of the host country during an operational activity, as specified in the operational plan.⁶⁶ All status agreements permit deployed teams to use force, including service weapons and ammunition, subject to third-country authorization. In practice, these

⁵⁴ European Commission, 'Communication from the Commission to the European Parliament and the Council — Model status agreement between the Union and third countries for operations of the European Border and Coast Guard' COM (2021) 829 final (21 December 2021).

⁵⁵ See further Mariana Gkliati, 'Decoding Frontex's fragmented accountability mosaic and introducing systemic accountability - System Reset' (2024) 30 (1-2) European Law Journal 197.

⁵⁶ Frontex Regulation (n 6) arts 73(4) and 76(4).

⁵⁷ Strik (n 17).

⁵⁸ Jorrit J. Rijpma, 'External Migration and Asylum Management: Accountability for Executive Action Outside EU-territory' (2017) 2 (2) European Papers 571; Melanie Fink, *Frontex and Human Rights: Responsibility in 'Multi-Actor Situations' under the ECHR and EU Public Liability Law* (OUP 2018), 42.

⁵⁹ For Frontex status agreements with third countries, see <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum:4464642>> accessed 25 November 2025.

⁶⁰ For the first model status agreement proposed by the Commission see European Commission, 'Communication from the Commission to the European Parliament and the Council — Model status agreement as referred to in Article 54(5) of Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard' COM (2016) 747 final (22 November 2016).

⁶¹ European Commission, 'EU strengthens cooperation on migration and border management with Bosnia and Herzegovina' (News Article 11 June 2025) <https://enlargement.ec.europa.eu/news/eu-strengthens-cooperation-migration-and-border-management-bosnia-and-herzegovina-2025-06-11_en> accessed 25 November 2025.

⁶² Frontex, 'Frontex launches first operation in Western Balkans' (News 21 May 2019) <<https://www.frontex.europa.eu/media-centre/news/news-release/frontex-launches-first-operation-in-western-balkans-znTNWM>> accessed 25 November 2025.

⁶³ Frontex (n 15) 14, 15.

⁶⁴ Frontex Regulation (n 6) art 10(1)(u).

⁶⁵ As stated in the model status agreement: 'A status agreement would thus not be the appropriate instrument via which to organise return operations.' European Commission (n 54).

⁶⁶ Article 2(19) of the Agreement between the European Union and Bosnia and Herzegovina on operational activities carried out by the European Border and Coast Guard Agency in Bosnia and Herzegovina [11 June 2025] OJ L 2025/1346; Article 2(19) of the Agreement between the European Union and the Republic of North Macedonia on Operational Activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia [26 October 2022] OJ L 61; Article 2(4) of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro [16 May 2023] OJ L 140.

powers cover tasks like patrolling, document checks, and intelligence gathering on cross-border crime.⁶⁷ For example, Frontex officers in Moldova accessed national databases and performed first-line checks at Chisinau Airport, an unprecedented action for EU personnel in a third country.⁶⁸

What does Frontex's presence mean for the legal systems of third countries where it operates under status agreements? These agreements define both the rights and obligations of the host country. First, Frontex teams are required to operate in accordance with the host country's national law. Command and control remain with the national authorities, except in specific cases where Frontex personnel are explicitly authorized to act.⁶⁹

Second, the status agreements impose certain commitments on the host country, most notably, the obligation to grant privileges and immunities to Frontex team members.⁷⁰ Standing Corps participating in an operational activity are granted immunity from local jurisdiction for actions carried out as part of their official duties. Albania even passed a law that grants full criminal immunity.⁷¹ Additionally, all host countries (except Montenegro) shield deployed personnel from being compelled to testify as witnesses. The agreement with Montenegro allows such testimony under specific conditions, in accordance with national procedural law.⁷² At the same time, third countries are 'liable for any damage caused by Frontex team members to third parties in the exercise of their official functions.'⁷³

Another key development is the growing emphasis on fundamental rights protection. This establishes a dual obligation for Frontex and the host country to uphold strict standards, introducing a protection regime with direct legal consequences:

- Recital 88 of the Frontex Regulation introduces a fundamental rights impact assessment, requiring the Commission to evaluate the human rights situation in a third country before launching negotiations. This represents a novel safeguard in the EU's external border governance. However, in practice, the Commission has conducted these assessments only after agreements are signed, justifying the delay by the need to first determine the agreement's scope.⁷⁴
- Article 73(3) of the Frontex Regulation requires that all status agreements include practical arrangements for the protection of fundamental rights, including a complaints mechanism for rights violations. Although the 2016 Regulation established such a mechanism, the 2019 Regulation significantly reinforces it. By explicitly linking the mechanism to third-country operations under Article 111(2), the new framework thereby makes it a compulsory component of any status agreement.
- Institutional oversight is also enhanced. Article 109(2)(g) of the Frontex Regulation assigns a strengthened role to the Fundamental Rights Officer (FRO), an independent entity within Frontex, the power to visit all joint operations, including those in third countries. Article 110 further establishes the position of Fundamental Rights Monitors, appointed by the FRO, to support monitoring across operations.

⁶⁷ Frontex (n 62); Frontex, 'Frontex launches joint operation in North Macedonia' (News 20 April 2023) <<https://www.frontex.europa.eu/media-centre/news/news-release/frontex-launches-joint-operation-in-north-macedonia-U4l3lv>> accessed 28 November 2025; Frontex, 'Joint operation Moldova 2023 kicks off' (News 27 January 2023) <<https://www.frontex.europa.eu/media-centre/news/news-release/joint-operation-moldova-2023-kicks-off-TtBRqW>> accessed 28 November 2025. See details on implementing the EU-Moldova status agreement allowing standing corps deployment with executive powers David Gazsi 'EU sectoral integration in the Eastern Neighbourhood: the case of Frontex-Moldova relations in border management' (2024) 31 (11) *Journal of European Public Policy* 3617.

⁶⁸ Frontex (n 15) 15.

⁶⁹ See Art 10(1)-(3) of the status agreements with Albania, Moldova, Montenegro, North Macedonia, and Serbia, which share identical or similar provisions.

⁷⁰ See Article 12 of all status agreements concluded by the EU with Albania, Moldova, Montenegro, North Macedonia, and Serbia.

⁷¹ Alice Taylor-Brace, 'Albania to renew cooperation with Frontex' (*Euractiv.com*, 11 September 2023) <<https://www.euractiv.com/section/politics/news/albania-to-renew-cooperation-with-frontex/>> accessed 28 November 2025.

⁷² Article 12(9) of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro [16 May 2023] OJ L 140.

⁷³ See Article 12 of all status agreements concluded by the EU with Albania, Moldova, Montenegro, North Macedonia, and Serbia.

⁷⁴ As was the case with the status agreement concluded with North Macedonia; see Strik (n 17) 232.

In 2021, the Commission updated the model status agreement to incorporate these fundamental rights safeguards. Newer agreements place clearer obligations on both parties, explicitly requiring personnel to respect international, EU, and national law. They also allow oversight by Frontex's Fundamental Rights Officer and the deployment of Fundamental Rights Monitors.

b. Operations without executive powers involving third countries

While operations involving executive powers require a status agreement, joint operations without such powers are typically carried out on the basis of working arrangements.⁷⁵ Article 74 of the Frontex Regulation refers to this type of activity as 'technical and operational assistance provided by the Agency to third countries' and does not require the existence of a working arrangement for such assistance. However, Article 73(4) provides that the Agency shall act within the framework of working arrangements when cooperating with third countries. Moreover, under Article 74(2), any action related to European integrated border management on the territory of a third country is subject to that country's consent.

Frontex deploys standing corps officers as EU experts in third countries⁷⁶, performing tasks such as planning, policy advice, operational coordination, monitoring, and evaluation.⁷⁷ Joint Operation Coordination Points exemplify this, aiming for early detection of illegal migration trends towards the EU.⁷⁸ In 2023, Joint Operation Coordination Points were hosted by Albania, Bosnia and Herzegovina, Moldova, Montenegro, North Macedonia, Serbia, and Kosovo.⁷⁹

Another example includes all operations coordinated by Frontex involving third countries (without the existence of a working arrangement) prior to the adoption of the 2016 Frontex Regulation, at a time when the Agency was not allowed to operate on the territory of a third country or to exercise executive powers. Operations like Hera (requested by Spain, 2006) and Nautilus (requested by Malta, 2007) were based on bilateral agreements with third countries and widely contested, especially over Frontex's legal basis for acting beyond EU borders, with little public transparency.⁸⁰ In Operation Hera, Spain concluded 'strong' agreements with Senegal and Mauritania⁸¹, allowing participating Member States to deploy assets and intercept migrants along the West Africa-Canary Islands route.⁸² The bilateral agreement was also presented as the legal basis for

⁷⁵ Frontex (n 15) 16.

⁷⁶ *ibid.*

⁷⁷ Yichen Zhong and Helena Carrapico, 'Frontex goes global: A two-level experimentalist governance analysis of Frontex's international action and its role within the externalisation of EU borders' (2024) 2 (1) Contemporary European Politics e7.

⁷⁸ Frontex, 'Joint Operation Coordination Points 2017' (Evaluation Report, 2017) <https://www.statewatch.org/media/3179/fer_jo_coordination_pointss_2017_-_public.pdf> accessed 29 November 2025.

⁷⁹ Frontex (n 15) 16.

⁸⁰ Fink (n 19) 22; Niels W. Frenzen, 'The legality of Frontex Operation Hera-type migration control practices in light of the *Hirsi* judgement' in Thomas Gammeltoft-Hansen and Jens Vedsted-Hansen (eds), *Human Rights and the Dark Side of Globalisation: Transnational law enforcement and migration control* (Routledge 2016); Vera Wriedt and Darius Reinhardt, 'Opaque and unaccountable: Frontex Operation Hera' (Statewatch Analysis, 2017) <<https://www.statewatch.org/media/documents/analyses/no-307-frontex-operation-hera.pdf>> accessed 29 November 2025. See also Meijers Committee, 'Comment on Frontex's status agreements with Senegal and Mauritania' CM2307 (2023) <<https://www.commissie-meijers.nl/wp-content/uploads/2023/06/CM2307.pdf>> accessed 29 November 2025, noting that Frontex was already exceptionally intervening extraterritorially before 2019, in the context of Operation Hera in the Atlantic.

⁸¹ Sergio Carrera, 'The EU Border Management Strategy: FRONTEX and the Challenges of Irregular Immigration in the Canary Islands' (2007) CEPS Working Document No 261 <<https://www.ceps.eu/ceps-publications/eu-border-management-strategy-frontex-and-challenges-irregular-immigration-canary/>> accessed 29 November 2025.

⁸² Wriedt and Reinhardt (n 80).

Frontex's involvement⁸³, though its role was limited to coordination, with operational command exercised by Spain's International Coordination Centre.⁸⁴

The legal basis expanded with 2014 amendments to the original Frontex Regulation, allowing bilateral agreements to include provisions on the exercise of executive powers by deployed Agency teams.⁸⁵ As noted above, since 2019, Frontex has been authorized to operate and exercise executive powers on the territory of any third country, provided that a status agreement is in place.

c. Return operations, return interventions

Under Article 50(1) of the Frontex Regulation, Frontex assists Member States by coordinating or organizing return operations, either at their request or on its own initiative. The Agency's role primarily involves providing operational and technical support across all phases of the return process. This support also includes deploying specialized Frontex Return Escort and Support Officers.⁸⁶ Beyond standard return operations, Frontex can conduct return interventions, a mechanism first introduced in the 2016 Frontex Regulation and retained in the current Frontex Regulation (Article 53). These involve deploying return teams to assist or coordinate returns for Member States facing significant pressure and can be escalated to a rapid return intervention if that pressure becomes disproportionate.

Aside from these, two issues stand out for their potential to affect the legal frameworks of third countries: so-called collecting return operations (CROs) and return operations coordinated by Frontex from the territory of a third country to another destination.

As per Article 50(3) and (4) of the Frontex Regulation, CROs are return operations where the third country provides transport and escorts, with Frontex offering technical and operational assistance. Returnees from participating Member States are transferred to the third country, from where the return flight departs.⁸⁷ Although formally introduced in Article 28(3) of the 2016 Frontex Regulation, CROs were *de facto* first implemented in 2013 and 2015, with operations to Georgia and Serbia, respectively.⁸⁸ To date, the third countries that have participated in CROs include Albania, Georgia, Montenegro, Serbia, and Ukraine.⁸⁹ A closer examination of the working arrangements between Frontex and the third countries that 'collect' returnees reveals varying provisions on return cooperation. The most explicit commitments, referring to 'operational cooperation in return activities,' are found in the most recent working arrangements with Albania and Georgia, both concluded in 2021.⁹⁰

⁸³ House of Lords European Union Committee, Frontex: the EU External Borders Agency (HL Paper 60, 2008) 64, specifically Q 267 (Baroness Henig to Frontex DG Ilkka Laitinen): 'If you have not got working arrangements with them, how did this operation work?' <<https://publications.parliament.uk/pa/ld200708/ldselect/lducom/60/60.pdf>> accessed 29 November 2025.

⁸⁴ Frontex, 'Annexes of the Operational Plan: EPN CONCEPT Joint Operation EPN HERA 2014' (2014) 2014/SBS/03 <<https://www.statewatch.org/media/documents/news/2017/feb/eu-frontex-operation-hera-2014-annexes-censored.pdf>> accessed 29 November 2025.

⁸⁵ Article 14(7) of 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] OJ L 349/1.

⁸⁶ Frontex, 'Return Operations' <<https://www.frontex.europa.eu/return-and-reintegration/return-operations/return-operations/>> accessed 29 November 2025.

⁸⁷ Chris Jones, Jane Kilpatrick and Mariana Gkliati, 'Deportation Union: Rights, accountability, and the EU's push to increased forced removals' (Statewatch, 2020) <<https://www.statewatch.org/media/1321/deportation-union.pdf>> accessed 28 November 2025.

⁸⁸ European Commission, Letter to MEPs Sabine Lösing and Cornelia Ernst regarding Frontex cooperation with third states (28 November 2016) Ref Ares(2016)6665065 <<https://www.statewatch.org/media/documents/news/2017/jul/eu-com-frontex-coop-third-states-letter-28-11-16.pdf>> accessed 28 November 2025; Frontex Management Board, 'Decision 13/2016 adopting the assessment on the Frontex Annual Activity Report 2015' (15 June 2016) <<https://www.statewatch.org/media/documents/news/2016/jul/eu-frontex-2015-activity-report.pdf>> accessed 28 November 2025.

⁸⁹ Jones, Kilpatrick and Gkliati (n 87) 20.

⁹⁰ For all the working arrangements between Frontex and third countries, see the Frontex Public Register of Documents <<https://prd.frontex.europa.eu>> accessed 29 November 2025.

Frontex emphasizes the training it provides to escorts from partner countries to ensure respect for fundamental rights, the proportionate use of force, and the dignity of returnees during these operations.⁹¹ In this context, it is important to reiterate that return operations from the territory of a third country to another country are not permitted under the current legal framework. First-generation status agreements (Albania, Moldova, Montenegro, Serbia) did not allow Frontex to organize returns from third countries, though they permitted returns to them.⁹² The Commission's interpretation arguably exceeded Article 54(3) of the 2016 Frontex Regulation, as operations lacked strict border location or an operational plan.⁹³ Following the adoption of the 2019 Frontex Regulation and the Commission's new model status agreement, this possibility was removed; second-generation agreements no longer include such provisions. However, in its initial proposal for the Frontex Regulation, the Commission sought to empower the Agency to coordinate or organize return operations 'during which a number of returnees are returned from this third country to another third country'.⁹⁴ This proposal drew strong criticism, as organizing return operations from the territory of a third country based on that third country's return decisions would constitute an extreme form of EU border externalization. Such a practice poses significant risks of EU complicity in human rights violations, including refoulement.⁹⁵ Ultimately, the provision was removed from the final compromise text following opposition from the Parliament.⁹⁶ Similarly, proposals to authorize the deployment of return teams in the context of return interventions to third countries were also rejected.⁹⁷

ii. Joint investigation teams supported by Eurojust involving third countries

Joint Investigation Teams (JITs) are a key part of judicial cooperation, both among EU Member States and with third countries. JITs are international mechanisms through which judicial and law enforcement authorities from multiple countries form temporary partnerships. Based on formal agreements, they conduct coordinated criminal investigations across participating states.⁹⁸ While Europol provides support, Eurojust acts as the main hub, hosting the JITs Network Secretariat. Between 2019 and 2022, non-EU countries participated in 166 of the 498 JITs supported by Eurojust.⁹⁹ By 2024, Eurojust had supported 36 JITs involving Western Balkan countries alone.¹⁰⁰

The terms under which a JIT operates vary from case to case but are based on the model JIT agreement annexed to the Council Resolution.¹⁰¹ This model allows for JITs between EU Member States and with non-EU countries, relying on relevant international instruments. These include multilateral agreements, EU-third

⁹¹ Frontex (n 15) 22.

⁹² See, for example, Articles 2(4) and 5(1) of the Status Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro [7 October 2019] OJ L 173/3 (now repealed).

⁹³ Florin Coman-Kund, 'The Territorial Expansion of Frontex Operations to Third Countries: On the Recently Concluded Status Agreements in the Western Balkans and Beyond...' (*Verfassungsblog*, 6 February 2020) <<https://verfassungsblog.de/the-territorial-expansion-of-frontex-operations-to-third-countries-on-the-recently-concluded-status-agreements-in-the-western-balkans-and-beyond/>> accessed 28 November 2025.

⁹⁴ European Commission, Proposal for a Regulation on the European Border and Coast Guard, COM(2018) 631 final (12 September 2018) art 75(4).

⁹⁵ ECRE (n 17) 18.

⁹⁶ Statewatch, 'Regaining control: New powers for Frontex' (2020) <<https://www.statewatch.org/deportation-union-rights-accountability-and-the-eu-s-push-to-increase-forced-removals/frontex-the-eu-s-deportation-machine/regaining-control-new-powers-for-frontex/>> accessed 29 November 2025.

⁹⁷ European Commission (n 94) art 54(2); ECRE (n 17) 15.

⁹⁸ Council of the European Union, 'Joint Investigation Teams Practical Guide' (14 February 2017) 6128/1/17 REV 1 <<https://www.eurojust.europa.eu/sites/default/files/Partners/JITs/JIT-GUIDE-2017-EN.pdf>> accessed 29 November 2025.

⁹⁹ Eurojust, 'Fourth JITs Evaluation Report' (February 2023) <<https://www.eurojust.europa.eu/sites/default/files/assets/fourth-jits-evaluation-report.pdf>> accessed 29 November 2025.

¹⁰⁰ Council of the European Union, '5th JITs Evaluation Report' (19 June 2025) 9701/25 <https://www.parlament.gv.at/dokument/XXVIII/EU/25281/imfname_11489173.pdf> accessed 29 November 2025.

¹⁰¹ Council Resolution on a Model Agreement for setting up a Joint Investigation Team (JIT) [2017] OJ C 18/1.

country agreements¹⁰², and bilateral agreements.¹⁰³ Most JITs with third countries are based on Article 20 of the Second Additional Protocol to the Mutual Assistance Convention¹⁰⁴ and Article 19 of the UN Convention against Transnational Organized Crime.¹⁰⁵

A JIT may include law enforcement officers, prosecutors, judges, and other relevant personnel, and in some cases, even international actors. The team is led by a representative from the country where the JIT is based, and the law of that country governs its activities.¹⁰⁶ Eurojust's involvement in JITs with third countries thus carries normative influence. The Guidelines on Joint Investigation Teams Involving Third Countries, published by the JITs Network and Eurojust, highlight this. Eurojust supports both the legal establishment and operationalisation of JITs by organizing coordination meetings, assisting with agreement extensions or amendments, providing funding, and facilitating cooperation with non-JIT countries.¹⁰⁷ Liaison prosecutors play a crucial role by contacting national authorities, identifying legal basis for cooperation, clarifying legal requirements, and drafting JIT agreements.¹⁰⁸

The Agency promotes the inclusion of human rights clauses, especially regarding the death penalty and fair trial guarantees, in JIT agreements. Its coordination role helps identify and resolve extradition conflicts, particularly those involving the nationality exception. When extradition is not possible, notably for a country's own nationals, transferring proceedings becomes essential. This may rely on multilateral instruments such as the European Convention on the Transfer of Proceedings in Criminal Matters¹⁰⁹, bilateral agreements or reciprocity where no treaty exists.¹¹⁰ Data protection presents an additional challenge in JITs involving third countries, requiring safeguards in line with EU standards to be included in the agreement.¹¹¹

IV. Implications of operational practices: ensuring rights and accountability in extraterritorial action

This section moves beyond descriptive analysis to examine the legal implications of EU agencies' extraterritorial enforcement. As agencies increasingly exercise operational authority beyond EU borders, questions arise concerning accountability, legal responsibility, and the protection of fundamental rights.

In the context of *liaisoning practices* in the AFSJ, such concerns are already evident. These deployments often operate in a legal grey zone. Unlike joint operations governed by formal status agreements, liaison officer deployments typically rely on non-binding working arrangements or internal decisions. These instruments lack enforceability, and transparent accountability mechanisms. While redress mechanisms exist in principle, their practical accessibility remains highly limited, as discussed below. This is especially troubling given the growing role of liaison officers in return and migration enforcement under Frontex's expanding external mandate.

Deployments by Frontex, Europol, and Eurojust are fragmented and inconsistent. Frontex can send liaison officers through informal deals that lack human rights safeguards, while Europol relies on formal cooperation

¹⁰² See e.g. Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto [19 December 2003] OJ L 26; Agreement on mutual legal assistance between the European Union and the United States of America [25 June 2003] OJ L 181.

¹⁰³ For example, JITs were established through bilateral agreements, such as those between Italy-Switzerland, Italy-Albania, Spain-Cape Verde, and Spain-Colombia.

¹⁰⁴ Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [2001] CETS No 182.

¹⁰⁵ United Nations Convention against Transnational Organized Crime [2000] UN Doc A/RES/55/25.

¹⁰⁶ Europol, 'Joint Investigation Teams – JITs' <<https://www.europol.europa.eu/partners-collaboration/joint-investigation-teams>> accessed 29 November 2025.

¹⁰⁷ Eurojust, 'Guidelines on Joint Investigation Teams Involving Third Countries' (June 2022) <<https://www.eurojust.europa.eu/sites/default/files/assets/guidelines-on-jits-involving-third-countries.pdf>> accessed 29 November 2025

¹⁰⁸ Eurojust, 'Third JIT Evaluation Report: Evaluations received between November 2017 and November 2019' (March 2020) <https://www.eurojust.europa.eu/sites/default/files/assets/2020_03_3rd_jits_evaluation_report_en.pdf> accessed 29 November 2025.

¹⁰⁹ European Convention on the Transfer of Proceedings in Criminal Matters [1972] CETS No 73.

¹¹⁰ Eurojust (n 108) 14.

¹¹¹ *ibid* 12.

or administrative agreements that follow EU data protection rules. Yet, some older agreements from before 2017 still apply and may not meet current standards, leading to unequal levels of data protection. Eurojust adds further variation: its liaison prosecutors require international agreements, but its own magistrates are deployed under less formal working arrangements. Even within agencies, practices vary. Frontex's EURLO network struggles with short-term funding and limited support from Member States, while Europol hosts liaison officers from over 40 countries.

More broadly, the coexistence of multiple legal regimes, encompassing both pre- and post-Lisbon instruments, has created a patchwork of legal bases. This complicates oversight and weakens the consistent application of fundamental rights and procedural safeguards.

With respect to *joint operation practices* in the AFSJ, it is necessary to distinguish between those supported by Eurojust and those conducted by Frontex, with the latter raising more serious concerns.

Although JITs are based on formal agreements and international conventions, their legal framework varies by the lead state's law and relevant treaties. Fundamental rights protections differ depending on the agreement. Eurojust encourages fair trial and data protection clauses, but their inclusion is not guaranteed. Involving third countries with weak rule-of-law adds risks to procedural fairness and effective remedies.

Frontex, on the other hand, has the most robust formal rights framework, yet faces the most severe accountability gaps, particularly due to its executive role and immunity structure.

Frontex team members operate under host state command, with liability for damages assigned to that state under status agreements, reflecting the principle that authority entails responsibility. However, this raises two considerations. First, the hybrid implementation may weaken protection for third-country nationals, as host states are not bound by EU fundamental rights safeguards.¹¹² Second, while host states exercise operational control, Frontex remains bound by the Union *acquis* and the Charter of Fundamental Rights. Moreover, the EU retains influence through status agreements and operational plans¹¹³, complicating the attribution of responsibility and reinforcing the case for shared accountability.¹¹⁴ Therefore, Frontex's accountability fora under EU law extend to operations conducted on the territory of third countries. However, the practical effectiveness of these avenues remains open to question.

With regard to judicial accountability, whether through actions for annulment, failure to act, or claims for damages, these mechanisms are often constrained by stringent admissibility criteria and the requirement of clearly attributable misconduct. In principle, third-country nationals may seek non-contractual liability under Article 340(2) TFEU for rights violations committed by Frontex staff.¹¹⁵ However, in *WS and Others v Frontex*, the General Court dismissed the first action for damages brought by Syrian refugees who had been returned from Greece to Turkey.¹¹⁶ A similar outcome followed in *Hamoudi v Frontex*, where the General Court again dismissed the claim.¹¹⁷ Both cases are currently under appeal before the Court of Justice.

¹¹² Rijpma (n 58) 594.

¹¹³ Article 18 of all status agreements allows Frontex's Executive Director to suspend or end operations for non-compliance, security risks, or serious fundamental rights violations. The host country can also request suspension, termination, or removal of personnel for specific reasons.

¹¹⁴ Martina Previatello, 'Frontex actions beyond EU borders: status agreements, immunities and the protection of fundamental rights' (2023) European University Institute, Academy of European Law Working Paper, No. 6, 13-14.

¹¹⁵ For analysis of whether the EU action for damages effectively remedies Frontex-related rights violations, see Melanie Fink, 'The Action for Damages as a Fundamental Rights Remedy: Holding Frontex Liable' (2020) 21 (3) German Law Journal 532; Mariana Gkliati, 'Shaping the Joint Liability Landscape? The Broader Consequences of *WS v Frontex* for EU Law' (2024) 9 (1) European Papers 69; Stanisław Kusiak, 'Non-Contractual Liability: *WS and Others* as a Blockade to Keeping Frontex Accountable' (*Europrospects.eu*, 8 March 2025) <<https://europrospects.eu/non-contractual-liability-ws-and-others-as-a-blockade-to-keeping-frontex-accountable/>> accessed 28 November 2025.

¹¹⁶ Case T-600/21 *WS and Others v Frontex* [2023] ECLI:EU:T:2023:492. In a recent development, AG Ćapeta issued her Opinion in C-679/23 P *WS and Others v Frontex* (12 June 2025), finding that the General Court erred in assessing causality and that Frontex can be held independently liable for its own conduct in joint operations. See also Melanie Fink, 'AG Ćapeta Opinion in *WS and Others v Frontex*: Academic Research on Frontex' Liability Reaches the CJEU's Grand Chamber' (Leiden University, 16 June 2025) <<https://www.universiteitleiden.nl/en/news/2025/06/ag-capeta-opinion-in-ws-and-others-v-frontex-academic-research-on-frontex-liability-reaches-the-cjeus-grand-chamber>> accessed 28 November 2025.

¹¹⁷ Case T-136/22, *Alla Hamoudi v Frontex* [2023] ECLI:EU:T:2023:821.

Alternatively, individuals may challenge acts of the agency through an action for annulment under Article 263 TFEU, as also provided for in Article 97(4) of the Frontex Regulation. However, the nature of Frontex's activities presents difficulties. The agency's involvement in border management often takes the form of *de facto* conduct rather than legally binding acts.¹¹⁸ As a result, establishing a direct connection between the operation and an attributable act of Frontex can be challenging in judicial proceedings.¹¹⁹

Lastly, individuals may also bring an action for failure to act under Article 265 TFEU. However, in *SS and ST v Frontex*, the General Court declared the application inadmissible.¹²⁰ The applicants had sought a declaration that Frontex unlawfully failed to suspend or terminate its operations in the Aegean Sea, pursuant to Article 46(4) of the Frontex Regulation, following a formal invitation to act submitted by several NGOs. The Court held the action inadmissible on the grounds that Frontex had 'defined its position' within the prescribed time limit by issuing a response to the invitation, thereby satisfying the procedural requirements under Article 265.

With regard to non-judicial accountability, Article 73(3) of the Frontex Regulation requires that status agreements include provisions obliging third countries to establish complaints mechanisms for handling allegations of fundamental rights violations committed by their own personnel. On the EU side, the complaints mechanism is governed by Article 111 of the Frontex Regulation. For third countries, corresponding provisions are included in the status agreements and elaborated in separate Memoranda of Understanding (MoUs), which detail how complaints against their officers are handled by national mechanisms. This division of responsibility has raised concerns about the overall effectiveness of legal remedies, thereby complicating accountability frameworks.¹²¹ Frontex complaints mechanism itself has been described as overly complex and lacking transparency and impartiality.¹²² Under the current framework, the FRO reviews complaints and issues recommendations, which are then forwarded to the Executive Director or the relevant national authority if Member State staff are involved. However, no independent investigation is carried out. The European Ombudsman has also criticised these shortcomings, questioning whether the mechanism genuinely provides access to redress.¹²³

Another accountability concern involves the immunity granted to Frontex personnel under status agreements. This mirrors the immunity Frontex statutory staff enjoy before national courts in EU Member States under Article 96 of the Frontex Regulation. To understand its implications for deployments in third countries, it is useful to first consider the civil and criminal liability of both statutory staff and staff seconded to the Agency by the Member States during Frontex-coordinated activities within the EU.

Immunity means Frontex staff cannot be sued or prosecuted in national courts for acts carried out strictly within their official duties. Correspondingly, Article 84 of the Regulation shifts civil liability for such acts to the host Member State, whose national law determines if and how compensation is provided, thereby placing the burden on the state rather than Frontex or individual officers. This logic extends to third countries via Article 12 of the status agreements, which holds the third country liable for any damage caused by Frontex personnel in the exercise of official functions.

Criminal liability is treated differently. During operations in a Member State, team members, including statutory staff, are subject to that state's criminal law under the same conditions as its own officials, as laid out

¹¹⁸ Salvatore Fabio Nicolosi, 'The European Border and Coast Guard Agency (Frontex) and the limits to effective judicial protection in European Union law' (2024) 30 (1-2) *European Law Journal* 158.

¹¹⁹ Fink (n 58) 8.

¹²⁰ Case T-282/21 *SS and ST v Frontex* [2022] ECLI:EU:T:2022:235.

¹²¹ Marloes Streppel, 'Analysis: Violence at a distance: Frontex's increasing role outside the EU' (*statewatch.org*, 11 February 2025) <<https://www.statewatch.org/outsourcing-borders-monitoring-eu-externalisation-policy/bulletin-5/analysis-violence-at-a-distance-frontex-s-increasing-role-outside-the-eu/>> accessed 28 November 2025.

¹²² Meijers Committee (n 80) 8-9; Sergio Carrera and Marco Stefan, *Complaint Mechanisms in Border Management and Expulsion Operations in Europe. Effective Remedies for Victims of Human Rights Violations?* (CEPS 2018); ECRE (n 17) 21-23; Sarah Tas, 'Frontex Actions: Out of Control? The Complexity of Composite Decision-Making Procedures' (2020) TARN Working Paper, No. 3; Nicolosi (n 118) 155; Mariana Gkliati and Jane Kilpatrick, 'Frontex cooperation with third countries: examining the human rights implications', (2021) (68) *Forced Migration Review* 16; Human Rights Watch, 'Frontex Failing to Protect People at EU Borders' (23 June 2021) <<https://www.hrw.org/news/2021/06/23/frontex-failing-protect-people-eu-borders>> accessed 28 November 2025.

¹²³ 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' (15 June 2021).

in Article 85 of the Regulation. In third-country operations under status agreements, however, the framework becomes more complex, particularly for statutory staff. Article 85 does not extend to third-country operations, but seconded personnel may face prosecution if their sending state waives immunity.¹²⁴ In contrast, statutory staff, employed directly by the Agency and not tied to any Member State, lack a national authority to waive their immunity or initiate proceedings. This gap creates a serious risk of impunity, especially given the absence of an EU criminal court.¹²⁵

Frontex's joint activities without executive powers and coordination of return operations raise other accountability and rule-of-law concerns. Operating through working arrangements or bilateral agreements rather than status agreements with built-in rights safeguards results in unclear responsibility and limited redress. By coordinating but not commanding missions, Frontex blurs legal liability for rights violations, as seen in the opaque Hera and Nautilus operations.

Frontex's growing role in return operations, including Collecting Return Operations (CROs) involving third-country escorts and transport, often precedes formal legal frameworks. Rejected proposals to allow returns between third countries underscored the risks of EU involvement in potential refoulement. Early status agreements, sometimes broadly interpreted by the Commission, revealed legal ambiguities. Although parliamentary scrutiny has curbed some overreach, the EU increasingly relies on migration deals without formal status agreements. One example is the €210 million migration deal signed with Mauritania in March 2024¹²⁶, a non-EU-bordering country lacking a status agreement.¹²⁷

In sum, the fragmented legal frameworks, limited remedies, and unclear responsibilities across EU agencies' operations expose significant accountability gaps, underscoring the need for stronger safeguards in the extraterritorial enforcement of EU law.

V. Conclusions

There is little doubt that the enforcement reach of EU agencies in the AFSJ extends deep into third countries, going beyond mere engagement to increasingly influence and reshape their legal frameworks. Through liaison deployments and joint operations, Frontex, Europol, and Eurojust establish a sustained presence that blurs the line between cooperation and integration into the EU's enforcement architecture.

Liaison officer deployments by EU agencies have become a key tool for sustained cooperation with third countries, enabling intelligence sharing, operational coordination, and gradual alignment with EU standards. Frontex, Europol, and Eurojust each use this model in distinct ways: Frontex deploys and hosts liaison officers to support returns and maintain daily contact with authorities, though human rights safeguards remain weak and EURLO deployments face structural limitations. Europol's liaison network facilitates intelligence exchange, with cooperation instruments often reflecting the third country's data protection adequacy. Eurojust fosters judicial cooperation through placements of liaison personnel, supporting complex cross-border cases and promoting legal convergence. Despite their growing strategic role, these liaison arrangements operate in fragmented legal frameworks, raising questions about oversight, consistency, and accountability.

Joint operations represent a second key mode of EU agency engagement with third countries, primarily through Eurojust-supported Joint Investigation Teams (JITs) and Frontex-led operations. JITs, grounded in international instruments and facilitated by Eurojust, promote legal alignment through cooperation on sensitive issues like evidence handling and fundamental rights. In doing so, they not only facilitate cross-border

¹²⁴ See Article 12(3) of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro [16 May 2023] OJ L 140 and Article 12(2) of the Agreement between the European Union and the Republic of Albania on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Albania [15 September 2023] OJ L 2023/2107 stating that immunity does not exempt members from home state jurisdiction. For agreements lacking this clause, a similar conclusion may be inferred *a contrario* from Article 85 of the Frontex Regulation. Since Article 85 restricts the assimilation of team members to host state officials and host state criminal jurisdiction solely to EU operations, this distinction may be interpreted as indicating that jurisdiction in third countries remains with the sending state.

¹²⁵ Previatello (n 114) 16.

¹²⁶ European Commission, 'The European Commission launches new migration partnership with Mauritania' (Press Release 7 March 2024) <https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1335> accessed 28 November 2025.

¹²⁷ Strik (n 17) 233.

investigations but also extend the EU's enforcement model and procedural safeguards into the legal orders of third countries. In contrast, Frontex's extraterritorial operations, enabled by status agreements or informal working arrangements, raise deeper legal and ethical concerns. These operations extend executive powers beyond EU borders, but safeguards remain uneven. Status agreements embed some EU standards, yet accountability gaps persist due to limited remedies, unclear responsibility, and the broad immunity granted to Frontex staff.

Ultimately, as this study shows, the operational practices of EU agencies in the AFSJ, ranging from executive actions to cooperative exchanges, exert a significant extraterritorial influence on third-country legal systems. While this external enforcement expansion is increasingly visible, it unfolds within a fragmented legal landscape where ensuring effective human rights protection and accountability remains a persistent challenge.

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